



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON

FRIDAY, THE 6TH DAY OF MARCH 2026 / 15TH PHALGUNA, 1947

WP(C) NO. 25338 OF 2023

PETITIONERS:

- 1 R.S SANTHOSH KUMAR,
AGED 64 YEARS
S/O. ROBINSON, SANTHOSH BHAVAN, KANJIRAMKUZHI
HOUSE, MARIYAPURAM P.O. NEYYATTINKARA TALUK
THIRUVANANTHAPURAM DISTRICT., PIN - 695127

- 2 RANI V.,
AGED 54 YEARS
W/O. R.S. SANTHOSH KUMAR, SANTHOSH BHAVAN,
KANJIRAMKUZHI HOUSE, MARIYAPURAM P.O.
NEYYATTINKARA TALUK,
THIRUVANANTHAPURAM DISTRICT, PIN - 695127

BY ADVS.
SMT.M.U.VIJAYALAKSHMI
SRI.K.JAJU BABU (SR.)
SRI.BRIJESH MOHAN
SRI.D.SREEKUMAR (KALAMASSERY)
KUM.T.S.ATHIRA
SHRI.SACHIN RAMESH
SMT.ANUJA THOMAS

RESPONDENTS:

- 1 THE SOUTH INDIAN BANK LTD,
REPRESENTED BY ITS MANAGING DIRECTOR AND CHIEF
EXECUTIVE OFFICER, HEAD OFFICE T.B ROAD, MISSION
QUARTERS, THRISSUR, PIN - 680001



- 2 THE BRANCH MANAGER
SOUTH INDIAN BANK, UDIYANKULANGARA BRANCH,
THIRUVANANTHAPURAM, PIN - 695122

- 3 THE BRANCH MANAGER
SOUTH INDIAN BANK, BALARAMAPURAM BRANCH,
THIRUVANANTHAPURAM, PIN - 695501

- 4 THE BANKING OMBUDSMAN
OFFICE OF THE BANKING OMBUDSMAN, RESERVE BANK OF
INDIA BUILDING, 1ST FLOOR, BAKERY JUNCTION,
THIRUVANANTHAPURAM, PIN - 695033

- 5 RESERVE BANK OF INDIA (RBI),
POST BOX NO. 6507, BAKERY JUNCTION,
THIRUVANANTHAPURAM, REPRESENTED BY ITS REGIONAL
DIRECTOR., PIN - 695033

BY ADVS.

SHRI.SUNIL SHANKER

SRI.G.KEERTHIVAS

SHRI.M.GOPIKRISHNAN NAMBIAR

SHRI.K.JOHN MATHAI

SRI.JOSON MANAVALAN

SRI.KURRYAN THOMAS

SHRI.PAULOSE C. ABRAHAM

SHRI.RAJA KANNAN

SRI. NIKHIL RAJEEV

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 06.03.2026, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

**JUDGMENT****“C.R.”**

The petitioners have obtained certain credit facilities by pledging gold ornaments with the 1st respondent herein, through its different branches. The petitioners contend that the rate of interest which ought to have been satisfied by them was 14.5% alone; however, the 1st respondent bank unilaterally increased the same to 17%, in total disregard of the guidelines issued by the Reserve Bank of India. In such circumstances, the petitioners submitted Ext.P1 complaint before Banking Ombudsman (the 4th respondent herein). The 1st respondent Bank also submitted their written statement. Later, the Ombudsman issued Ext.P3 dated 18.08.2014, finding that the Bank had sanctioned the cash credit facilities to the petitioners below the BPLR, which was changed to the above base rate, and the same was also communicated to the petitioners from time to time, and therefore, the allegations raised by the petitioners were incorrect. In such circumstances, exercising the power under Clause 13 (1)(a) of the Banking Ombudsman Scheme, 2006 (hereinafter referred to as the 'Scheme'), the complaint



