In The High Court at Calcutta
Constitutional Writ Jurisdiction
Original Side

The Hon'ble Justice Sabyasachi Bhattacharyya

W.P.O. No. 383 of 2021

Nadia Printing & Packaging Private Limited and another

Versus

Union of India and Others

For the petitioners	:	Mr. Mr. K. Thaker, Sr. Adv., Mr. Rishabh Karnani, Mr. Aditya Kanodia, Mrs. Shreya Trivedi, ... Advs.
For the RBI	:	Mr. D. K. Kundu, Ms. Aditi Biswas, ... Advs.
Heard on	:	10.07.2026 & 17.07.2026
Reserved on	:	17.07.2026
Judgment on	:	07.08.2026

Sabyasachi Bhattacharyya, J:-

1. The writ petition has been preferred against an order dated November 21, 2019 passed by the Reserve Bank of India (RBI), and the appellate order dated June 10, 2021 affirming the same, passed by the Appellate Authority (Central Government), cancelling the registration of the petitioner no. 1-Company as a Non-Banking Financial Institution (NBFI).

2. The certificate of registration originally granted on January 25, 2001. By a Notification dated May 26, 2014 issued by the RBI, prior written approval was mandated before approaching the Court or Tribunal under Sections 391-394 of the Companies Act, 1956 (in short, "the 1956 Act") or Sections 230-233 of the Companies Act, 2013 (in short, "the 2013 Act") for sanction of merger or amalgamation with other companies or NBFCs.

3. On August 13, 2014, a proposed scheme for amalgamation of 5 other companies, being transferor companies, with the petitioner no.1-company (as a transferee company) was submitted for approval of the RBI. According to the petitioners, the purpose of such amalgamation was to effectively utilise the funds of the transferor companies to increase the capital of the petitioner. Although, according to the petitioners, all requisite documents were submitted along with the said scheme, the RBI raised frivolous queries and sought further documents in connection with the application for grant of approval for amalgamation on several subsequent occasions, including the following dates:

(i) November 27, 2014,

(ii) August 6, 2015,

(iii) October 29, 2015,

(iv) November 20, 2015,

(v) January 14, 2015,

(vi) December 5, 2016,

(vii) November 29, 2018 and

(viii) March 12, 2018.

4. According to the petitioner, on each such occasion, requisite information, with relevant documents, was duly provided by the petitioner.

5. On March 27, 2015, the RBI issued another Notification stipulating the minimum Net Owned Fund (NOF) of Rs. 2 crore as the threshold requisite for an NBFI to commence or carry on the business of a Non-Bank Financial Company (NBFC). The said Notification further stipulated that an NBFC holding a certificate of registration and having NOF of less than Rs. 200 lakh may continue to carry on business of NBFI, if such company achieved NOF of either Rs. 100 lakh or Rs. 200 lakh before the cut-off dates given therein.

6. On March 18, 2018, a show-cause notice was issued by the RBI to the petitioner no.1, alleging violations and non-compliances in the functioning of the company and that the petitioner no.1-company had failed to communicate the name, designation and address of the Principal to the Financial Intelligence Unit (FIU), alleging further that the petitioner had been listed under the High Risk Financial Institutions and had failed to submit mandatory return to the RBI as well as its certificate from statutory auditors for the financial years ending on March 21, 2016 or 2017.

7. In the said show-cause notice, it is alleged, there was no ground that the petitioner no.1-company was not maintaining NOF, whether in terms of the new Circular of 2015 or previous Circular mandating Rs.25 lakh as NOF.

8. Subsequently, the petitioner no.1 submitted its audited statements for the year 2016 and certificate for the years 2013-17 and filed a detailed reply to the show-cause notice along with necessary documents.

9. The second show-cause notice was issued on July 26, 2019 by the RBI, requiring the petitioner no.1 to show cause as to why its certificate of registration should not be cancelled on the ground of failure to maintain NOF of Rs. 2 crore as stipulated in the March 27, 2015 Notification.

10. On August 9, 2019, a reply was given thereto by the petitioners, stating that NOF of more than Rs. 2 Cr. would be achieved on sanction of the scheme of amalgamation, in respect of which the petitioners' application was pending since 2014.

