



WPC Nos.32516 and 32291 of 2024

1

2025:KER:88312

CR

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE M.A.ABDUL HAKHIM

WEDNESDAY, THE 19<sup>TH</sup> DAY OF NOVEMBER 2025 / 28TH KARTHIKA, 1947

WP(C) NO. 32516 OF 2024

PETITIONER:

ABDUL AZEEZ  
AGED 39 YEARS  
S/O IBRAHIM VATTAKUNNUMMAL, POOVANKANDY, KATTIPPARA,  
KEDAVUR, KOZHIKODE, PIN - 673573

BY ADVS.  
SHRI.ALBIN A. JOSEPH  
SHRI.SUSANTH SHAJI  
SHRI.SIDHARTH O.

RESPONDENTS:

- 1 UNION OF INDIA  
REPRESENTED BY THE SECRETARY, MINISTRY OF FINANCE, NORTH  
BLOCK, NEW DELHI, PIN - 110001
- 2 RESERVE BANK OF INDIA  
REPRESENTED BY ITS, GENERAL MANAGER BRANCH OFFICE BANERJI  
ROAD ERNAKULAM NORTH, KOCHI, PIN - 682018
- 3 THE MANAGING DIRECTOR  
SOUTH INDIAN BANK LTD, HEAD OFFICE, TB ROAD, MISSION  
QUARTERS, SAKTHAN THAMPURAN NAGAR, VELIYANNUR, THRISSUR, PIN  
- 680001
- 4 THE MANAGER  
SOUTH INDIAN BANK LTD, POONOR BRANCH, 2/137, RP AHAMEDKUTTY  
BUILDING, POONOR P.O, UNNIKULAM, KOZHIKODE, PIN - 673574



WPC Nos.32516 and 32291 of 2024

2

2025:KER:88312

BY ADVS.

R1 BY SMT. O.M.SHALINA, DEPUTY SOLICITOR GENERAL OF INDIA

R2 BY SHRI.M.GOPIKRISHNAN NAMBIAR

SMT.AKHILA NAMBIAR

SHRI.PRANOY HARILAL

SHRI.RAJA KANNAN

SRI.JOSON MANAVALAN

SRI.KURYAN THOMAS

SHRI.PAULOSE C. ABRAHAM

SHRI.K.JOHN MATHAI

R3 & R4 BY SHRI.SUNIL SHANKER

SMT.VIDYA GANGADHARAN

SMT.ANGEL YESUDASAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12.11.2025,  
ALONG WITH WP(C).32291/2024, THE COURT ON 19.11.2025, DELIVERED THE  
FOLLOWING:



WPC Nos.32516 and 32291 of 2024

3

2025:KER:88312

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE M.A.ABDUL HAKHIM

WEDNESDAY, THE 19<sup>TH</sup> DAY OF NOVEMBER 2025 / 28<sup>TH</sup> KARTHIKA, 1947

WP(C) NO. 32291 OF 2024

PETITIONER:

ANWAR SADATH PUTHAR KUZHIKKAL  
AGED 42 YEARS  
S/O KUNHALI KKUTTY, PUTHAR KUZHIKKAL HOUSE, ANDONA PARAPPAN  
POYIL P.O, KOZHIKODE, PIN - 673573

BY ADVS.  
SHRI.ALBIN A. JOSEPH  
SHRI.SUSANTH SHAJI  
SHRI.SIDHARTH O.

RESPONDENTS:

- 1 UNION OF INDIA  
REPRESENTED BY THE SECRETARY, MINISTRY OF FINANCE, NORTH  
BLOCK, NEW DELHI, PIN - 110001
- 2 RESERVE BANK OF INDIA  
REPRESENTED BY ITS, GENERAL MANAGER BRANCH OFFICE BANERJI  
ROAD ERNAKULAM NORTH, KOCHI, PIN - 682018
- 3 THE MANAGING DIRECTOR  
SOUTH INDIAN BANK LTD, HEAD OFFICE, TB ROAD, MISSION  
QUARTERS, SAKTHAN THAMPURAN NAGAR, VELIYANNUR, THRISSUR, PIN  
- 680001
- 4 THE MANAGER  
SOUTH INDIAN BANK LTD, THAMARASSERY BRANCH, DOOR NO. T.P  
7/396-K, MATHA TOWERS, KOZHIKODE-WAYANAD ROAD, THAMARASSERY,  
PIN - 673573