filed by the petitioners was rejected. The afore order was challenged before this Court by filing W.P.(C) No.4151 of 2015, which came to be disposed of by Ext.P5 dated 07.11.2022. While passing the judgment as above, this Court noticed that the power under Clause 13(1)(a) of the Scheme could be exercised only with reference to "frivolous, vexatious, or *mala fide*" complaints and the Ombudsman never had such a case. Therefore, this Court allowed the afore writ petition, setting aside Ext.P3, directing the Banking Ombudsman to reconsider Ext.P1 complaint and pass "a reasoned order" in accordance with the procedure prescribed. The petitioners state that in the meantime, the Scheme for making a complaint to the Ombudsman, having undergone a sea of change, as evidenced by Ext.P7 Scheme, they submitted a fresh complaint, as evidenced by Ext.P6. They further contend that they were called for a hearing by the Ombudsman, as evidenced by the record of proceedings of the Ombudsman dated 15.02.2023 at Ext.P8. A perusal of the afore proceedings would show that the Ombudsman considered the complaint raised by the petitioners, the response made by the 1st respondent herein, the points for



consideration, and thereafter issued the following directions:-

"7. The Ombudsman directed the bank to submit the credit policy of the bank during the tenure of the loan. The bank was also advised to submit a table showing the interest rate (base rate+spread) for the three loans during the tenure of the loan. The Ombudsman on conclusion informed that the complaint shall be examined on merits taking into account all information submitted in the hearing."

(Underlining supplied)

2. The petitioners state that although they were expecting intimation from the Bank pursuant to the observations of the Ombudsman at paragraph 7 referred to above, or at least a communication from the Ombudsman, they did not receive any communication from the Bank or the Ombudsman. Instead, it is the case of the petitioners that they were served with Ext.P9 dated 18.03.2023 by the Ombudsman, wherein the complaint at Ext.P6 was rejected for the following reasons: -

"2. It is observed that the credit facilities sanctioned were at floating rate of interest under Base Rate system during 2011-12. The complainant is contesting the increase in RoI to 17% from 14.5% in 20,11-12. It is observed that the bank had increased the spread in all Gold Power scheme borrowers in 2011-12 as per its



Asset Liability Committee's decision across the board for all borrowers under the said loan product. As per the Base Rate system which was in force during the period of dispute (2011-12), the banks can 'determine the range of spread for a given category/type of loan as per their approved policy. It is observed that the spread was increased by 2.5% and there was no discrimination towards this particular borrower. The revised interest rate was accepted by the borrower in the revised agreement."

It is seeking to challenge Ext.P9 decision of the Banking Ombudsman that the petitioners have instituted the captioned writ petition.

3. I have heard Sri. Jaju Babu, the learned senior counsel instructed by Sri. Nikhil Rajeev, the learned counsel for the petitioner, as well as Sri. Keerthivas Giri, learned counsel for respondents 1 to 3 and Sri. Paulose C. Abraham, the learned counsel for the 4th respondent herein.

4. The sustainability or otherwise of the findings contained in Ext.P9, issued by the 4th respondent, is the short issue arising for consideration in the case at hand.

5. As already noticed, the petitioners have approached



the Ombudsman complaining about the alleged increase in the rate of interest to 17%. The Ombudsman has considered the issue elaborately, as evidenced by Ext.P8 proceedings. The Ombudsman has issued as many as two directions to the 1st respondent Bank, for an effective adjudication/resolution of the complaint filed by the petitioners. The first direction was to the 1st respondent herein to inform about the credit policy of the Bank during the tenure of the loan, the second being the advice to the Bank to produce a table showing the interest (base rate+spread) for the loans obtained by the petitioner. More importantly, the Ombudsman had promised an adjudication on the grievance of the petitioners after receipt of the above information.

6. However, it is noticed that in the impugned order at Ext.P9, the 4th respondent herein has went on a tangent and found that there is no basis for the alleged discrimination pointed out by the petitioners herein. The said order is silent as to whether the details sought pursuant to Ext.P8 were furnished by the 1st respondent herein or whether they were also communicated to the petitioners. The petitioners are justified in



contending that they ought to have been informed about the details sought for in paragraph 7 by the Ombudsman in Ext.P8 proceedings, before proceeding to finalize the complaint raised by them.