11. However, on November 21, 2019, the RBI cancelled the certificate of registration of the petitioner no.1 on the sole ground of not maintaining NOF of Rs. 2 Cr. in terms of the 2015 Circular. With regard to the pending application for prior approval of merger, a cryptic remark was allegedly made that the same was pending since August 13, 2014 as the petitioners had not provided the required documents.

12. Learned senior counsel for the petitioners alleges that no particulars of the purported documents, which were allegedly required by the RBI but not supplied, were given. It is further contended that the other purported grounds alleged in the first show-cause notice dated March 15, 2018 were given up.

13. On October 19, 2020, an order was passed directing the petitioner to file an appeal before the Appellate Authority in terms of Section 45-IA of the Reserve Bank of India Act, 1934 (hereinafter referred to as "the 1934 Act") in a writ petition filed by the petitioners challenging the validity of the Order dated November 21, 2019 passed by the RBI.

14. Pursuant thereto, an appeal was filed before the Central Government, the Appellate Authority under the Act, on October 29, 2020, along with communication revealing the prayer for grant of NOC with regard to the scheme and submission of documents in terms of Section 45-IA(7) of the 1934 Act. The appeal was heard on April 6, 2021. *Vide* order dated June 10, 2021, the Appellate Authority upheld the order of cancellation of the certificate of registration of the petitioner no.1.

15. Thus constrained, the petitioners filed the present writ petition, *inter alia* challenging the orders dated November 21, 2019 and June 10, 2021, also seeking approval for amalgamation from the RBI.

16. On March 21, 2022, this Court directed the RBI to decide the application of the petitioner no.1 seeking consent of the RBI to the proposed amalgamation/merger, which had been filed on August 13, 2014, prior to the cancellation of the certificate of registration.

17. Vide order dated July 1, 2022, however, the RBI rejected the application, according to the petitioner by a cryptic and unreasoned order.

18. Vide order dated December 20, 2022, this Court quashed the said order dated July 1, 2022 and directed RBI to hear the application for grant of no-objection to the proposed amalgamation scheme afresh and to re-decide the same.

19. Pursuant to the above direction, the RBI granted an opportunity of hearing to the petitioner on February 6, 2023, when the petitioners also filed detailed notes of submissions.

20. Subsequently, the petitioners allegedly provided further information as sought by the RBI regarding the audited financial statements of the petitioner no.1-company and the five amalgamating entities, along with relevant documents.

21. On June 21, 2023, the RBI again passed an order declining approval for the proposed scheme of merger and amalgamation, this time adding a new ground of alleged non-compliance by the petitioner no.1 with the NOF requirement of Rs.25 lakh since 2012-2015, that is, prior to the 2015 Notification stipulating Rs.2 Crore as NOF.

22. Learned senior counsel for the petitioners seeks to assail the said order as well on merits on several grounds.

23. Be that as it may, the petitioners submit that by a subsequent order dated February 27, 2026 passed in the instant writ petition, this Court recorded its *prima facie* reasons as to why the said order was liable to be set aside. On the request of the petitioners, this Court permitted the parties to use further supplementary affidavits in respect of the grant of approval for amalgamation. Pursuant to such leave, the petitioners file a supplementary affidavit enclosing a CA Certificate as to satisfaction of the NOF criterion of Rs.2 Crore in terms of the 2015 Notification.

24. However, on April 29, 2026, the RBI issued another Notification raising the NOF requirement to Rs.1000 Cr.

25. The RBI filed a reply to the supplementary affidavit giving computation sheets to argue that the NOF criteria were not met by petitioner no.1 prior to 2015.

26. According to learned senior counsel for the petitioners, the said ground was never a part of the show-cause notice or the impugned orders, thus, hit by the principle laid down in *Mohinder Singh Gill and others v. Chief Election Commissioner, New Delhi and others,* reported at *(1978) 1 SCC 405.*

27. Learned senior counsel for the petitioners submits that due to the still-subsequent Notification dated April 29, 2026, stipulating NOF of Rs.1000 Crore, prayers (a) and (b) of the writ petition have become redundant, since even if approval for amalgamation is granted, the cumulative NOF of the petitioner no.1 and the amalgamating entities shall be less than Rs.1000 Crore.

