

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

Present:

The Hon'ble Justice Krishna Rao

W.P.A. No. 6872 of 2025

With

CAN No. 1 of 2026

Hemant Kanoria & Anr.

Vs.

Indian Overseas Bank

Mr. Ratnanko Banerjee, Sr. Adv.

Mr. Jishnu Chowdhury, Sr. Adv.

Mr. Deepan Kumar Sarkar

Mr. Soumalya Ganguli

Mr. Naman Chowdhury

Mr. Shubrojoyoti Mookherjee

Mr. Samriddha Sen

....For the petitioners.

Mr. Dhruv Dewan

Mr. Deepanjan Dutta Roy

Ms. Arushi Chandra

Mr. Udbhav Nanda

Ms. Sanjana Jha
Ms. Rashmi Sharma
Ms. Aditi Rathore

....For respondent.

Hearing Concluded On : 14.01.2026

Judgment on : 10.02.2026

Krishna Rao, J.:

1. The petitioners have filed the present writ application challenging the show cause notices dated 28th February, 2025. Hearing of the matter was concluded on 14th January, 2026 and this Court reserved the matter for judgment along with all connected matters. On 15th January, 2026, the respondent bank again issued communications declaring the account of the petitioners as “fraud”.
2. On receipt of the said impugned letters dated 15th January, 2026, the petitioners have filed an application being CAN No. 1 of 2026 and brought to the notice of this Court about the impugned letters dated 15th January, 2026.
3. The petitioners contended that the respondent failed to act in accordance with its statutory obligations and responsibilities in terms of the Reserve Bank of India Master Directions.
4. It is further contended that the show cause notices issued by the respondent are without any jurisdiction and is arbitrary, perverse and violation of principles of natural justice. It is submitted that the

respondent bank failed to furnish either the purported Forensic Audit Report or the documents relied in the show cause notices.

5. It is submitted that the petitioners do not have access to the record of the SREI Entities since October, 2021 and the petitioners are not in a position to deal with and respond to the allegations made in the show cause notices.
6. Mr. Ratnanko Banerjee along with Mr. Jishnu Chowdhury, Learned Senior Advocates representing the petitioners, submit that the show cause notices have been issued on the basis of the Forensic Audit Report by mechanically and selectively reproducing certain parts thereof without context or basis but the respondent failed to provide a copy of the Forensic Audit Report or the copies of the documents on the basis of which the Forensic Audit Reports were prepared.
7. Mr. Banerjee submits that in the absence of each and every documents on the basis of which the allegations have been made against the petitioners in the show cause notices are being made available to the petitioners and a reasonable time is given to the petitioners, the petitioners will not be in a position to give appropriate reply to the show cause notices.
8. Mr. Banerjee in support of his submissions, has relied upon the judgement in the case of **Hemant Kanoria Vs. Bank of India** passed in **WPA No. 28329 of 2023** dated **2nd February, 2024** and submits that in the said case, the Coordinate Bench of this Court held that a

show cause notice is to be issued, enumerating the exact offences alleged against the borrower/ Director. If any, Forensic Audit Report or other document forms on the basis of the show case notice, the same is to be served along with the show cause notice.

9. Mr. Banerjee 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 Division Bench of the Bombay High Court held that it is now well settled that due compliance with principles of natural justice must essentially entail compliance with obligation to provide access to the material on which the allegations are based.
10. Mr. Banerjee submits that the petitioners have challenged the show cause notices issued by the respondent on 28th February, 2025, on the ground that the respondent has issued the show cause notices without providing the document on the basis of which the impugned show cause notices/letters were issued. He further submits that after hearing, this Court has reserved the matter for judgment on 14th January, 2026 but in the meantime the respondent has issued letters dated 15th January, 2026, declaring the account of the petitioners as “fraud”.
11. Mr. Dhruv Dewan, Learned Advocate representing the respondent submits that show cause notices were issued on 28th February, 2025, the petitioners ought to have filed reply to the show cause notice

but instead of filing show cause reply, the petitioners have filed the present writ application.

12. Mr. Dewan has relied upon the judgment in the case of ***Hemant Kanoria (supra)*** and submits that the Coordinate Bench of this Court also held that a balance has to be struck between the limit up to which technicalities should be adhered to on the one hand and speed in reporting is ensured on the other hand. He submits that the time is the essence of the entire Master Directions, which lends an extremely summary character to the process involved therein.

