IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE M.A.ABDUL HAKHIM

WEDNESDAY, THE 22ND DAY OF JULY 2026 / 31ST ASHADHA, 1948

WP(C) NO. 40822 OF 2025

PETITIONER:

MARY PETER
AGED 60 YEARS
W/O. P.V. JOSEPH, VALIYA UZHATHIL HOUSE, MANARCADU P.O., KOTTAYAM, PIN - 686019

BY ADVS.
SRI.M.P.MADHAVANKUTTY
SMT.DIVYADEVI V.G.
SMT.ANGEL GYLES LIKE
SHRI.MICHALE THOMAS THARIAN
SHRI.SANJEEV KUMAR V.E.

RESPONDENTS:

1 **SENIOR MANAGER (BRANCH HEAD), CENTRAL BANK OF INDIA, KOTTAYAM BRANCH, KINATTINMOOTTIL ENLAVES, BAKER JUNCTION, C.M.S COLLEGE ROAD, KOTTAYAM, PIN - 686001**

2 **ZONAL MANAGER CENTRAL BANK OF INDIA, 48/49, IIND FLOOR, MONTIETH ROAD, EGMORE, CHENNAI, PIN - 600008**

3 **RESERVE BANK OF INDIA, OMBUDSMAN OFFICE OF THE BANKING OMBUDSMAN, FIRST FLOOR, RBI BUILDING, PULIMOODU, (IMPLEADED AS PER IA 1/26 IN Order DATED 09/06/2026)**

BY ADVS.
SHRI.M.GOPIKRISHNAN NAMBIAR
SHRI.K.JOHN MATHAI
SRI.JOSON MANAVALAN
SRI.KURYAN THOMAS
SHRI.PAULOSE C. ABRAHAM
SHRI.RAJA KANNAN
SMT.AKHILA NAMBIAR

OTHER PRESENT:

SRI.. K.M. ANEESH, SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22.07.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

CR

JUDGMENT

Dated this the 22nd day of July, 2026

1. The grievance of the Petitioner is that though the Respondent Bank granted a cash credit loan of Rs.10,00,000/- and a term loan of Rs.50,000/- to the Petitioner, the Bank has released only an amount of Rs.4,05,000/- and has been refusing to release the remaining sanctioned loan and the Bank has taken an illegal stand that the Petitioner is not entitled to get moratorium. Highlighting these grievances, the Petitioner submitted Ext.P1 Complaint before the Respondent No.3/Banking Ombudsman. The Banking Ombudsman issued Ext.P2 Notice dated 16.09.2025, communicating the response from the Respondent Bank to the Petitioner. It is the case of the Petitioner that though she submitted Ext.P3 Reply dated 23.09.2025, the Banking Ombudsman rejected the Complaint invoking Clause 16(2)(a) of the Reserve Bank – Integrated Ombudsman Scheme, 2021, as

per Ext.P4, holding that there is no deficiency of service on the part of the Respondent Bank, without considering the Reply. The Petitioner has filed this Writ Petition, challenging Ext.P4 Order and also seeking direction to the Respondent Bank to disburse the undisbursed portion of the sanctioned loan and also to give moratorium.

2. The prayers in the Writ Petition are opposed by the Respondent Bank and the Banking Ombudsman by filing separate Counter Affidavits. Petitioner has filed a Reply Affidavit.

3. I heard learned Counsel for the Petitioner, Sri.M.P.Madhavankutty, and the learned Counsel for the Respondents Nos.1 and 2/Bank, Sri. K.M. Aneesh, and the learned Counsel for the Respondent No.3, Sri.Akhila Nambiar.

4. Learned Counsel for the Petitioner contended that though the Petitioner filed the Writ Petition challenging Ext.P4, after the filing of the Writ Petition, the Banking Ombudsman reconsidered the issue and passed a fresh Order as per Ext.R3(c) Order dated

15.12.2025 again rejecting the Complaint as done in Ext.P4. After passing Ext.P4 Order, the Respondent No.3 has become *functus officio.* No reasons are stated either in the original Ext.P4 Order or in Ext.R3(c) Order for rejecting the complaint, holding that there is no deficiency of service on the part of the Respondent Bank. Even though the Petitioner had submitted Ext.P3 Reply to the Respondent No.3, the receipt of which by the Banking Ombudsman is proved by Email on 23.09.2025 as per Ext.P6, the same was not considered in Ext.P4 Order. The learned Counsel relied on the decisions of this Court in ***Cochin Frozen Foods v. Banking Ombudsman (Maharashtra and Goa) [2024 KHC 360], R.S. Santhosh Kumar and Another v. The South Indian Bank Ltd. and Others [2026:KER:20503]*** and ***M/s.Unique Enterprises v. Reserve Bank of India [2026 (4) KLT 51]*** in support of his contentions. Learned Counsel prayed for setting aside Ext.P4 Order and for issuing direction to the Respondent No.3 to reconsider the matter after considering Ext.P3 Reply of the Petitioner and after affording a personal hearing to the Petitioner.