WPC Nos.32516 and 32291 of 2024

4

2025:KER:88312

BY ADVS.  
R2 BY SHRI.M.GOPIKRISHNAN NAMBIAR  
SHRI.K.JOHN MATHAI  
SRI.JOSON MANAVALAN  
SRI.KURYAN THOMAS  
SHRI.PAULOSE C. ABRAHAM  
SHRI.RAJA KANNAN  
SHRI.PRANOY HARILAL  
SMT.AKHILA NAMBIAR  
SHRI.SUNIL SHANKER  
SMT.VIDYA GANGADHARAN  
SMT.ARYA SATHEESH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12.11.2025,  
ALONG WITH WP(C).32516/2024, THE COURT ON 19.11.2025, DELIVERED THE  
FOLLOWING:



**CR**

**JUDGMENT**

**[WP (C) Nos .32516/2024 , 32291/2024]**

1. Since common questions arise in these Writ Petitions, I dispose of these Writ Petitions by a common judgment. A crucial and important question arises in these Writ Petitions as to whether the Bank has the right or authority to freeze the account of its Account Holders on the basis of suspicion with respect to the transactions in the account by itself in the absence of any requisition to do so from a law enforcement agency. This question has emerged on account of the recent rampant increase in financial cyber fraud. The present situation has led to the filing of a large number of cases involving the account freezing of persons involved in the fraud and innocent persons in this Court. Every day this Court is dealing with nearly 200 cases. It is observed that a large number



of transactions involving Crores of Rupees over a short period are present in several accounts belonging to young persons and persons from the lower strata of society. In such cases, it is clear that the accounts are used either for financial cyber fraud or for money mules. It is a challenging task for this Court to determine whether the Petitioner is an offender or a victim. This Court also considers the pattern of transactions to identify the offender and the victim while exercising its discretion under Article 226 of the Constitution of India to give relief to the Petitioners. Should the Bank remain a silent spectator when there are reasons to believe that its Account Holders have been using the accounts for illegal purposes is the question to be answered in these Writ Petitions.

2. The Petitioners in these Writ Petitions are Account Holders of two branches of the South Indian Bank Ltd.



3. The Petitioner in W.P.(C) No.32291/2024 was served with Ext.P1 Message dated nil, intimating that his account has been put under debit freeze on account of unusual transactions observed not matching with his declared profile and requesting to contact the Branch for further details. The account of this Petitioner is having a credit balance of Rs.20,00,380/-. The Petitioner claims that he is a non-resident Indian residing in the UAE and he has been conducting business therein for more than 20 years.
4. The Petitioner in W.P.(C) No.32516/2024 was served with Ext.P1 Intimation dated 16.08.2024 by the Bank informing him that the operation in his account is temporarily restricted since the transactions therein is not in line with the declared income as well as the profile of the customer and requesting him to justify the transactions in the account by submitting the source of income and to update the details in case the declared profile is wrong. The



account of this Petitioner is having a credit balance of Rs.34,00,804/-. The Petitioner claims that he has been conducting business.

5. It is the case of the Petitioners that the transactions in the accounts of the Petitioners and the source of amounts therein were well explained to the Bank by submitting an Explanation, and in spite of that, the Bank did not lift the debit freeze. The Petitioners also represented to the General Manager, Reserve Bank of India (RBI) to interfere with the matter, but he did not respond.

6. These Writ Petitions are filed on 10.09.2024 and 11.09.2024. Even now, the Petitioners are unable to operate their accounts. Admittedly, no requisition has been received by the Bank from any of the law-enforcing agencies or Courts to freeze the operations of the accounts of the Petitioners to date.



7. The Bank has filed Counter Affidavits in both these Writ Petitions opposing the prayers in the Writ Petitions referring to various guidelines in the Circulars and Directions issued by the RBI and contending that the Bank has acted with all its bona fides and it is only discharging the obligations under various guidelines issued by the RBI which is binding on the Bank under Section 35A of the Banking Regulation Act, 1949. The Petitioner in W.P.(C) No.32516/2024 filed a Reply Affidavit to the Counter Affidavit filed by the Bank. The Reserve Bank of India filed a Counter Affidavit producing a copy of the Master Direction (MD) on Know Your Customer (KYC) dated 25.02.2016, updated on 14.08.2025, and contending that RBI has not issued any specific instruction regarding freezing of accounts of individuals/institutions except under the said Circular.