13. Mr. Dewan submits that in the show cause notices dated 28th February, 2025, it is categorically informed to the petitioners that on receipt of the Forensic Audit Report from KPMG dated 28th December, 2021 and M/s. Saxena and Saxena Chartered Accountants dated 7th February, 2022, the bank has found that several irregularities and directed the petitioners to show cause as to why the account of the petitioners shall not be declared as “fraud” but the petitioners have not submitted any reply in terms of the Master Circular and the order passed by this Court in the case of ***Hemant Kanoria (supra)***.

14. Mr. Dewan submits that the details of the documents which the petitioners have requested to supply for submitting reply to the show cause notice are as follows:

“115. *In light of the issues indicated above, I once again humbly request you to provide me with all the documents and information pertaining to loans furnished by the SREI entities*

with long moratorium periods and low interest rates which would enable me to provide a specific response behind the business justification for sanctioning such loans with long moratoriums and low interest rates. In aid of what I have respectfully stated above, I request your good offices to provide me with the following specific documents which would enable me to effectively and adequately respond to the allegations made in paragraph 3 of the SCNs.

- (a) Names and details of all officials of your bank who were involved in granting the subject loans to the SREI Entities.*
- (b) Names and details of all officials of your bank who were monitoring the manner in which your loans to SREI Entities were being utilized in respect of the loan accounts mentioned in paragraph 3 of the SCNs and sections 6 and 7 of the KPMG FAR.*
- (c) Names and details of all officials of your bank who were scrutinizing the loan accounts mentioned in paragraph 3 of the SCNs and sections 6 and 7 of the KPMG FAR and preparing appraisal reports which is mandatory as per applicable law.*
- (d) Copies of all appraisal reports prepared by the bank officials in respect of the loan accounts mentioned in paragraph 3 of the SCNs and sections 6 and 7 of the KPMG FAR.*
- (e) Copies of all minutes of meetings of your competent credit committee/ special cell/ relevant competent authority where the appraisal reports prepared by your bank in respect of the loan accounts mentioned in paragraph 3 of the SCNs and sections 6 and 7 of the KPMG FAR were considered and discussed.*
- (f) Specific information as to the security, its present value and also whether the loans are being serviced/restructured by the*

present management of the SREI Entities in respect of the companies mentioned in paragraph 3 of the SCNs.

- (g)** *All documents which demonstrate or evidence the fact that the arrangement of lending over a long moratorium period with low interest rates is without adequate justification, as alleged in paragraph 3 of the SCNs and paragraph 6.9.5 of the KPMG FAR.*
- (h)** *Copies of minutes of all meetings held in your bank by your competent authorities where all loan accounts and loan proposals of SREI Entities were placed and discussed for the purpose of sanctioning loans/ enhancing limits to SREI Entities between 1st April, 2015 and 4th October, 2021.*
- (i)** *Copies of the Detailed Appraisal Report (DAR) and Credit Assessment Memo (CAM) prepared by the relationship managers and regional heads of the SREI Entities of the transactions which are mentioned in paragraph 3 of the SCNs and sections 6 and 7 of the KPMG FAR.*
- (j)** *Copies of the notes /reports/memos prepared by the relationship managers and the regional heads of the SREI Entities with respect to the transactions mentioned in paragraph 3 of the SCNs and sections 6 and 7 of the KPMG FAR.*
- (k)** *Copies of the minutes of the meeting of the credit committee dealing with the approval modification/appraisal of the loans which were disbursed and detailed in paragraph 3 of the SCNs and sections 6 and 7 of the KPMG FAR.*
- (l)** *All documents which demonstrate or evidence the fact that the arrangement of lending over a long moratorium period with low interest rates has created a working capital mismatch, as alleged in*

paragraph 3 of the SCNs and paragraph 6.9.5 of the KPMG FAR.

- (m)** *All documents which were relied upon by KPMG in observing that “.... The arrangement of lending on long moratorium period without adequate Justification with loan interest rates creating working capital mis-match is prima facie detrimental to the financial health of the lenders”, as alleged in paragraph 3 of the SCNs and paragraph 6.9.5 of the KPMG FAR.*
- (n)** *Copy of the Corporate Governance report forming a part of the annual report of the SREI Entities which was reviewed by KPMG as indicated in pg. 205 of the KPMG FAR;*
- (o)** *Copies of all documents reviewed and analyzed by KPMG on sample basis as to the source and application of funds, revenue, capital and operating expenses during the review period, as indicated in pg. 210 of KPMG FAR.*
- (p)** *Copies of all documents which were reviewed by KPMG during the review period concerning impairment gains/ losses, incomes including provisions and reversals, expenses, capital expenses and fixed asset registers, investments and other current liabilities and assets and sample transactions which were selected by KPMG considering a threshold value of INR 25,00,000/- along with all supporting documents, as indicated in pg. 210 of KPMG FAR.*
- (q)** *Copies of all documents which were reviewed by KPMG during the review period which included invoices, vouchers, proof of delivery of service and all other supporting documents which were reviewed by KPMG for ascertaining genuineness of the transactions, as indicated in pgs. 210-211 of KPMG FAR.*