5. Learned Counsel for the Respondents Nos.1 and 2 contended that the sanctioned cash credit loan and term loan are Rs.10,12,000/- and Rs.50,000/- respectively and the Bank disbursed Rs.4,70,000/-. The Bank has refused to release the remaining portion of the sanctioned loan since the Petitioner did not produce documents to prove the utilization of the disbursed portion of the loan. In such case, the Bank is fully justified in withholding the remaining portion of the sanctioned loan. The Petitioner herself issued Ext.R1(b) Letter to the Bank stating that she does not want moratorium. Hence, the Petitioner is not having any cause of action against the Bank.

6. Learned Counsel for the Respondent No.3 contended that in view of the contentions raised in the Writ Petition, the Respondent No.3 has reconsidered the matter and Ext.R3(c) revised Order has been passed after considering Ext.P3 Reply. Specific reasons are stated in Ext.R3(c) Order to reject the

complaint. The Petitioner has not challenged Ext.R3(c) Order. There is no procedure of illegality in passing Ext.R3(c) Order. Learned Counsel further contended that in Paragraph 15 of Ext.R3(a) Reserve Bank – Integrated Ombudsman Scheme, 2021, dealing with the procedure for passing award, an opportunity of hearing is specifically provided, whereas in Paragraph 16 dealing with the procedure for rejection of complaints, no opportunity of hearing is provided. Hence, the Petitioner is not entitled to get an opportunity of hearing. That apart, even if the Petitioner is entitled to get an opportunity of hearing, that does not include the opportunity of personal hearing.

7. I have considered the rival contentions.

8. The Petitioner has filed this Writ Petition on 30.10.2025 challenging Ext.P4 Order of the Banking Ombudsman dated 06.10.2025 rejecting the Complaint. When the Banking Ombudsman has disposed of the Complaint filed before him

either under Paragraph 15 or Paragraph 16 of the Ext.R3(a) Scheme, the Banking Ombudsman has no right or authority to revisit the matter by passing a fresh revised Order, especially when the legality of the original order passed by him is under consideration of this Court in this Writ Petition. Banking Ombudsman passed the Ext.R3(c) Order dated 15.12.2025 without setting aside the Ext.P4 Order. As a matter of fact, Banking Ombudsman has no right or authority to review or recall the original Ext.P4 Order. After disposal of the complaint, the Banking Ombudsman becomes *functus officio*. Accordingly, I find that Ext.R3(c) Order passed by the Banking Ombudsman is totally without jurisdiction and the same is declared as null and void, and hence, the legality of the same need not be considered in this Writ Petition. Then the challenge in this Writ Petition is confined to Ext.P4 Order. The Petitioner has submitted Ext.P3 Reply to the Respondent No.3. Ext.P6 would show that it was sent to the Banking Ombudsman through the Email of another person. Neither Ext.P3 nor Ext.P6 refers to the Ext.P2 Show Cause Notice or even the File number of Ext.P2 Show Cause Notice. When the Banking Ombudsman admitted that he has received Ext.P3 Reply, it can only be through Ext.P6 Mail dated 23.09.2025. There is nothing to show that the Banking Ombudsman received it after the passing of Ext.P4 Order. In such case, the Banking Ombudsman ought to have considered the same while passing Ext.P4 Order on 06.10.2025. Ext.P4 Order is in the form of a letter addressed to the Petitioner. It does not have the trappings of an Order passed by a quasi-judicial authority. The name of the officer who passed the Order is not seen. I lend support from the decisions of this Court in ***Cochin Frozen Foods (supra), M/s.Unique Enterprises (supra)*** and ***R.S. Santhosh Kumar (supra)***, to hold that such types of orders are unsustainable. Further, Ext.P4 says that it is issued by the Office of the RBI Ombudsman and it is issued with the approval of the RBI Ombudsman. It contains a sentence, ‘We request you to provide feedback for the above disposal on….’. It is clear that the Order is not passed by a single individual, i.e., the Banking Ombudsman, but by the Office of the Banking Ombudsman. Ext.R3(a) Scheme provides authority only to the Banking Ombudsman to dispose of the Complaints and not to his office to pass orders with the approval of the Banking Ombudsman. Hence, Ext.P4 Order is liable to be set aside and the Banking Ombudsman is liable to reconsider Ext.P1 Complaint.

9. Next question to be considered is whether the Petitioner is entitled to get a personal hearing before the Banking Ombudsman. As rightly pointed out by the learned Counsel for the Respondent No.3, Ext.R3(a) Scheme provides for affording opportunity of being heard only when the Banking Ombudsman dispose of the Complaint under Paragraph 15 of the Scheme and no such opportunity is provided when the Complaint is rejected under Paragraph 16 of the Scheme. When this Court directs reconsideration of the Complaint, this Court cannot

anticipate that the Banking Ombudsman will exercise his power only under Paragraph 16. In the decision in ***M/s.Unique Enterprises (supra)***, the learned Single Judge of this Court had found that even when the complaint is rejected under Paragraph 16, reasons are to be given as the aggrieved party has a right of appeal and that merely because Paragraph 16 of the Scheme does not stipulate the necessity of giving reasons or opportunity of hearing as in Paragraph 15, the Ombudsman cannot avoid such opportunity of hearing as well as giving reasons for its conclusion. Going by the said decision, it is mandatory to provide opportunity of hearing to the Petitioner.

