

A RESERVE BANK OF INDIA  
v.  
SAHARA INDIA FINANCIAL CORP. LTD. & ORS.  
(Civil Appeal No. 4193 of 2008)

B JUNE 9, 2008

**[DR. ARIJIT PASAYAT AND P.P. NAOLEKAR, JJ]**

C *FINANCIAL CORPORATION – Serious infirmities alleged against – Show Cause Notice issued by Reserve Bank of India – After considering the reply order passed by RBI restraining the Corporation from accepting deposits from existing and fresh depositors – High Court granting interim protection to Corporation – HELD: Although principles of natural justice have been followed, yet, in view of the nature of proceedings and peculiar facts involved in the instant case, it would be appropriate for RBI to give an opportunity of hearing to the Corporation – Ordered accordingly – Order not to be treated as precedent – Till matter is disposed of afresh, order dated 4.6.2008 passed by RBI shall not be given effect to – At the same time interim protection given by High Court to Corporation shall not be operative – Entire matter disposed of – Administrative Law – Principles of natural justice – Opportunity of hearing – Interim order.*

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F CIVILAPPELLATE JURISDICTION : Civil Appeal No. 4193 of 2008

From the Interim Order dated 5.6.2008 of the High Court of Judicature at Allahabad, Lucknow Bench, Lucknow in C.W.P. No. 5059 (MB) of 2008

G T.R. Andhyarujina, Ramesh Babu M.R., Manisha, Srinjoy Banerjee and Swati Setia for the Appellant.

Mukul Rohtagi, Prashant Chandra, Ranjit Kumar, Uday U. Lalit, K.K. Lahiri, Satish Kishanchani, Gaurav Kejriwal and M. Keshav Mohan for the Respondents.

The Judgment Order of the Court was delivered by  
**DR.ARIJIT PASAYAT,J.** Leave granted.

Heard the learned counsel for the parties.

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 discus-  
sions 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, there-  
fore, 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 or-  
ders 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 appear-  
ing for the Reserve Bank of India submitted that without even  
granting any opportunity to the appellant to place its case, an

A 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 Re-

spondent No.1 to place such material on which it proposes to A  
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 Respon- B  
dent 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.

R.P.

Appeal disposed by.