- (r) *Copies of the internal audit reports prepared by the auditors of the SREI Entities with respect to the transactions.*
- (s) *Specific information as to the security, its present value and also whether the loans are being serviced/restructured by the present management of the SREI Entities in respect of the companies mentioned in paragraph 3 of the SCNs.*
- (t) *All documents which were reviewed by KPMG during the review period which demonstrate or evidence the fact that fresh loans that have been given with longer moratorium period and lower interest rates have been given without adequate justification, as more fully indicated in paragraph 3 of the SCNs;*
- (u) *All documents which were reviewed by KPMG during the review period which demonstrate or evidence the fact that loans have not been utilized by borrowers for a purpose other than the stated purpose for which they were sanctioned, as indicated in paragraph 3 of the SCNs.*
- (v) *Copies of all “280 selected customer contracts aggregating to Rs. 19,604.98 Crore indicate that loans aggregating to a value of Rs. 7060.52 Crore (36% of Rs. 19,604.98 Crores), which were disbursed post June 2018” as indicated in paragraph 3 of the SCN.*
- (w) *Copies of all “280 selected customer contracts.... aggregating to INR 19,604.98 Crore and which indicate that "loans aggregating to a value of INR 7,060.52 Crore (36% of 19604.98 Crore which were disbursed post June 2018 bear an interest rate of 2% per annum or lower payable on a monthly/quarterly basis during the moratorium period with an Internal Rate of Return (IRR) of around 12% to 15% an exit, as indicated in paragraph 3 of the SCNs,*

- (x) All documents which were reviewed by KPMG during the review period which demonstrate or evidence the fact that loans to customers at a low interest rate of 2% per annum or lower during the initial moratorium period have also created a working capital gap for the SREI Entities, as indicated in paragraph 3 of the SCNS:*
- (y) Copy of the loan contract(s) in respect of Suasth Health Care (India) Limited, as indicated in paragraph 3 of the SCNs along with all related documents,*
- (2) Copies of the loan contract(s) in respect of Solapur Tollways Private Limited, as indicated in paragraph 3 of the SCNs along with all related documents,*
- (aa) All documents which were reviewed by the purported financial auditors during the respective review periods which demonstrate or evidence the fact that loans were sanctioned to connected entities and otherwise wherein long moratorium periods have been provided without adequate justification, as indicated in paragraph 3 of the SCNs;*
- (bb) All documents which were reviewed by the purported financial auditors during the respective review periods which demonstrate or evidence the fact that loans which were granted with long moratorium period were utilized for repaying outstanding loan taken by another connected entity, as indicated in paragraph 3 of the SCNs;*
- (cc) All documents which were reviewed by KPMG during the review period which demonstrate or evidence the fact that there was inadequate business justification for long moratorium with low interest payment in the context of projects which were generating revenue, as indicated in paragraph 3 of the SCNs.*

- (dd)** *Copy of the Corporate Governance report forming a part of the annual report of the SREI Entities which was reviewed by KPMG as indicated in pg. 205 of the KPMG FAR;*
- (ee)** *All records pertaining to related party transactions with Directors and Key Managerial Personnel ("KMP") which was reviewed by KPMG during the review period as indicated in pg. 205 of the KPMG FAR.*
- (ff)** *Copies of all loan contracts/sanction letters reviewed by KPMG during the review period which demonstrate or evidence the fact that the overall interest rates would be high (12-15% on exit) as indicated in pg. 211 of KPMG FAR.*
- (gg)** *Copies of all documents which were reviewed by KPMG during the review period on the basis of which it is observed that "... the working capital facilities and demand loans raised by SREI Entities from Consortium of Bankers for meeting the working capital requirements have an average interest rate of 9% per annum." as indicated in pg. 211 of KPMG FAR.*
- (hh)** *Copies of all documents which was reviewed by KPMG during the review period on the basis of which it observed that "... the term loans from domestic banks and FIIs which are raised for the purpose of financing infrastructure projects and meeting the on-ward lending requirements have an average interest rate 10.50% per annum are also payable on a monthly/ quarterly basis as indicated in pg. 211 of KPMCO FAR and paragraph 3 of the SCNs.*
- (ii)** *Details of all alleged connected entities/ alleged related parties alleged potentially related parties along with their shareholding and ultimate beneficiaries with respect to Kanoria Family members.*

- (ii) Copies of legal opinions obtained by SREI Entities, internal audit reports and external audit reports carried out from time to time on issue of related party/entities and family members' ownership, and KPMG's comments on the same."