8. I heard the learned Senior Counsel for the Petitioners, Adv. Sri. S. Sreekumar, instructed by Adv. Sri. Albin A. Joseph, Adv. Sri. Sunil Shanker, who appeared for the South Indian Bank, and Adv. Smt. Akhila Nambiar, who appeared for the RBI.
9. The learned Senior Counsel for the Petitioners contended that the Bank has no right to freeze the operations in the accounts of the Petitioners in the absence of a requisition for the same from any of the law-enforcing agencies. The learned Counsel invited my attention to various provisions in Ext.P6 Master Circular dated 01.07.2015 issued by the RBI and Ext.R2(a) Circular produced along with the Counter Affidavit of the RBI. The contention of the learned Senior Counsel is that when the Bank entertains suspicion regarding the transactions of its Account Holder, the Bank can only report the same to the Financial Intelligence Unit of India (FIU-IND) by submitting Suspicious Transaction Report (STR)



and the Bank has no right or authority to freeze the accounts. The Circular mandates that even before effecting freezing, the Account Holder should be given advance notice. Now, more than one year has elapsed from the date of freezing of the accounts by the Bank, and even now neither the Bank nor the RBI has a case that any requisition is made by any of the law-enforcing agencies with respect to the accounts of the Petitioners. Nobody has claimed any amount from the accounts of the Petitioners. The action on the part of the Bank is in violation of the Right to Property of the Petitioners guaranteed under Article 300A of the Constitution of India. The Petitioners are law-abiding citizens, and they are not involved in any crime. They have explained well the transactions and the amounts lying in their accounts. Learned Senior Counsel invited my attention to Ext.P8 Income Tax Return submitted by the Petitioner in W.P.(C) No.32516/2024 to substantiate that he is having a sufficient source of income for the



amount lying in his account. Learned Senior Counsel cited the Division Bench decision of the Gujarat High Court in ***State Bank of India v. Ashvin Chaturbhai Parmar and Others [Crl. Appeal No.725 of 2009]*** to substantiate the point that the freezing of an account is more prejudicial to the Account Holder in comparison to the closure of the account, as in the case of closure of accounts, the entire amount standing in the credit of the account will be paid to the Account Holder, whereas in the case of freezing, the Account Holder is deprived of his right over the money which is a property belonging to him. Learned Senior Counsel concluded his argument by praying to allow the Writ Petitions by directing the Bank to permit the Petitioners to operate their accounts dealing with the credit balance available therein.

10. The learned Standing Counsel for the Bank contended that the action of the Bank freezing the accounts of the Petitioners is fully



justified in view of the guidelines issued by the RBI. The Bank has acted in all bona fides to prevent illegal transactions. It is the duty of the Bank to see that no offence is committed using the accounts maintained by it. The Bank has frozen the accounts of the Petitioners only to ensure the same. If the Petitioners had offered sufficient explanations for the unusual transactions in their accounts, the Bank would have permitted them to operate the accounts. They have not offered any explanation for transactions involving large amounts, even in this Court. The learned Counsel invited my attention to Ext.R4(A) Account Opening Form submitted by the Petitioner in W.P.(C) No.32516/2024, in which he has stated that his monthly income is only below Rs.5,000/-. Ext.R4(B) Statement of Account would show that for the period from 03.04.2024 to 13.08.2024, there have been deposits of Rs.1,90,26,665.86 and withdrawals of Rs.1,56,26,413.84. Likewise, the Petitioner in W.P.(C)



No.32291/2024 declared in the KYC details that he is having an annual income between Rs.5 lakh and Rs.10 lakh. The account was opened on 16.07.2024. Between the period from 24.07.2024 to 13.08.2024, there have been deposits of Rs.2,74,24,025/- and withdrawals of Rs.2,54,23,635/- as revealed from Ext.R4(A) Statement of Account. The learned Counsel invited my attention to the various provisions in the guidelines issued by the RBI strictly directing it to monitor the accounts of its customers to ensure compliance with law. The learned Counsel contended that the Bank is a reporting entity as defined under Section 2(1)(wa) of the Prevention of Money-Laundering Act, 2002 (PMLA), and that in view of Sub-Clause (3) of Section 12AA, the Bank has the authority to effect freeze of accounts when the Bank has reasons to entertain suspicion.



11.The learned Standing Counsel for the RBI contended that the RBI has not issued any specific instruction regarding freezing of accounts of individuals/institutions except under Ext.R2(a) circular. It is for the Banks to freeze the accounts of their customers when the Banks receive requisitions from any competent authorities or Courts to freeze or to mark suspect accounts for freezing under various provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) and the Banning of Unregulated Deposit Schemes Act, 2019 (BUDS Act). When the RBI receives statutory orders from any competent authority or Court, the same are communicated to the respective Banks for necessary action, and the RBI has no further role or action to take on the issue of freezing of accounts by the Banks based on intimations from law enforcement agencies.