10. In ***Saidalavi v. Reserve Bank of India [2026 (3) KLT 66]***, this Court held that in ***State Bank of India and Others v. Rajesh Agarwal and Others [(2023) 6 SCC 1]***, the Hon’ble Supreme Court upheld the judgment of the High Court of Telangana directing to provide an opportunity of personal hearing to the borrowers before classifying their accounts as fraud and that in such case, the

opportunity of hearing expressed by the Hon'ble Supreme Court in Paragraph No.81 would mean an opportunity of personal hearing and not a mere right to represent against the Show Cause Notice alone. In ***State Bank of India v. Amit Iron Private Limited [2026 KHC 6245]***, two of the questions considered by the Hon'ble Supreme Court were: (a) Does the decision in ***Rajesh Agarwal (supra)*** recognizes a right of personal / oral hearing to the account holder / borrower before the account is declared / classified as "fraud" under the Master Directions of the RBI? and (b) Whether the issuance of a show cause notice, the consideration of the reply filed by the borrower and the obligation to pass a reasoned order setting out the relevant facts / circumstances relied upon, the submissions made in response to the show cause notice and the reasons for classification of account as "fraud" would satisfy the principles of natural justice? The Hon'ble Supreme Court held that ***Rajesh Agarwal (supra)*** did not recognize any right in the borrower to a personal hearing by the Banks before classifying their account as a fraud account. The Hon'ble Supreme Court further held that in the absence of any rule being prescribed in the statute or rule or in regulations or in any policy, what would meet the requirements effectively would depend on the circumstances and the nature of the enquiry; that one cannot start with the assumption that as of right, a notice is entitled to personal hearing; that the said opportunity need not necessarily be by personal hearing; that it can be by written representation; that whether the said opportunity should be by written representation or by personal hearing depends upon the facts of each case and ordinarily it is in the discretion of the tribunal; that it is not necessarily an incident of the Rules of natural justice that personal hearing must be given to a party likely to be affected by the order; and that except in proceedings in Courts, a mere denial of opportunity of making an oral representation will not, without more, vitiate the proceeding. In the light of this decision, it could not be held that in all cases the Banking Ombudsman shall afford opportunity of hearing to the Complainant. The opportunity of being heard does not necessarily include opportunity of personal hearing invariably in all cases. In some cases, it is satisfied if the party is given opportunity to present his case by submitting a representation and in some cases, the opportunity of personal hearing is essential. If the Complainant requires personal hearing in his Complaint, it is for him to request the same before the Banking Ombudsman and substantiate the need for the same. It is for the Banking Ombudsman to decide whether personal hearing is to be granted to the Complainant in a particular case or not, considering the facts and circumstances of the case.

11. Learned Counsel for the Respondent No.3 invited my attention to the pleadings in the Writ Petition in which no ground is raised and no prayer is made to grant personal hearing to the Petitioner. Hence, I find that the Petitioner is not entitled to get personal hearing when the Banking Ombudsman reconsiders

Ext.P1 Complaint.

12. Accordingly, this Writ Petition is allowed, setting aside Ext.P4 Order, and directing the Respondent No.3 to consider Ex.P1 Complaint and Ext.P3 Reply and to pass a reasoned order within a period of two months from the date of receipt of certified copy of this judgment.

Sd/-

M.A.ABDUL HAKHIM
JUDGE

ANB

APPENDIX OF WP(C) NO. 40822 OF 2025

PETITIONER EXHIBITS

Exhibit P1	**A TRUE COPY OF THE COMPLAINT SUBMITTED BY THE PETITIONER BEFORE THE BANKING OMBUDSMAN**
Exhibit P2	**A TRUE COPY OF THE COMMUNICATION DATED 16-09-2025 ISSUED FROM THE OFFICE OF THE BANKING OMBUDSMAN TO THE PETITIONER**
Exhibit P3	**A TRUE COPY OF THE REPLY DATED 23-09-2025 SUBMITTED BY THE PETITIONER BEFORE THE BANKING OMBUDSMAN**
Exhibit P4	**A TRUE COPY OF THE PROCEEDINGS DATED 06-10-2025**
Exhibit P5	**True copy of the invoices obtained from Xpress Labels Private Ltd dated 07-01-2025**
Exhibit P6	**A true copy of the receipt received while sending the Email dated 23-09-2025**

RESPONDENT EXHIBITS

Exhibit R1(a)	**The true copy of the loan sanction letter dated 4-10-2024**
Exhibit R1(b)	**True copy of the of the declaration in Vernacular language issued by the writ petitioner dated 4-10-2024**
Exhibit R3 (a)	**True copy of Reserve Bank - integrated Ombudsman Scheme, 2021**
Exhibit R3 (b)	**True copy of the email dated 18.11.2025 sent by the 3rd respondent to the petitioner (along with Typed copy)**
Exhibit R3 (c)	**True copy of the Order dated 15.12.2025 issued by the 3rd respondent**