15. In the case of **Hemant Kanoria (supra)**, the Coordinate Bench of this

Court held that:

“56. Chapter VI of the Master Directions gives the guidelines for reporting frauds to the police/CBI and other investigative agencies. Thus, the classification of fraud has two purposes – first, to caution the banking system as to the modus operandi of fraudulent operatives and borrowers and secondly, to initiate proceedings against fraudsters by reporting the same to investigative agencies, which, in turn, might lead to convictions under the criminal laws of the country.

57. Clause 8.4 of the Master Directions speaks about early detection and reporting and highlights that at present the detection of frauds takes an unusually long time since banks tend to report an account as fraud only when they exhaust the chances of further recovery. Clause 8.4.2 says that the most effective way of preventive frauds in loan accounts is for banks to have a robust appraisal and an effective credit monitoring mechanism during the entire life-cycle of the loan account.

58. Clause 8.7 of the Master Directions provides incentive for prompt reporting by banks.

59. Thus, looking into the entire tenor of the Master Directions, it is evident that unnecessary reliance of formalities would tend to defeat and frustrate the very purpose of enunciation of the said Directions.

60. Hence, what has to be ensured is that specific instances of allegations are to be mentioned in the show-cause notice, although all

particular documents which are to be relied on and/or intricate details of the frauds alleged need not be given at the show-cause notice stage. The show-cause is a mere indicator of the allegations made against the borrower and its Director/management. It is to ensure that an effective opportunity of hearing is given to the accused.

61. *Although the process of fraud declaration is summary under the Master Directions, the principles of natural justice have to be read into it as much as possible, since such principles are the basic features of Rule of Law and cannot be short shrifted.*

62. *However, there is no scope of any detailed trial and, as such, the procedure is to be streamlined.*

63. *Keeping such backdrop in view, in the light of the judgments rendered in Rajesh Agarwal (supra) and Neptune Overseas Limited (supra), the following procedure is, in the opinion of this Court, apt to serve the purposes of the Master Directions as well as to take care of the principles of natural justice, in particular the tenet of Audi Alteram Partem and ensure that an effective opportunity of rebutting the allegations is given to the borrower and its Directors.*

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.

66. *Within a week from receiving such replies, the Banks can give an inspection of the documents, if extremely voluminous, and/or furnish copies of the particular documents which are sought by the borrower.*

67. *Within a further fortnight, if necessary, the noticee/borrower can be given an opportunity to file additional reply, in the light of the documents which have by now been inspected / served on them. Thereafter, a hearing shall be fixed by the bank on the basis of the reply.*

68. *Upon such hearing being concluded, a decision shall be taken whether or not to declare the borrower-company or its Director/promoter as "fraud" or "perpetrator of fraud". The aforesaid procedure would take, at the most, 8 weeks in total to be concluded, which would be sufficient compliance of the Master Directions of the RBI. Thereafter, if declared as fraud/perpetrator of fraud, the same can be intimated by the Bank to the RBI."*

- 16.** It is the specific case of the petitioners that the entire documents of the Forensic Audit Report, are not supplied to the petitioners.
- 17.** Considering the above, this Court finds that the petitioners have specified the documents which the petitioners are required to give proper reply to the show cause notices but without any reasons and without considering the request of the petitioners, the respondent has passed the impugned orders dated 15th January, 2026, during the pendency of the present writ application, thus the impugned orders are set aside and quashed.

18. The respondent is directed to supply the documents as mentioned in paragraph 14 above within two weeks from date and if the documents are voluminous, the respondent shall allow the petitioners to inspect the documents and the petitioners shall complete the inspection of the documents within a period two weeks.
19. On receipt of the documents or on completion of inspection of documents, the petitioners shall have the liberty to file their reply to the show cause notices within two weeks thereafter.
20. On receipt of supplementary reply to the show case notices, if any, the respondent shall pass necessary order within two weeks thereafter.
21. **WPA No. 6872 of 2025** with **CAN No. 1 of 2026** are accordingly **disposed of.**

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.)