12.I have considered the rival contentions.



13. It is apposite to extract Section 35A of the Banking Regulation Act, 1949, dealing with the powers of the RBI to give directions.

**“35A. Power of the Reserve Bank to give directions. —**

(1) Where the Reserve Bank is satisfied that—

- (a) in the public interest; or
- (aa) in the interest of Banking policy; or
- (b) to prevent the affairs of any Banking company being conducted in a manner detrimental to the interests of the depositors or in a manner prejudicial to the interests of the Banking company; or
- (c) to secure the proper management of any Banking company generally,

it is necessary to issue directions to Banking companies generally or to any Banking company in particular, it may, from time to time, issue such directions as it deems fit, and the Banking companies or the Banking company, as the case may be, shall be bound to comply



with such directions.

(2) The Reserve Bank may, on representation made to it or on its own motion, modify or cancel any direction issued under sub-section (1), and in so modifying or cancelling any direction may impose such a condition as it thinks fit, subject to which the modification or cancellation shall have effect.”

14.The said provision provides wide powers to the RBI to issue direction to regulate banking business in the public interest or in the interest of Banking policy or to prevent the affairs of any banking company being conducted in a manner detrimental to the interests of the depositors or in a manner prejudicial to the interests of the Banking company or to secure the proper management of any Banking company generally. Prevention of financial cyber fraud would come under the aforesaid clauses in Section 35A. The rate of cybercrimes has increased at an alarming



pace following the implementation of UPI transactions by the Central Government, which were introduced with the laudable objective of promoting a cashless economy. UPI enables 24/7 transfers between bank accounts, making transactions speedy, convenient, and transparent with enhanced security. However, this has also made the commission of cybercrimes much easier. The country is now flooded with cybercrimes involving the misuse of bank accounts. The RBI, as the central bank responsible for managing the nation's currency and banking system, has wide powers under Section 35A of the Banking Regulation Act to protect the banking system and the economy. In this context, the RBI cannot close its eyes to the large-scale financial cybercrimes being perpetrated through bank accounts without taking effective preventive measures. It is unfortunate that the RBI has filed a Counter-Affidavit in a casual manner, effectively washing its hands of the issue without appreciating the seriousness of the



matter raised in these Writ Petitions. It virtually says that Banks do not have any power to freeze the accounts of their customers in the absence of any requisition from any law-enforcing agency or court. It is incumbent upon the RBI, with its expertise, to take up this issue and formulate a concrete Standard Operating Procedure clearly defining the powers of Banks to freeze suspicious accounts in order to prevent financial cybercrimes.

15.The basic facts are admitted by the parties. The Bank froze the accounts of the petitioners without any requisition from any of the law-enforcing agencies. More than one year has elapsed after the freezing of the accounts. No requisition from any of the law-enforcing agencies has been received by the Bank till this date, even though the Bank has reported the suspicious transactions in the accounts and the freezing of the accounts to the RBI. Nobody has claimed any amount lying in the accounts of the Petitioners.



These admitted facts are favourable to the Petitioners to win these Writ Petitions. Nevertheless, the Petitioners have not satisfactorily explained the suspicion entertained by the Bank with respect to the high-value transactions in their accounts within a short period, which does not match their profiles and declarations made at the time of opening the accounts. Ext. R4(A) Account Opening Form of the Petitioner in W.P.(C) No.32516/2024 would show that he has declared a monthly income of less than Rs.5,000/-. Ext.R4(B) Statement of Account would reveal large numbers of high-value deposits and withdrawals therein. In the case of the Petitioner in W.P.(C) No.32291/2024 also, the situation is the same. Even though the learned Senior Counsel for the Petitioners tried to explain the high-value transactions of the Petitioner in W.P.(C) No.32516/2024 with reference to Ext.P8 Income Tax Return Acknowledgement, I find that Ext.P8 Acknowledgement would show that the Income Tax Return was



