

IN THE HIGH COURT AT CALCUTTA
(Constitutional Writ Jurisdiction)
APPELLATE SIDE

Present:

The Hon'ble Justice Krishna Rao

W.P.A. No. 25902 of 2025

Monoranjan Roy

Vs.

Bank of Baroda & Ors.

Mr. Joydip Kar, Sr. Adv.

Mr. Rudraman Bhattacharyya, Sr. Adv.

Mr. Biswaroop Bhattacharyya

Mr. Niladri Bhattacharjee

Mr. Subhrojyoti Mukherjee

Ms. Deblina Chattaraj

Mr. Sayan Banerjee

Mr. Suman Majumdar

Mr. Shraman Mukherjee

....For the petitioner.

Mr. Dipanjan Datta

Mr. Subhajit Chowdhury

Ms. Esaha Basak

....For the Bank of Baroda.

Mr. Aman Agarwal

Mr. Debabrata Das

Mr. Arunabha Sarkar

Mr. Pratick Acharjee

....For the RBI.

Hearing Concluded On : 16.06.2026

Judgment Delivered On : 02.07.2026

Judgment Uploaded On : 02.07.2026

Krishna Rao, J.:

1. The petitioner has filed the present writ petition challenging the Show Cause Notice dated 4th July, 2025, wherein the bank has directed the petitioner to show cause within 21 days as to why the account of the petitioner should not be categorized and reported as fraud as per the Reserve Bank of India (hereinafter referred to as “RBI”) Guidelines and the order dated 18th September, 2025, reporting the account and name of the petitioner as fraud to RBI.
2. Mr. Joydip Kar, Learned Senior Advocate along with Mr. Rudraman Bhattacharyya, Learned Senior Advocate, representing the petitioner submits that the bank has issued the show cause notice on the basis of the Forensic Audit report but the Forensic Audit report is not conclusive and the Auditor has mentioned in the report that the report has been prepared solely for the purpose of providing selected information on a confidential basis to which it is issued and should not be used for any other purpose without their consent.
3. Mr. Kar submits that on 4th July, 2025, the respondent no. 2 has issued show cause notice to the petitioner with respect to the

transactions from 1st April, 2013 to 31st March, 2018, on the basis of the Forensic Audit report dated 26th May, 2025 conducted by R. Dokania and Company. On receipt of the said notice, the petitioner has submitted a detailed reply on 9th July, 2025, stating that the M/s. Pincon Spirit Limited (hereinafter referred to as “PSL”) had been conducting its business activities with due diligence, integrity and best efforts. It was informed to the bank that the petitioner and other directors of PSL had been arrested on 2nd November, 2017 and 19th April, 2018 respectively and all supporting documents with regard to the operation of PSL and the petitioner has been seized by the Directorate of Economic Offences (hereinafter referred to as “DEO”). It was also informed that the offices and production units of PSL along with business units of the subsidiary/associate companies were sealed by the DEO in the month of November/December, 2017, due to which it is not possible for the petitioner to provide documents with regard to transactions of the company.

4. Mr. Kar submits that it was also informed that the loan account of the company has a long satisfactory credit standing with the consortium member banks including the Bank of Baroda and the account of the company turning into NPA is not due to intentional or willful and *malafide* motive or default on the part of the management of the company. He submits that due to stoppage of production at the manufacturing units of Kolkata, the company’s revenue generation has been adversely affected.