7. Sri. Paulose C. Abraham, the learned counsel for the 4th respondent, with reference to the nature of the powers of the Ombudsman, made an attempt to sustain the afore order by contending that it is not an adjudication in the true sense that is being carried out by the Ombudsman, but only a "resolution of the complaints". However, I am not in a position to agree with the afore proposition for more than one reason. Firstly, as pointed out by the learned senior counsel Sri.Jaju Babu, this Court, while issuing the judgment at Ext.P4, had categorically directed the Ombudsman to pass a "reasoned order". The Ombudsman has also rightly proceeded in that direction, as seen from Ext.P8. But midway, the Ombudsman proceeded to pass an order in the nature of Ext.P9. Secondly, in my opinion, when the Ombudsman himself admitted that there is a requirement for an adjudication, as seen from the minutes at Ext.P8, he ought to have passed a reasoned order as directed in Ext.P4 judgment.



8. The Apex Court in **Kranti Associates Private Limited and Another v. Masood Ahmed Khan and Others [(2010) 9 SCC 496]**, has spoken about the necessity of passing reasoned/speaking orders as under: -

“47. Summarising the above discussion, this Court holds:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review



by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or "rubber-stamp reasons" is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes



the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in *Defence of Judicial Candor*.)

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See *Ruiz Torija v. Spain* [(1994) 19 EHRR 553] EHRR, at 562 para 29 and *Anya v. University of Oxford* [2001 EWCA Civ 405 (CA)], wherein the Court referred to Article 6 of the European Convention of Human Rights which requires,

“adequate and intelligent reasons must be given for judicial decisions”.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of “due process”.

The afore principles would also apply to an adjudication being carried out by the 4th respondent Ombudsman.

9. This Court also notices the contention raised by Sri. Paulose C. Abraham, with reference to the averments in paragraph 5 of the counter affidavit filed by the 4th respondent, to contend that whatever details required were already intimated



to the Ombudsman. However, the affidavit is silent as to whether these details have been communicated to the petitioners or not. Furthermore, the impugned order at Ext.P9 is also silent as to whether the details have been received from the Bank and have been adjudicated thereafter. Therefore, this contention also cannot be accepted.

10. Before parting with this matter, this Court notices that Ext.P9 order has been issued in the form of a letter and signed by an unknown person attached to the Reserve Bank of India. From a perusal of Ext.P7, this Court notices that a detailed procedure has been prescribed for consideration of the complaints filed before the Ombudsman. The award under Clause 15/rejection of a complaint under Clause 16, etc., requires to be carried out by the Ombudsman. It would be better for the Ombudsman to pass orders, signed and sealed, and not relegate the same to an officer who is stated to be working with the Reserve Bank of India, that too with no name.

11. In such circumstances, I am of the opinion that Ext.P9 order is unsustainable. Therefore, this writ petition would stand allowed, setting aside Ext.P9 directing the 4th respondent herein



to pass fresh orders on the complaint filed by the petitioners at Ext.P6, in accordance with the observations/findings in this judgment, as expeditiously as possible, at any rate within a period of four months from the date of receipt of copy of this judgment.

Needless to say, all contentions raised by the respective parties are left open for consideration by the 4th respondent.

Sd/-

HARISANKAR V. MENON
JUDGE

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APPENDIX OF WP(C) NO. 25338 OF 2023