submitted on 14.03.2025, subsequent to Ext.P1 dated 16.08.2024 freezing his account. The said Income Tax Return is submitted after the filing of the Writ Petition in order to justify the high-value transactions. The Petitioner in W.P.(C) No.32516/2024 does not have any case that he has filed any Income Tax Return earlier. Even Ext. P8 would show that the total income declared is only Rs.7,02,790/-, whereas the transactions for the short period of nearly four months in Ext.R4(B) are deposits of more than Rs.1.90 Crores and withdrawals of more than 1.50 Crores. Even before this Court, the Petitioners have not satisfactorily explained the high-value transactions in the account. The Petitioners have not even disclosed the nature of the business undertaken by them. On these grounds, I can easily dismiss these Writ Petitions, refusing to exercise my discretionary jurisdiction under Article 226 of the Constitution of India. But, there is also a question that confronts me as to how long the Bank will continue freezing the account,



what will happen to the amounts lying in the Petitioners' accounts, and who is entitled to enjoy the money standing to their credit. Hence, I think it is necessary to examine the guidelines issued by the RBI and the relevant provisions of law to define the right and authority of the Banks for guidance of the Banks till the RBI comes forward with a concrete Standard Operating Procedure defining the powers of the Banks to freeze the suspicious accounts in order to prevent the financial cybercrimes.

16. Even though not all the Banks are strictly public authorities, the Banks have obligations to assist the Government to prevent financial abuse. Banks have a duty to ensure that no offence is committed using the accounts maintained by them. If the Banks do not take timely, appropriate actions, they also can be termed as accomplices to the crime, facilitating the commission of offences by their Account Holders. Then the question arises as to



what are the appropriate actions to be taken by the Bank when they have reasons to believe that the Account Holders are committing offences using their accounts. Of course, the Bank can demand that its customers close the Bank accounts if the Bank has reason to believe that the Account Holders have misrepresented or suppressed material information to the Bank while opening the account or while updating the KYC details. For that, the RBI has framed certain Guidelines which are produced in these Writ Petitions. The said guidelines provide for partial freezing and closure of accounts with advance notice. It does not provide for immediate debit freezing of the accounts without notice to the Account Holders. If advance notice is given to the Account Holders before effecting freezing, there is every chance of the Account Holders withdrawing the proceeds of the crime if he is really involved in a crime. It would not be in the interest of the Banking system and the economy of the country, apart from



punishing the wrongdoers. It would defeat the attempt to realize the money from the wrongdoers and restore the same to the victims.

17. Of course, when Requisitions are received from law-enforcing agencies and Courts, the Banks are bound to act in accordance with the requisitions from such agencies and Courts. As far as the cases on hand, the Respondent/Bank has not received any requisition from any of the law enforcement agencies or courts even after a lapse of one year from the date of debit freezing.
18. Let me examine the guidelines issued by the RBI, which are placed on record by the parties to substantiate their contentions, to verify whether the Banks have the right to freeze the operations in an account when the Bank finds unusual and suspicious transactions in the account of its customers. The Respondent/Bank relies on Clause No.2.10 of the **Master Circular -**



***Know Your Customer (KYC) Norms / Anti-Money Laundering (AML) Standards / Combating of Financing of Terrorism (CFT) / Obligation of Banks under PMLA, 2002 dated 02.07.2012*** issued by RBI, dealing with monitoring of transactions. On going through the said provision, it is seen that the said provision is intended for ongoing monitoring as a part of the KYC procedure to control and reduce the risk of the Banks. It only provides for paying special attention to all complex, unusually large transactions and all unusual patterns which have no apparent economic or visible lawful purpose; transactions that involve large amounts of cash inconsistent with the normal and expected activity of the customer should particularly attract the attention of the Bank. It mandates filing STRs to FIU-IND. It mandates for periodical review of risk categorization and for periodical enhanced due diligence measures. The said provision does not enable the Banks to freeze



the account even if the Banks are having strong reasons to suspect the transactions in the account.

19. The next Circular relied on by the Respondent/Bank is the **Master Direction DBR.AML.BC.No.81/14.01.001/2015-16 dated 25.02.2016** [Same Circular updated as on 14.08.2025 is produced by the RBI as Ext.R2(a)] issued by the RBI. Clause 59 deals with the operation of Bank accounts and money mules. Clause 59 is extracted hereunder.

### **“59. Operation of Bank Accounts & Money Mules**

The instructions on opening of accounts and monitoring of transactions shall be strictly adhered to, in order to minimise the operations of “Money Mules” which are used to launder the proceeds of fraud schemes (e.g., phishing and identity theft) by criminals who gain illegal access to deposit accounts by recruiting third parties which act as “money mules.” Banks shall undertake diligence measures and meticulous monitoring to identify accounts which are operated as Money Mules and take



appropriate action, including reporting of suspicious transactions to FIU-IND. Further, if it is established that an account opened and operated is that of a Money Mule, but no STR was filed by the concerned Bank, it shall then be deemed that the Bank has not complied with these directions.”

