

SUPREME COURT OF INDIA

Reserve Bank of India

Vs.

Sahara India Financial Corporation Ltd.

C.A.No.4193 of 2008

(Dr. Arijit Pasayat and P.P. Naolekar JJ.)

09.06.2008

ORDER

Dr.Arijit Pasayat, J.

Leave granted.

Heard the learned counsel for the parties.

1. The challenge in this appeal is to the order passed by the Division Bench of the Allahabad High Court, Lucknow Bench granting interim protection to Respondent No.1.
2. Briefly stated factual scenario is as follows:

“A show cause notice was issued by the appellant on 09.05.2008 requiring the Respondent No.1 to show cause as to why certain actions proposed to be taken shall not be taken. A detailed reply, according to Respondent No.1, was filed on 02.06.2008. Respondent No.1 before the High Court took the stand that before the show cause reply was submitted discussions were held on 20.5.2008. By the final order dated 04.06.2008 Respondent No.1-Company has been restrained from accepting deposits from the existing depositors and fresh depositors. These were the main directions in addition to the other directions. In the writ petition filed before the High Court, it was stated that the writ petitioner did not get a fair opportunity to present its case before the present appellant and, therefore, it has affected a large number of employees, agents, staffs and the depositors. The High Court passed the impugned order on 05.06.2008 staying the operation and the enforcement of the order dated 4.6.2008 impugned before it till further orders of the High Court. The High Court has also indicated that since objection was taken to certain activities of Respondent No.1, they were directed to complete all the requisite formalities and follow the directions of the present appellant from time to time. The writ petitioner was prevented from accepting any new deposit whose maturity will be beyond June, 2010. The matter was directed to be listed in the last week of July, 2008.”

3. Mr. T.R. Andhyarujina, learned senior counsel appearing for the Reserve Bank of India submitted that without even granting any opportunity to the appellant to place its case, an interim order was passed by virtually allowing the writ petition, as by interim order in essence final relief sought for in the writ petition was granted. It was his stand that ample opportunities were granted to the writ petitioner and the various infirmities committed by the writ petitioner were highlighted in the show cause notice and the impugned order before the High Court which warranted the action taken by the appellant. With reference to the show cause notice dated 09/05/2008 and order dated 04/06/2008 it is submitted that several illegalities have been committed and there is total lack of transparency in the functioning of respondent No.1. Several serious infirmities have been elaborately dealt with in the show cause notice and order dated 04.06.2008.

4. Learned senior counsel appearing for Respondent No.1 on the other hand submitted that had an opportunity been granted to Respondent No.1 to place its case before the appellant before the order which was impugned before the High Court was passed, after filing of the reply to the show cause on 02.06.2008 it would have been in a position to show that no action as was contemplated in the show cause was required to be taken and/or permissible.

5. After hearing learned counsel for the parties, we are of the view that in view of the peculiar facts involved, it would be appropriate for the appellant Reserve Bank of India to give an opportunity of hearing to Respondent No.1 so that it can, if so advised, place materials to substantiate its stand taken in the reply to the show cause notice. Learned counsel for the appellant is right in his submission that the principles of natural justice have been followed in the present case. But an opportunity of hearing would be appropriate, because of nature of proceedings. It shall not be construed as if we have stated so to be applicable in all cases. Because of the peculiar nature of the case, we are directing to be so done. We, therefore, direct that Respondent No.1 shall appear without any further notice before the designated authority of the Reserve Bank of India on 12.06.2008 when the matter shall be heard. It is open to Respondent No.1 to place such material on which it proposes to rely upon. Needless to say the authority shall consider all the relevant aspects of the case and pass a fresh order. Till the matter is disposed of afresh by the Reserve Bank of India, the order dated 04.06.2008 shall not be given effect to. At the same time, the interim protection given by the High Court to Respondent No.1 shall also not be operative. Since the entire matter is being disposed of in this appeal, there is no need for the High Court to deal with the writ petition. We make it clear that we have not expressed any opinion on merits.

6. The appeal is disposed of accordingly.