PETITIONERS' EXHIBITS:-

- Exhibit P1 TRUE COPY OF THE COMPLAINT DATED 28.05.2014 SUBMITTED BY THE 1ST PETITIONER BEFORE THE 4TH RESPONDENT
- Exhibit P2 TRUE COPY OF THE LETTER DATED 30/06/2014 SENT BY THE 1ST RESPONDENT TO THE 4TH RESPONDENT ALONG WITH TYPED COPY
- Exhibit P3 TRUE COPY OF THE ORDER DATED 18/08/2014 OF THE OMBUDSMAN COMPLAINT NO. CTS/2624/2013-14 ISSUED BY THE 4TH RESPONDENT TO THE 1ST PETITIONER ALONG WITH TYPED COPY
- Exhibit P4 TRUE COPY OF THE STATEMENT DATED 05.03.2015 FILED BY THE 1ST RESPONDENT IN WP(C) NO. 4151/2015 BEFORE THIS HON'BLE COURT ALONG WITH ANNEXURES ALONG WITH TYPED COPY.
- Exhibit P5 TRUE COPY OF THE JUDGMENT DATED 07/11/2022 IN WP(C) NO. 4151/2015 OF THIS HON'BLE COURT
- Exhibit P6 TRUE COPY OF THE COMPLAINT DATED 4/1/2022 SUBMITTED BY THE PETITIONERS BEFORE THE 4TH RESPONDENT
- Exhibit P7 TRUE COPY OF THE SCHEME NOTIFICATION DATED 12.11.2021 VIDE REF. CEPD.PRD. NO. S873/13.01.001/2021-22 OF THE RESERVE BANK OF INDIA
- Exhibit P8 TRUE COPY OF THE RECORD OF PROCEEDINGS FILED BEFORE THE 4TH RESPONDENT ON 15/02/2023 VIDE COMPLAINT NO. 202223023368049
- Exhibit P9 TRUE COPY OF THE ORDER DATED 18/03/2023 VIDE NO. RBI/CMS/202223023368049/2022-23 PASSED BY THE OMBUDSMAN.
- Exhibit P10 TRUE COPY OF THE DETAILS OF SUMMARY OF EXCESS INTEREST CHARGED TOWARDS THE ACCOUNTS OF THE PETITIONERS



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- Exhibit P11 TRUE COPY OF THE TABULATION STATEMENT OF INTEREST OF 1ST PETITIONER TOWARDS THE AMOUNT CLAIMED AS PER EXT.P1 AND P6 FROM 01.01.2013 TO 31.12.2022
- Exhibit P12 TRUE COPY OF THE TABULATION STATEMENT OF INTEREST OF 2ND PETITIONER TOWARDS THE AMOUNT CLAIMED AS PER EXT.P1 AND P6 FROM 01.01.2013 TO 31.12.2022
- Exhibit P13 TRUE COPY OF THE TABULATION STATEMENT OF INTEREST OF PETITIONERS TOWARDS THE AMOUNT CLAIMED FOR THE PERIOD FROM 01.01.2013 TO 31.12.2022
- Exhibit P14 COPY OF THE CIRCULAR NUMBERED AS RBI/2010-11/72, DBOD NO.DIR.BC.9/13.03.00/2010-11 DATED 1/07/2010
- Exhibit P15 COPY OF THE TABULATED STATEMENT WITH THE CORRESPONDING RELEVANT PAGES OF THE PASS BOOK FOR THE LOAN ACCOUNT NUMBERED 0242081000001191 AVAILED BY THE 1ST PETITIONER
- Exhibit P16 COPY OF THE TABULATED STATEMENT WITH THE CORRESPONDING RELEVANT PAGES OF THE PASS BOOK FOR THE LOAN ACCOUNT NUMBERED 0242081000001202 AVAILED BY THE 2ND PETITIONER
- RESPONDENTS' EXHIBITS:-
- Exhibit R1(a) TRUE COPY OF THE LETTER OF ACCEPTANCE OF REVISION OF RATE OF INTEREST DATED 27.03.2012
- Exhibit R1(b) TRUE COPY OF THE CREDIT FACILITY AGREEMENT DATED 16.02.2012
- Exhibit R4(a) TRUE COPY OF THE ASSET LIABILITY MANAGEMENT COMMITTEE (ALCO) DECISION DATED 20.03.2012
- Exhibit R4(b) TRUE COPY OF THE RESERVE BANK INTEGRATED OMBUDSMAN SCHEME 2021
- Exhibit R4(c) TRUE COPY OF THE MASTER CIRCULAR - INTEREST RATES ON ADVANCES VIDE RBI CIRCULAR DBOD.NO.DIR.BC.13/03.00/2014-15 DATED 01.07.2014