20. Even though the said provision enables the Bank to take appropriate action, including reporting suspicious transactions to FIU-IND, it does not specifically authorise freezing of accounts. The RBI should have defined and explained the ‘appropriate action’ to be taken by the Banks.

21. Learned Standing Counsel for RBI pointed out Clause 39 of Ext.R2(a) Master Direction and contended that it provides temporary ceasing operations in an account. On going through the said provision, I find that the temporary ceasing operations and closure of the account provided there are for want of production



of Permanent Account Number or equivalent documents. Even in the said case, the provision mandates the Bank to give an accessible notice and a reasonable opportunity of hearing before the temporary ceasing of operations. Clause 17 of Ext.R2(a) pointed out by the Counsel also deals with closure of account for non-completion of Customer Due Diligence (CDD) within a year. Clause 38 of Ext.R2(a) also deals with periodical updation of KYC of the customers with reference to the degree of risk. The said provisions do not deal with suspicious accounts or suspicious transactions.

22.Though the learned Counsel for the Bank relied on Clause 3.4 of the Master Directions on Fraud Risk Management in Commercial Banks (including Regional Rural Banks) and All India Financial Institutions updated on 15.07.2024, I find that the said provision only provides for developing and strengthening of Early Warning



Signal (EWS) framework for monitoring other Banking/non-credit related transactions for alerting the Bank timely in initiating appropriate measures towards prevention of fraudulent activities including monitoring of transaction/unusual activities specifically in the non-KYC compliant and money mule accounts, etc., to contain unauthorised/fraudulent transactions and to prevent misuse of Banking channel.

23. The Petitioner in W.P.(C) No.32516/2024 produced Ext.P6 ***Master Circular - Know Your Customer (KYC) Norms / Anti-Money Laundering (AML) Standards / Combating of Financing of Terrorism (CFT) / Obligation of Banks and Financial Institutions under PMLA, 2002, dated 01.07.2015.*** Clause 3.2.2.III deals with periodic updation of KYC. Clause B therein provides for freezing and closure of accounts. It provides that in case of non-compliance with KYC requirements by the customers despite repeated reminders, the Bank may



impose partial freezing on such KYC non-compliant accounts in a phased manner. The Account Holders can revive their accounts by submitting KYC documents. It is specifically provided that while imposing partial freezing, the Bank has to ensure that the option of partial freezing is exercised after giving due notice of three months initially to the customers to comply with KYC requirements to be followed by a reminder giving a further period of three months. It is clear from the said Clause that partial freezing means allowing all credits and disallowing all debits with the freedom to close the accounts. It provides that if the accounts are KYC non-compliant after six months of imposing initial partial freezing, the Bank has to disallow all debits and credits to the accounts, thereby rendering them inoperative. It is open to the Bank to close the account after due notice to the customer, explaining the reason. The said provision providing partial and full freezing is with respect to the operation of KYC non-compliant



accounts. By the said provision, the Bank cannot freeze the account without notice to the Account Holder. The said Clause is not applicable to the freezing of accounts or the amounts therein by the Bank on the grounds of suspicion.

24.All the above Circulars aim for identifying suspicious accounts, fraudulent transactions, and misuse of Bank accounts, but it does not specifically state the course of action to be taken by the Banks on identification of the same to prevent the same. It does not specifically authorize the Banks to freeze the accounts of their customers. Though the RBI has issued several Circulars for monitoring suspicious transactions, it is surprising to note that in the Counter Affidavit, the RBI has stated that it has not issued any specific instructions regarding the freezing of the accounts of the individuals/institution except Ext.R2(a) Circular. Ext.R2(a) Circular also provides that before temporarily ceasing operations



of accounts, the Bank has to give an accessible notice and a reasonable opportunity of being heard. It provides for the closure of accounts by the Bank. The Ext.R2(a) Circular does not say what course of action is to be taken by the Bank with respect to the money generated in the accounts of the Petitioners out of the suspicious transactions. The advanced notice provided in Ext.R2(a) will defeat the very purpose for which the monitoring of the accounts is done, as it would enable the wrongdoers to withdraw and misappropriate the proceeds of the crime, making the recovery impossible.