5. Mr. Kar submits that on 18th September, 2025, an impugned order is issued by the Bank of Baroda intimating to report the name of the company/ the petitioner as fraud to RBI. He submits that the reply submitted by the petitioner was not considered by the bank.
6. Mr. Kar submits that on receipt of the impugned order dated 18th September, 2025, the petitioner again sent an e-mail indicating the details which the bank has not considered the same at the time of issuance of the impugned order dated 18th September, 2025.
7. Mr. Kar submits that during the consortium meeting held on 31st January, 2018, the DEO, West Bengal has seized the stocks at the plants of the company, despite such reports, no action was taken by the Bank of Baroda or any other member bank of the consortium against the DEO, West Bengal for safeguarding the stocks which were hypothecated to the consortium as prime security. He submits that the company has been impleaded in a number of litigations with reference to its operation. The alleged corporate debtors have also initiated Corporation Insolvency Resolution Process (CIRP) against the company before the National Company Law Tribunal, Kolkata. The said application was taken up for consideration on 30th September, 2019, along with other applications wherein it is mentioned that the DEO, West Bengal had attached the property of the corporate debtor (PSL) as if it is the proceed of crime under the provisions of West Bengal Protection of Interests of Depositors in Financial Establishment Act, 2013.

8. Mr. Kar submits that the Tribunal by its order dated 19th February, 2020, observed that the contention that the assets attached by the respondent therein are assets obtained by the corporate debtor company out of the funds collected illegally by the group company under the contrail of Pincon Groups seems to be devoid of any merit in the absence of any supporting evidence and material. The Tribunal also observed that the property of the corporate debtor attached by the respondent is liable to be detached and as such the DEO was directed to detach the property vide notice dated 16th April, 2018 and to restore possession thereof to the liquidator.

9. Mr. Kar submits that on perusal of the Forensic Audit report, it reveals that the said report has been prepared in the absence of all necessary documents and evidences. He submits that Forensic Audit report is an incomplete document and the same cannot be the basis of issuance of the show cause notice. He further submits that the show cause notice is issued in violation of principles of natural justice.

10. Mr. Kar in support of his submissions relied upon the judgment in the case of ***T. Takano Vs. Securities and Exchange Board of India and Another*** reported in ***(2022) 8 SCC 162*** and submits that a *quasi-judicial* authority has a duty to disclose the material that has been relied upon at the stage of adjudication. An *ipse dixit* of the authority that it has not relied on certain material would not exempt it of its liability to disclose such materials if it is relevant to and has a nexus to the action that is taken by the authority.

11. Mr. Kar further relied upon the judgment in the case of ***Milind Patel Vs. Union Bank of India and Others*** reported in **2024 SCC OnLine Bom 745** and submits that the purpose of disclosure of information is not merely individualistic, that is to prevent errors in the verdict but is also towards fulfilling the larger institutional purpose of fair trial and transparency.
12. Mr. Dipanjan Datta, Learned Advocate representing the Bank of Baroda submits that the show cause notice dated 4th July, 2025, was issued detailing the allegation against the petitioner. In the show cause notice, Forensic Audit report was enclosed, thus the petitioner cannot say that the Forensic Audit report is not served upon the petitioner.
13. Mr. Datta submits that the petitioner has submitted a detailed reply to the show cause notice dated 4th July, 2025, and submits that all the issues raised by the petitioner in the present writ petition is agitated in his reply. In the said reply, the petitioner has not prayed for supply of any documents.
14. Mr. Datta submits that as per Master Directions on Fraud Risk Management in commercial bank, reasonable time of 21 days was provided to the petitioner for submission of his reply to the show cause notice and only after receipt of notice, the bank shall consider the request of the petitioner and after giving an opportunity to the petitioner, the bank will consider whether the entities will be declared as fraud or not. He submits that instead of waiting for the decision of

the bank, the petitioner has filed the instant writ petition, thus the writ petition is not maintainable.

15. Mr. Datta in support of his submissions, has relied upon the judgment in the case of ***Union of India and Another Vs. Kunisetty Satyanarayana*** reported in ***(2006) 12 SCC 28*** and submits that in some very rare and exceptional cases, the High Court can quash a show cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal.
16. Mr. Datta has relied upon the judgment passed by this Court in the case of ***Hemant Kanoria & Anr. Karnataka Bank Limited*** in ***WPA 11390 of 2024*** dated ***10th February, 2026*** wherein this Court held that without submitting any reply and without requesting the respondent for supply of documents, has filed writ petition, and this Court dismissed the said writ petition. He submits that in the present case, the petitioner has filed show cause reply without any allegation that no document has supplied or requested for any documents.
17. The respondent bank has issued the show cause notice to the petitioner on the basis of the Forensic Audit report of R. Dokania and Company dated 26th May, 2025. As per Forensic Audit report, the Bank has appointed R. Dokania and Co., Chartered Accountants to conduct a Forensic Audit of the books of accounts of the Borrower from 1st April, 2013 to 31st March, 2018.