28. However, since the impugned orders cancelling the certificate of registration of the petitioner no.1 operate as a stigma and a serious deterrent to future business of the petitioners, the petitioners limit their prayer to quashing of the said orders, with the rider that the petitioner no.1 be directed to surrender its certificate of registration after the same is restored.

29. As the petitioners have requested the RBI by a letter dated June 24, 2026, to permit it to surrender the certificate of registration of petitioner no.1 on restoration of the same, to which there is no response, it is submitted that such surrender may be permitted upon quashing the cancellation orders.

30. In reply, learned counsel for the respondent nos.2 to 5 contends that the petitioners were functioning as an NBFI upon obtaining certificate of registration bearing Registration No.B-05.03999. It is submitted that the RBI had issued Notification No.DNBS.132/CGM/(VSNM)-99 dated April 21, 1999, stipulating minimum NOF requirement for "new companies" applying for grant of certificate of registration to commence business of an NBFC as Rs.200 Lakhs.

31. Thereafter, the RBI issued a Revised Regulatory Framework for NBFCs *vide* another Circular dated November 10, 2014, prescribing timelines for existing NBFC to achieve NOF of Rs.200 Lakhs. They were advised to achieve NOF of Rs.100 Lakhs by the end of March 2016 and Rs.200 Lakhs by the end of March 2017. Such attainment is one of the mandatory pre-conditions for commencement or carrying on business of an NBFI in terms of Section 45I-A(1)(b) of the 1934 Act.

32. By another Circular dated May 26, 2014, the RBI notified the requirement for obtaining prior approval of RBI in cases of acquisition/transfer of control of NBFCs.

33. Learned counsel for respondent nos.2 to 5 argues that the stand of the RBI is reflected unambiguously in its affidavit-in-opposition, where it has categorically stated in Paragraph Nos.15 and 16 about non-supply of documents and failure to achieve mandatory NOF in compliance of the Notification dated March 27, 2015 on the part of the petitioner no.1-Company. Such stand also finds place in the order of rejection dated June 21, 2023, in Paragraph No.3 of which it has been categorically stated that the company has not adhered to the NOF criteria since the financial year 2012-2013 and its NOF has been gradually diminishing, raising concerns of non-submission of auditor's certificate, etc. in spite of numerous remainders.

34. In the affidavit of the RBI, such supervisory concerns are highlighted as well. Documents have also been annexed, demonstrating negative NOF of the petitioner no.1-Company.

35. The petitioners, it is submitted, cannot benefit from their own procrastination in furnishing appropriate documents and information in reply to the notices issued by the RBI or seek equitable relief when they did not themselves come in equity. If such relief is granted today, it is contended that a legal fiction would be created by directing the RBI to consider the amalgamation application, the question of which does not arise after cancellation of the certificate of registration.

36. Another fallacy of the arguments of the petitioners, it is submitted, is pre-supposition of the fact that if RBI had consented to their application for amalgamation, the petitioners would have achieved the required NOF post-merger. The argument completely renders the relevant provisions of the 2013 Act (Sections 230-233) as otiose, since the next step would have been to approach the National Company Law Tribunal for getting the scheme of amalgamation approved under strict judicial scrutiny, the outcome of which could have gone either way.

37. Lastly, it is submitted that it is apposite to mention that the Circular dated April 29, 2016, namely the Reserve Bank of India (Non-Banking Financial Companies-Registration, Exemptions and Framework for Scale Based Regulation) Amendment Directions, 2026, will not salvage the petitioners, as the exemption granted therein does not apply retrospectively to NBFCs whose certificates of registration stood cancelled.

38. Accordingly, it is submitted that the writ petition is liable to be dismissed.

39. Heard learned counsel for the parties.

40. The first important aspect of the matter which is to be considered is that at the relevant point of time, that is, on August 13, 2014, when the proposed scheme for amalgamation with five other companies was submitted by the petitioner no.1 for approval of the RBI, the then required NOF for an NBFC to commence or carry on business was Rs.25 lakh. However, on March 27, 2015, the said threshold was increased to Rs.2 Crore.