25. Bank is a reporting entity as defined under Section 2(1)(wa) of the PMLA. As per Section 12 of PMLA, every reporting entity has to maintain a record of all transactions of all its customers and furnish the same to the authority under PMLA. As per Sub-Section (1) Section 12AA of PMLA dealing with enhanced due diligence of



reporting entities, it is the duty of the reporting entity to verify the details of the specified transaction, which includes examination of the identity, ownership, financial position, sources of funds of the client, the purpose behind conducting the specified transaction and the intended nature of the relationship between the transaction parties. Sub-Section (2) provides that if the client fails to fulfill the conditions laid down under Sub-Section (1), the reporting entity shall not allow the specified transaction to be carried out. The aforesaid provisions under PMLA deal with only 'specified transaction' defined in the Explanation therein and not with the operations of the account. Even though learned Standing Counsel for the RBI pointed out Rule 10(3) of the Prevention of Money-Laundering (Maintenance of Records) Rules, 2005, I find that the said provision provides for closure of account after notice to the Account Holder for want of identity records and hence is not applicable to the cases on hand.



26. The Banks are the only entities that can easily monitor and prevent fraudulent transactions and money mules. Sub-Section (3) of Section 12AA of the PMLA provides that where any specified transaction or series of specified transaction undertaken by a client is considered suspicious or likely to involve proceeds of crime, the reporting entity shall increase the future monitoring of the business relationship with the client, including greater scrutiny or transactions. This provision does not specifically provide for freezing of the account. But in order to achieve the object of the PMLA and the above Guidelines issued by the RBI, I am of the view that the Banks are to be conferred with the power to freeze the operations in the suspicious accounts for a reasonable period, without prior notice to the Account Holders, when the Bank has reasonable grounds for suspicion. Such power is absolutely essential to enable the law-enforcing agencies to examine the transactions and to verify any action is required in the



matter and to prevent the Account Holders from withdrawing the proceeds of the alleged crime in the meantime. The Bank has to assist the law-enforcing agencies by preventing the release of the said amounts for a reasonable period. I hold that the 'appropriate action' referred to in the aforesaid Clause 59 of Ext.R2(a) Circular of RBI includes the power for temporary freezing of the accounts till the verification of the transactions in the account by the law-enforcing agencies. In such cases also, the Bank can continue the debit freezing only for a reasonable period, and it is appropriate to fix the reasonable period as a period of three months. If no action is taken by any of the law-enforcing agencies within the said period of three months, the Bank has to necessarily release the debit freezing.

27.Hence, I am of the view that till the time the RBI comes forward with a Standard Operating Procedure for the Banks to deal with



suspicious accounts, it is for this Court to intervene and give guidance to the Banks, taking note of the object of the aforesaid Guidelines issued by the RBI. Accordingly, the following guidelines are made for freezing the operations in the account when the Bank entertains suspicion about the operation of the account.

1. If the Bank is having reason to believe suspicious transactions in the account, the Bank is free to effect a debit freeze of the account without notice to the Account Holder.
2. The Bank shall intimate the freezing of the Account to the Account Holder by sending a Communication with reasons for suspicion by SMS and Registered post on the date of freezing itself.
3. The Bank shall send a Communication detailing the freezing of the account with reasons for suspicion to the



jurisdictional Cyber Crime Police Authority and all the authorities required under the Guidelines issued by the RBI and ensure its receipt by them.

4. The Account Holder is free to submit a necessary Explanation to the Bank regarding the suspicion entertained by the Bank, and on receipt of such an Explanation, the appropriate authority of the Bank shall consider the same and pass appropriate orders within a period of one week from the date of receipt of the Explanation and communicate the same to the Account Holder. If the Bank is satisfied with the Explanation submitted by the Account Holder, the Bank is to de-freeze the account.

5. If no Explanation is received from the Account Holder or the Explanation submitted by the Account Holder is not satisfactory to the Bank, the Bank can continue with the



freezing of the account for a period of three months from the last date of delivery of the communication of freezing to the aforesaid authorities mentioned in Point No.3.

6. If the Bank receives any instruction/order from any of the aforesaid authorities mentioned in Point No.3, the Bank has to comply with it and communicate the same to the Account Holder without delay.
7. If no communication is received within a period of three months from the last date of delivery of the communication of freezing to the aforesaid authorities mentioned in Point No.3, the Bank shall lift the freezing of the account, allowing the Account Holder to deal with the credit balance and intimate the same to the Account Holder and thereafter the Bank may either permit the operation of the account or demand closure of the account.