18. The petitioner has submitted detailed reply to the show cause notice by dealing with each and every allegation. The petitioner has not informed that no documents are available with the petitioner or the petitioner required further documents. The petitioner has also not taken the plea that the Forensic Audit report is not conclusive or cannot be relied upon. On the other hand, the petitioner in his reply requested for details of the official of HDFC bank for personal discussion and interaction with the bank official at Kolkata instead of Bangalore.

19. In the Forensic Audit report, it is recorded that:

“i) Non-Compliance of Section 137 of the Companies Act, 2013

As per domain search, it has been observed that the Borrower have last filed its financial statements for the financial year ended on 31.03.2017 and no Annual General Meeting (AGM) has been conducted for the financial year 2017-2018. As per relevant section of the Companies Act, a private limited company has to file its financial statements with Registrar of Companies (ROC) within 30 days of holding its AGM and the last date by which AGM is to be held is six (6) months from the end of financial year.

Not conducting AGM and non-filing of financial statement with ROC by the Borrower has violated section 137 of the Companies Act, 2013.

i) Unusual Addition of Fixed Assets

We have received the financial statement in XBRL format as extracted from the public domain and have observed that there is an addition of fixed assets by Rs.52.15 lakhs for the financial year ended on 31.03.2014 and Rs.18.94 crores for the financial year ended on 31.03.2017.

The Borrower have not provided us with the proper justification and rationale behind such huge expense in fixed assets for the financial year ended on 31.03.2017 along with supporting documents like invoice copy, challan copy, present location of fixed asstes, insurance copy, etc. In the absence of proper justification and supporting documents, addition of fixed assets by Rs. 18.94 crores for the financial year ended on 31.03.2017 appears to be suspicious in nature.”

20. After receipt of the impugned order dated 18th September, 2025, the petitioner has again submitted an e-mail dated 10th October, 2025, stating as follows:

- a.** The Original Cash Credit Limit of Rs. 15.50 Crores sanctioned by E-Vijaya Bank in 2015 was decided to be reduced to Rs. 9.50 crores during the Consortium meeting held in 2015/2016 subsequent to the sanction and based on the same, the Bank had reduced the CC Limit from Rs. 15.50 Crores to Rs. 9.50 Crores.*
- b.** I do not understand as to how with a limit of Rs. 15.50 crores/ Rs. 9.50 crores, payments amounting to Rs. 27.03 crores can be made/justified. Had these payments of the amount of Rs. 27.03 crores been made, the CC a/c would have been overdrawn which was not.*
- c.** This justifies that all payments made were genuine trade & business-related payments for which both debit & credit summations were reflected in the CC a/c from time to time.*
- d.** I understand that the concerned Branch/Zonal Office of the Bank might have been regularly monitoring the transactions in the CC a/c (being a Consortium a/c) and noting of this nature, as pointed out in your communication, was ever noticed/informed by the Bank at any point of time during the conduct & operations of the CC a/c with the Bank.*

