

A DELHI DEVELOPMENT AUTHORITY
v.
SKIPPER CONSTRUCTION CO. AND ANR.

FEBRUARY 11, 1997

B [B.P. JEEVAN REDDY AND K.S. PARIPOORNAN, JJ.]

Banking :

C *Bank guarantee—Irregularities in—Chairman and Managing Director and Directors of New Bank of India and other Bank authorities—Irregularities by in the matter of bank guarantee to and on behalf of Skipper Group—Held, Reserve Bank of India being the authority to regulate and monitor the activities of the Banks in the country, would enquire into the matter and send a report to the Supreme Court determining the responsibility, if any, of each of the persons involved in the case.*

D CIVIL APPELLATE JURISDICTION : I.A. Nos. 16, 23, 24, 25, 27, 29, 30, 31, 32, 38-49, 15, 32A, 33, 34, 51-54.

In

E Special Leave Petition (C) No. 21000 of 1993.

From the Judgment and Order dated 9.12.93 of the Delhi High Court in Suit No. 770 of 1993.

F V.R. Reddy, K.N. Bhat, Additional Solicitor Generals, H.N. Salve, Kapil Sibbal, Arun Jaitley, Joseph Vellapally, Arvind Kumar, Ms. Kamini Jaiswal, Dayan Krishanan, K.C. Dua, Din Dayal Sharma, K.J. John, Sudhir Kumar Gupta, Jana Kalyan Das, P.N. Misra, R.C. Gubrele, Sunil Dogra, Ms. Monica Sharma, Ms. Sushila Ram, Devender Singh, S. Sukumaran, Jagdeep Kishore, Y.P. Narula, Mukul Mudgal, Y.P. Mahajan, V.K. Verma, K.C. Dua, Ranjit Kumar, Ms. Anu Mohla, H.S. Parihar, Kuldeep S. Parihar, R.K. Anand, S.P. Sharma, Lokesh, Arun Birbal, P.R. Ramasesh, S.K. Kulkarni, (Jaswant Singh - In-person) for the appearing parties.

The following Order of the Court was delivered :

H This order is in continuation of the order dated January 31, 1997 and

the order dated February 7, 1997.

Pursuant to the notice given to Sri 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 movable 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.

The other directors of New Bank of India, to whom notices were directed, viz., Ms. Tajwar Rehman Sawhney, Sri Sudershan Lal, Sri S.S. Ranade and Sri J.K. Sawhney have filed their explanations.

On the basis of information furnished by the learned counsel for the Canara Bank, with respect to the legal representatives of Late Sri B.R. Ratnakar [formerly Chairman and Managing Director of the Canara Bank] notices have been issued to his legal representatives in India.

Sri Harish Salve, learned counsel appearing for the Reserve Bank of India, stated that during the course of the day [7th February, 1997], the response of the Reserve Bank of India will be filed.

The question before us is whether, and to what extent, Sri R.C. Suneja, Ms. Tajwar Rehman Sawhney, Sri Sudershan Lal, Sri S.S. Ranade and Sri 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.

Similarly, the question in the case of Sri. 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 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

A said person to make good the loss caused to the bank.

We may also mention that Sri R.R. Pradhan, Dr. M.R. Kotdawala, Sri J.P. Awashti were nominees of Reserve Bank of India on the board of Canara Bank during the period April 24, 1984 to November 10, 1988. Their responsibility in the matter has also to be determined. Sri D. Seetharamma was the workman Director on the board of this bank from August 1, 1981 to August 17, 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 page 128 of the Report].

C 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.

D 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

E 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 against the persons concerned. In other words, while the Enquiry Committee shall be

F entitled to take into consideration the material, oral and documentary, gathered by the said Commission and its Report, it shall not treat the same as final and/or binding. It shall be open to the persons concerned to show that the said findings are not correct and/or tenable, in fact or law, and that the evidence gathered is not relevant against them. The Enquiry

G Committee shall give notices to both the banks, viz., Punjab National Bank [into which the New Bank of India has since merged] and the Canara Bank, to the persons aforementioned and to all such other persons who, in the opinion of the Enquiry Committee, are responsible for any irregularities in the matter and send a report to this Court determining the responsibility and the extent of responsibility, if any, of each of the above persons. Those

H persons, to whom notices are given by this Court but have not already filed

their response/explanation in this Court as well as those to whom notices may be given by the Enquiry Committee aforesaid, shall be entitled to submit their response/explanations before the Reserve bank of India/Enquiry Committee. The persons who have already appeared in this Court shall appear before the Committee, at Delhi, on February 20, 1997 in the premises of the RBI. No notices be sent to them by the Enquiry Committee. The Enquiry Committee shall meet on that day and commence the work.

All the properties standing in the name of Sri R.C. Suneja, his wife and children as per the list filed by him shall be subject to the orders dated January 31, 1997.

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.

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.

R.P.

Petitions disposed of.