8. If the Account Holder has a grievance that the Bank has illegally rejected the Explanation submitted by the Bank, the Account Holder is free to challenge the same in accordance with law.
28. In the cases on hand, it is clear from the Counter affidavits of the Bank that the Bank has communicated the suspicion only to the RBI. Hence, these Writ Petitions are disposed of:
1. Directing the Respondent/Bank to communicate the freezing of the accounts of the Petitioners to all the authorities mentioned in Paragraph No.27.3 in this judgment within two working days from the date of receipt of a copy of this judgment and to proceed in accordance with the guidelines provided in Paragraph No.27.
  2. Directing the RBI to frame Guidelines providing a Standard Operating Procedure defining the powers of the Banks to



freeze the suspicious accounts in order to prevent financial cybercrimes.

3. It is made clear that in case of de-freezing of the account, the Respondent/Bank is free to demand closure of the account or to effect further freezing of the account if the Bank has reason for suspicion regarding future transactions.

sd/-

**M.A.ABDUL HAKHIM**

**JUDGE**

Jma/shg



APPENDIX OF WP(C) 32516/2024

PETITIONER EXHIBITS

|            |                                                                                                                                                                                                            |
|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Exhibit-P1 | TRUE PHOTOSTAT COPY OF THE LETTER DATED 16.08.2024 ISSUED BY THE 4TH RESPONDENT.                                                                                                                           |
| Exhibit-P2 | TRUE PHOTOSTAT COPY OF THE REPRESENTATION DATED 17/08/2024 ISSUED BY THE PETITIONER TO THE 3RD AND 4TH RESPONDENTS.                                                                                        |
| Exhibit-P3 | TRUE PHOTOSTAT COPY OF THE POSTAL RECEIPT ISSUED BY INDIA POST DATED 11/09/2024.                                                                                                                           |
| Exhibit-P4 | TRUE PHOTOSTAT COPY OF THE REPRESENTATION DATED 17/08/2024 ISSUED TO THE 2ND RESPONDENT.                                                                                                                   |
| Exhibit-P5 | TRUE PHOTOSTAT COPY OF THE POSTAL RECEIPT ISSUED BY INDIA POST DATED 11/09/2024.                                                                                                                           |
| Exhibit P6 | True copy of the master circular regard KYC (know your customer) issued by the Reserve Bank of India dated 01/07/2015                                                                                      |
| Exhibit P7 | TRUE COPY OF THE REPORT OF THE COMMITTEE FOR REVIEW OF CUSTOMER SERVICE STANDARDS IN RBI REGULATED ENTITIES DATED 24.04.2023 ISSUED BY RESERVE BANK OF INDIA, CONSUMER EDUCATION AND PROTECTION DEPARTMENT |
| Exhibit P8 | TRUE COPY OF THE ONLINE ACKNOWLEDGMENT RECEIPT ISSUED BY THE INCOME TAX DEPARTMENT DATED 14.03.2025                                                                                                        |

RESPONDENT EXHIBITS

|                |                                                                                                               |
|----------------|---------------------------------------------------------------------------------------------------------------|
| Exhibit R2 (a) | True copy of the Master Direction (MD) on Know Your Customer (KYC) dated 25.02.2016, updated as on 14.08.2025 |
|----------------|---------------------------------------------------------------------------------------------------------------|



WPC Nos.32516 and 32291 of 2024

42

2025:KER:88312

APPENDIX OF WP(C) 32291/2024

PETITIONER EXHIBITS

|            |                                                                                                                     |
|------------|---------------------------------------------------------------------------------------------------------------------|
| Exhibit-P1 | TRUE PHOTOSTAT COPY OF THE SMS DATED NIL ISSUED BY THE 3RD RESPONDENT.                                              |
| Exhibit-P2 | TRUE PHOTOSTAT COPY OF THE REPRESENTATION DATED 19/08/2024 ISSUED BY THE PETITIONER TO THE 3RD AND 4TH RESPONDENTS. |
| Exhibit-P3 | TRUE PHOTOSTAT COPY OF THE POSTAL RECEIPT ISSUED BY INDIA POST DATED 10/09/2024 .                                   |
| Exhibit-P4 | TRUE PHOTOSTAT COPY OF THE REPRESENTATION DATED 19/08/2024 ISSUED TO THE 2ND RESPONDENT.                            |
| Exhibit-P5 | TRUE PHOTOSTAT COPY OF THE POSTAL RECEIPT ISSUED BY INDIA POST DATED 10/09/2024.                                    |