- e. *Level of Trade Receivables & Trade Payables were in consonance with the business levels/sales & purchase volumes of the Company from time to time, which was justified & confirmed in the Stock Audit reports given by the Stock Auditor for the Stock Audit which was assigned by the Lead Bank at periodic intervals as well as in the Due Diligence Audit Report conducted by the Leader Bank during May-June 2017 & the findings of the Auditors, with no major deficiencies, were discussed & minutised in the Consortium Meeting held on 07.08.2017. I understand that a Copy of the Stock Audit cum Due Diligence Report must be available with your Bank which may please be perused for comments on level of Trade Receivables & Trade Payables.*
- f. *Debtor Confirmation would have been provided if asked for by your Bank/Consortium at any point of time.*
- g. *During Several Consortium meetings (wherein Your Bank-E-Vijaya Bank was also a participant), including the Consortium Meeting held on 27.06.2017, the Consortium acknowledged that the borrower account of Pincon Spirit Limited is a Standard & Performing asset with all Banks including your Bank.*
- h. *Consortium minutes as stated above may please be referred to for relevant details in this respect.*
- i. *Your Bank/Consortium had never resorted to Legal action against the DEO, Kolkata although one of the member Banks had opined for filling application with Calcutta High Court during the Consortium Meeting held on 15.03.2018.*
- j. *No action was taken by your Bank/Consortium for safeguarding the Stocks (which were part of Primary Security) at the plants which were illegally seized by DEO, Kolkata. Your Bank was aware of this Incident since it was discussed & minutised during the Consortium Meeting held on 31.01.2018, wherein your Bank was also a participant."*

In the said e-mail also, the petitioner has not taken any ground that the Forensic Audit report is not conclusive, without considering all documents or the petitioner required further documents.

- 21.** Directorate of Economic Offences, West Bengal, has initiated investigation with regard to the transactional operation of the PSL and seized the stocks and plants of the PSL. The DEO, filed an application before the Tribunal being CA (IB) No. 577/KB/2019 and prayed for dismissal of the CIRP proceeding initiated against the petitioner being C.P. (IB) No. 93/KB/2018. The Learned Tribunal by an order dated 30th September, 2019, passed the following order:

*“14. A very look at the name of the company reveals that Sl. No. (e) (5th company) name is **Pincon Infrastructure Ltd.** The Corporate Debtor is **Pincon Spirits Limited**. The Corporate Debtor company was Incorporated under the provisions of the Companies Act, 1956 for carrying on business of manufacturing, importing, exporting and manufacturing of every kind of spirit. It has come out in evidence that Corporate Debtor is not doing any financial service business activities as alleged. There is no material furnished before us to prove that Corporate Debtor company is a chit fund company or a financial service provider comes under the purview of the 'WBPIDFE Act'. No claimant also came forward claiming refund of deposit if any deposited in the CD company. In the absence of sufficient materials to prove that the Corporate Debtor in any manner whatsoever come within the scope of purview of 'WBPIDFE Act' we are unable to hold that the proceedings initiated by this Adjudicating Authority is illegal and improper.*

23. The Resolution Professional though made his efforts to get back the assets of the Corporate Debtor from the 'DEO, WB', but he failed in having any access to the books of account, without which he could not verify the claim received from the creditors and could not complete their valuation

because of the sole reason of non-cooperation of the 'DEO, WB' the inability of the Resolution Professional in not getting a successful resolution applicant cannot be faulted. Accordingly, we have no other alternative other than to pass an order of Liquidation.

(j) CA (IB) Nos. 577/KB/2019 is dismissed with cost of Rs.5 lacs payable within two months from the date of receipt of the copy of the order to the account of the CD either by e-payment facility into bank account of the corporate debtor or by way of DD, failing which the Liquidator can realise the said amount from the applicant in accordance with applicable law.”

- 22.** The Liquidator has filed an application before the Learned Tribunal being CA (IB) No. 1741/KB/2018 for de-attachment of the assets of the Corporate Debtor under Liquidation. Learned Tribunal by an order dated 19th February, 2020, disposed of the said application by passing the following order:

“9. From a reading of section 3 of ‘WPIDFE Act’, it appears to us that this provision is inconsistent with section 14 of the I & B Code and therefore, Section 14 as well as Sub Section (5) of Section 33 of the Code will prevail over Section 3 of ‘WPIDFE Act’. Therefore, it appears to us that all the property of the Corporate Debtor attached by the Respondent is liable to be de attached. Accordingly, this application is allowed upon the following among:-

ORDERS

- i.** *The Respondent Directorate of Economic Offences, Government of West Bengal, is hereby directed to de-attach all the properties attached vide notice dated 16/04/2018 and to restore possession thereof to the Liquidator within 15 days of the receipt of the copy of this order.*

- ii. CP (IB) No. 93/KB/2018 connected with CA(IB) No.1741/KB/2018 is disposed of. However, no order as to cost.”

