

Development Authority

Vs

Skipper Construction Co. and Another

I. As. Nos. 16, 23, 24, 25, 27, 29, 30, 31, 32, 38-49, 15, 32-A, 33, 34, 50-54 In SLP (C) No. 21000 of 1993

(B. P. Jeevan Reddy, K. S. Paripoornan JJ)

11.02.1997

ORDER

1. This order is in continuation of the Order dated 31-1-1997' and the Order dated 7219972.
2. Pursuant to the notice given to Shri R. C. Suneja (formerly Chairman and Managing Director of the New Bank of India), he has filed a detailed counter setting out several facts and circumstances and putting forward several defences. He has also filed a list of all the moveable and immovable properties held by him, his wife and his children. The Canara Bank has filed an elaborate response in the matter. The Punjab National Bank, into which the New Bank of India has been merged, has also offered to file their response.
3. The other directors of New Bank of India, to whom notices were directed, viz., Ms Tajwar Rebman Sawhney, Shri Sudershan Lal, Shri S. S. Ranade and Shri J. K. Sawhney have filed their explanations.
4. On the basis of information furnished by the learned counsel for the Canara Bank, with respect to the legal representatives of late Shri B. R. Ratnakar (formerly Chairman and Managing Director of the Canara Bank) notices have been issued to his legal representatives in India.
5. Shri Harish Salve, learned counsel appearing for the Reserve Bank of India, stated that during the course of the day (7-2-1997), the response of the Reserve Bank of India will be filed.
6. The question before us is whether, and to what extent, Shri R. C. Suneja, Ms Tajwar Rehman Sawhney, Shri Sudershan Lal, Shri S. S. Ranade and Shri J. K. Sawhney are guilty of deliberate and/or intentional misuse/abuse of their power in the matter of the New Bank of India extending bank guarantees to and on behalf of Skipper group of companies and what loss, if any, have they caused to the bank on that account. Upon the answer to the said question will depend the liability of one or the other of the said persons to make good the loss caused to the bank. Any action against them shall also depend upon such answer.
7. Similarly, the question in the case of Shri B. R. Ratnakar is whether, and to what extent, he is guilty of deliberate and/or intentional misuse/abuse of his power in the matter of New Bank of India (sic Canara Bank) extending bank guarantees to and on behalf of Skipper group of companies and what loss, if any, has he caused to the bank on that account. Upon the answer to the said question will depend the liability of the legal representatives of the said person to make good the loss caused to the bank.

8. We may also mention that Shri R. R. Pradhan, Dr M. R. Kotdawala, a Shri J. P. Awasthi were nominees of the Reserve Bank of India on the Board of Canara Bank during the period 24-4-1984 to 10-11-1988. Their responsibility in the matter has also to be determined. Shri D. Seetharama was the Workman-Director on the Board of this bank from 1- 8-981 to 17-8-1987. Notices to these persons shall also issue calling upon them to show cause why appropriate action should not be taken against them in the light of conclusion (e) recorded by Justice Saharya Commission (at p. 128 of the Report).

9. Having regard to the nature of the question involved herein, and also because the Reserve Bank of India is the authority to regulate and monitor the activities of the banks in the country, we think it appropriate that the aforesaid questions shall be enquired into by the Reserve Bank of India. For this purpose, we request the Governor of the Reserve Bank of India to nominate two officers of the status of Deputy Governors of the Reserve Bank of India to act as an Enquiry Committee. The responses/explanations filed by the several parties in this Court, pursuant to the notices issued by this Court, shall be forwarded to the Reserve Bank of India and shall form part of the record before the Enquiry Committee. Two copies of the Justice Saharya Commission Report shall also be forwarded to the Reserve Bank of India and it shall also form part of the record before the said Enquiry Committee. The said Report of the Commission shall be treated as a relevant piece of evidence but not as conclusive evidence again

10. All the properties standing in the name of Shri R. C. Suneja, his wife and children as per the list filed by him shall be subject to the Order dated a 31-1-1997.

11. The Reserve Bank of India (the Enquiry Committee aforesaid) shall submit their Report in the matter to this Court as expeditiously as possible, not later than three months. As and when the Report is received, the same shall be placed before this Court for appropriate orders.

12. A copy of this order shall be communicated to the Governor, Reserve Bank of India by name today itself. The Governor, Reserve Bank of India is requested to take appropriate steps in pursuance of this order.

[CONNECTED ORDER dated 31-1-1997] (Record of Proceedings)##

1. Hon'ble Mr Justice Saharya, a learned Judge of the Delhi High Court, was appointed as a one-man commission by this Court to investigate into the circumstances in which loans/bank guarantees were advanced by the New Bank of India (now merged with the Punjab National Bank) and the Canara Bank, and into the conduct of officials of the aforesaid two banks, in the matter of advancement of loans/bank guarantees to Messrs Skipper Construction Pvt. Ltd.