23. In the case of **T. Takano (supra)**, it is held that:

“28.3. Transparency and accountability : The investigative agencies and the judicial institution are held accountable through transparency and not opaqueness of proceedings. Opaqueness furthers a culture of prejudice, bias, and impunity—principles that are antithetical to transparency. It is of utmost importance that in a country grounded in the Rule of Law, the institutions adopt those procedures that further the democratic principles of transparency and accountability. The principles of fairness and transparency of adjudicatory proceedings are the cornerstones of the principle of open justice. This is the reason why an adjudicatory authority is required to record its reasons for every judgment or order it passes. However, the duty to be transparent in the adjudicatory process does not begin and end at providing a reasoned order. Keeping a party bereft of the information that influenced the decision of an authority undertaking an adjudicatory function also undermines the transparency of the judicial process. It denies the party concerned and the public at large the ability to effectively scrutinise the decisions of the authority since it creates an information asymmetry.

30. It would be fundamentally contrary to the principles of natural justice if the relevant part of the investigation report which pertains to the appellant is not disclosed. The appellant has to be given a reasonable opportunity of hearing. The requirement of a reasonable opportunity would postulate that such material which has been and has to be taken into account under Regulation 10 must be disclosed to the noticee. If the report of the investigating authority under Regulation 9 has to be considered by the Board before satisfaction is arrived at on a possible violation of the regulations, the principles of natural justice require due disclosure of the report.”

24. The petitioner has relied upon the order passed by the Learned Tribunal and the judgment of the Hon'ble Supreme Court but the case made out by the petitioner in the show cause reply is otherwise. The petitioner has not taken the plea of appointment of Liquidator or the documents available with the Liquidator or with the DEO. The petitioner has not requested for supply of any documents relied by the bank while issuance of show cause notice. In reply to show cause notice, the petitioner only requested the bank for providing details of the officials of the Kolkata Branch so as to enable the petitioner to discuss personally.

25. In the case of **Hemant Kanoria vs. Bank of India** passed in **WPA No. 28329 of 2023** dated **2nd February, 2024**, the Coordinate Bench of this Court framed the guidelines with respect to declaring the accounts "fraud" under the Master Directions keeping in view of the judgment passed in the case of **State Bank of India and Others Vs. Rajesh Agarwal and Others**, reported in **(2023) 6 SCC 1** and held that:

"64. First, a show-cause notice is to be issued, enumerating the exact offences alleged against the borrower/Director. If any FAR or other document forms the basis of the show-cause, the same is to be served along with the show-cause notice. (Both the said criteria have, in fact, have been satisfied in the present case in respect of BOI, BOB and UBI.)

65. A fortnight thereafter would be ample time to give reply to the showcause notice. In its reply, the noticee shall, apart from addressing the allegations and controverting those specifically, specify the documents which are required to be provided to the noticee by the Banks/financial institutions. If necessary, in the reply, the borrower/Director or promoter can reserve its rights

to give a further additional reply upon receiving such documents.”

26. In the present case, the petitioner has received the show cause notice and had submitted detailed reply of each and every allegation of the show cause notice without questioning the Forensic Audit report or requesting for any further document. Even after receipt of the impugned order dated 18th September, 2025, the petitioner has made detailed email to the bank and in the said email also the petitioner has not requested for supply of any documents or the Forensic Audit Report is not conclusive.

27. Considering the above, this Court did not find any justification to interfere with the show cause notice issued by the bank to the petitioner dated 4th July, 2025 and the impugned order dated 18th September, 2025.

28. WPA No. 25902 of 2025 is dismissed.

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)