2. Justice Saharya Commission has enquired into the matter and has submitted the report on 20-1-1 997.

3. So far as the New Bank of India is concerned the Commission has reported that Mr R. C. Suneja (who was the Chairman and Managing Director of the said Bank) working in tandem with the General Manager, Chief General Manager, Assistant General Manager (Credit) and Deputy General Manager (Credit) has defrauded the Bank by corrupt and illegal means. It has found that the said Shri Suneja has "deliberately and fraudulently committed the funds of the Bank and extended facility

to the Company in clear and direct violation of the prescribed norms, practice and procedure. He disregarded and threw to the winds all norms, rules and guidelines... adverse factors of the proposal were twisted and misrepresented in the credit notes with a view to help the Company rather than protecting the interest of the Bank.... In the circumstances, the only inference that can be drawn is that Mr R. C. Suneja, Chairman-cumManaging Director and the other top officials in the head office of the Bank connived and acted hand in glove with the Company to enter illegitimate gains upon the latter and that they must have done so for secret benefits".

4. We are told that Shri R. C. Suneja is no longer connected with the Punjab National Bank into which the New Bank of India has been amalgamated.

5. The findings recorded by the Commission called for appropriate action at the hands of this Court to safeguard public interest, public funds and the interests of administration. Accordingly, we issue notice to Shri R. C. Suneja, the former ChairmancumManaging Director of New Bank of India, to show cause why the loss caused by him to the said Bank, which is said to be in the region of about Rs 100 crores, be not recovered from his person and the properties held by him and his wife and his children. With a view to ensure that any orders passed in these proceedings are effective, we direct a Shri Suneja not to deal with or dispose of any property held by him or by his wife or by his children, moveable or immovable, directly or indirectly. Any company of which he is a Director or in the Management thereof in any way or any firm of which he is a partner or in control thereof, directly or through any other person, shall also not deal with or dispose of any assets except in the usual course of business. He shall however, be entitled to withdraw up to Rs 10,000 (Rupees Ten thousand only) from any one of his bank accounts. He is, of course, entitled to apply to this Court for further directions.

6. The Commissioner of Police (Delhi) is directed forthwith to serve a copy of this order upon him. This matter is posted on 3-2-1997. Shri Suneja shall present himself in the Court on that day. The Commissioner of Police shall ensure that he is kept present in the Court on that day.

7. Justice Saharya Commission has further reported that there was one government nominee Director, one RBI nominee Director (who was of course, changing from time to time) and a Workman Director in charge of the affairs of the bank viz.,

(1) MsTajwarRehman Sawhney 13-9-1985 to 18-8-1988 Government Nominee Director

(2) Mr Sudershan Lal 20-11-1985 to 3-2-1987 RBI Nominee Director

(3) Mr P. Krishnamurthy 4-2-1987 to 15-4-1987 RBI Nominee Director

(4) Mr S. S. Ranade 16-4-1987 to 2-5-1990 RBI Nominee Director

(5) Mr J. K. Sawhney 1-9-1984 to 31-8-1987 Workman Director

8. It was during the period of Shri Sudershan Lal and Shri S. S. Ranade (nominees of RBI) that the bank guarantees were extended and enhanced, as the case may be, by

the New Bank of India. Notice shall also go to the said persons to show cause why appropriate action be not taken against them, by this Court, for the acts of misfeasance or non-feasance as the case may be. Notice returnable - 7-2-1 997. 9. Now, coming to the Canara Bank, it is reported by the Justice Saharya Commission that Shri B. Ratnakar was the Chairman-cum-Managing Director of the Bank from 30-6-1982 to 29-6-1988. One Shri N. D. Prabhu was the Executive Director from 14-3-1983 to 20-9-1988. Shri M. C. Satyawadi was the Government Director from 13-9-1985 to 17-10- 1989. So far as the nominee Director of the Reserve Bank of India is concerned there were three persons successively

(1) Mr R. R. Pradhan 24-4-1984 to 13-5-1986 (2) Dr M, R. Kotdawala 4-2-1986 to 3-2-1987 (3) MrJ. P. Awasthi 4-2-1987 to 10-11-1988 (4) Mr D. Seetharama 1-8-1981 to 17-8-1987 Workman-Director

10. The findings of the Commission with respect to the role of this Bank is to the following effect :

"Mr B. R. Ratnakar, Chairman-cum-Managing Director, Canara Bank, intentionally and with knowledge that sanction of the proposal was neither in consonance with norms nor was it for the benefit and in the interest of the Bank involved the Bank in the transaction' and further that 'the other functionaries of the Canara Bank as named in the Issue No. 2 directly and indirectly assisted the Company to get participation of Canara Bank in the unprofitable transaction and did not ensure fulfilment of the conditions contained in the guarantee'. It is also found by the Commission that the aforesaid 'two banks intentionally and with full knowledge sacrificed all norms, caution, care and prudence in granting the facility'."

11. We are told that Shri B. R. Ratnakar is dead. The Commissioner of Police (Delhi) is requested to find out who are the legal representatives of the said deceased and report to this Court within one week. It shall be open to the Commissioner of Police (Delhi) to seek the assistance of the Commissioner of Police (Bangalore) or any other official for this purpose. Orders with respect to the officials of this Bank shall be passed after obtaining the said information. Notice returnable - 7-2-1997.

12. The report shows that there was no proper supervision by the Reserve Bank of India. It appears that when the question of extending bank guarantee by the New Bank of India to MIs Skipper Construction arose, nominee Director of the RBI objected to it. But thereafter what happened may better be set out in the words of the said nominee Director, in which he had submitted his report to the RBI :

"Company made a request to the Bank to issue to it a guarantee favouring DDA. The Company's financial position was bad and accounts of its associate concerns showed similar situation. Despite that, the case was placed before the Board. Even though this was once declined,, the Bank resubmitted the same. It was said that Shri P. K. Kaul, the then Cabinet Secretary and Shri Buta Singh, the then Minister had spoken in favour of this case."

13. It is not known as to what the Reserve Bank of India did in the matter when it received the said note. We would like to know the action, if any, taken by the RBI

against the persons and officers of the said two banks, responsible for the said transactions which have caused substantial loss to the said banks, which are ultimately trustees of public funds. The RBI shall file an affidavit detailing the action taken by them and all the other attendant facts and circumstances, within one week. List on 7-2-1997.

Court Masters

[CONNECTED ORDER dated 7-2-1997] (Record of Proceedings)##

1. Mr Sibal, learned counsel for the Canara Bank, has placed before us the details of the legal representatives of late Shri B. R. Ratnakar, the Chairman and Managing Director of the Canara Bank at the relevant time. They are : J. Mr Premanand R. Shenoy, 2C, HVS Paradise, 9, Andree Road Cross, Shanthinagar, Bangalore-560027

2. Smt Prema Ratnakar, 401/402, Garadi Apartments, K. R. Road, Tata Silk Farm, Bangalore 560004

3. Mr Naveen R. Shenoy, 401/402, Garadi Apartments, K. R. Road, Tata Silk Farm, Bangalore - 560004

2. It appears that another son - Mr Rohit R. Shenoy, is now studying in USA and his address is not available. Notice to him is dispensed with for the present.

3. Justice Saharya Commission has reported that :

"Mr B. R. Ratnakar, Chairman-cum-Managing Director, Canara Bank, intentionally and with knowledge that sanction of the proposal was neither in consonance with the norms nor was it for the benefit and in the interest of the Bank, involved the Bank in the transaction". The Commission has recorded a further finding that "it stands established that the two banks (New Bank of India and the Canara Bank) intentionally and with full knowledge sacrificed all norms, caution, care and prudence in granting the facility". Another finding recorded by the Commission is "the other functionaries of the Canara Bank as named in Issue No. 2 directly and indirectly assisted the Company to get participation of Canara Bank in the unprofitable transaction and did not ensure fulfilment of the conditions contained in the guarantee".

4. The said findings recorded against Shri B. R. Ratnakar call for appropriate action at the hands of this Court which shows that public funds, of which he was in the nature of a trustee, have been frittered away deliberately and intentionally. Accordingly, a notice shall issue to the aforesaid legal representatives of late Shri B. R. Ratnakar to show cause why the loss caused by Shri Ratnakar of Canara Bank in the region of Rs 4 crores be not recovered from the properties -moveable and immovable - in their possession. With a view to ensure that any orders passed in these proceedings are effective, we direct the said legal representatives of Shri Ratnakar not to deal with or dispose of any assets or property held by them - moveable and immovable, directly or indirectly. Any company of which any of them is a Director or in the management thereof (including MIs Fair a Growth Agencies, No. 3, St. Marks Road, Bangalore - 560001) in any way or any firm (including MIs

Prerana Motors, No. 132, Kantha Court, Lalbagh Road, Bangalore - 560027) of which any of them is a partner or in control thereof, directly or through any other person shall also not deal with or dispose of any assets except in the usual course of business. Each of them shall, however, be entitled to withdraw up to Rs 10,000 (Rupees Ten thousand only) from any one of his/her bank account. They are, of course, entitled to apply to this Court for further directions.

5. For further orders, list the matter on 11-2-1997.

6. The Canara Bank has filed its response. Mr Jagdeep Kishore, learned counsel for PNB states that they shall file the response by 10-2-1997.

7. It is stated by Mr Salve that response/affidavit on behalf of the RBI will be filed during the course of the day.

8. The affidavits of the two Directors (nominees of the Reserve Bank of India on the Board of NBI) are also being filed today.

9. So far as the other directors of NBI to whom notice has been issued, namely - Ms Taj war Rehman Sawhney, Mr Sudershan Lal, Mr S. S. Ranade and Mr J. K. Sawhney are concerned, notices have been served upon them and they are present in Court in person. They shall await the orders to be passed on 11-2-1997.

Court Masters