41. The first Show-Cause Notice, alleging violations and non-compliances in the functioning of the petitioner no.1-Company and non-submission of mandatory returns, was issued on March 15, 2018, by when the NOF had already been increased to Rs.2 Crore. As on that date, as well as the date when the application for approval of the amalgamation scheme was submitted, the petitioner no.1-Company admittedly did not meet the NOF requirement of Rs.2 Crore. It is the case of the writ petitioners that, upon the proposed amalgamation having materialised, it aspired to have an NOF of Rs.2 Crore.

42. Thus, it cannot be said that, as on the date when the Show-Cause Notice dated March 15, 2018 was issued, the petitioner no.1-Company met the threshold criterion of NOF.

43. The second Show-Cause Notice was issued on July 26, 2019, indicating that the certificate of registration of the petitioner no.1-Company was liable to cancelled on the ground of failure to maintain the NOF of Rs.2 Crore, which was a valid ground as on the said date, as the writ petitioner did not meet such criterion.

44. Thus, as rightly contended by the RBI, the premise of the writ petitioners' argument that the ground of the second Show-Cause Notice would stand invalidated was solely the expected outcome of the application for approval of the amalgamation scheme.

45. However, there is "many a slip between the cup and the lip", as such contention of the petitioners was subject to the approval of the scheme in the first place and, secondly, upon such approval, the petitioners, on amalgamation, actually meeting the requirement of Rs.2 Crore NOF.

46. During pendency of the writ petition, the RBI has adjudicated upon the amalgamation application and turned it down, which has not been assailed independently before any competent forum, although arguments in that regard have been advanced at the hearing of the present writ petition. The justification and reasons given for such refusal do not come within the ambit of the ratio laid down in

Mohinder Singh Gill (supra)[1], as the order itself, which contains reasons for rejection (whatever might be the qualitative worth of such reasons) is not under challenge, thus precluding any scope of justification for such order being given by way of affidavits in the writ petition.

47. It was well within the authority of the RBI to decide on the reply given by the petitioner no.1-Company to the Show-Cause Notices, including on the ground that the petitioner no.1-Company did not meet the Rs.2 Crore NOF criterion.

48. At the time of the subsequent rejection of the application for approval of the amalgamation scheme, in any event, the petitioners could not have met the said criterion. Thus, throughout the relevant period, at no point of time did the petitioners actually meet the NOF criterion of Rs.2 Crore.

49. It is not that, if the amalgamation scheme was approved, the petitioners would automatically meet the threshold criterion of Rs.2 Crore. The satisfaction of such criterion was further dependent on the amalgamation actually going through and increasing the NOF of the amalgamated company to Rs.2 Crore, the possibility of which traverses into the realm of future possibilities and conjecture.

50. In a writ petition, the Court is only to see whether the procedure adopted by the respondent-authorities in coming to the impugned decision was in accordance with law and with the governing procedure

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[1] ***Mohinder Singh Gill and others v. Chief Election Commissioner, New Delhi and others, reported at (1978) 1 SCC 405***

and met the yardsticks of natural justice. Although initially, the rejection of the amalgamation was on a cryptic premise and without any prior opportunity of hearing being given to the petitioners, the said defect was corrected upon the RBI subsequently, by giving the petitioners opportunity of hearing as per the directions of the Court.

51. Thus, though *post facto*, fact remains that the application for approval of the amalgamation scheme was ultimately rejected.

52. Hence, we do not find any flaw in the procedure adopted by the RBI in directing cancellation of the registration of the writ petitioner no.1 as an NBFI, in view of the petitioner no.1 having not met the NOF criterion stipulated by the Notification dated March 27, 2015.

53. The petitioner no.1-Company seeks the Court to enter into a qualitative assessment, on re-appreciation of evidence, of the decision of the RBI to direct cancellation of the certificate of registration of petitioner no.1 on the grounds as enumerated in the Show-Cause Notices.

54. It is nobody's case that at least the ground cited in the second Show-Cause Notice dated July 26, 2019, that the petitioner no.1-Company did not meet the NOF criterion of Rs.2 Crore, was incorrect at any point of time.

55. As such, it cannot be said that the said decision was violative of the principles of natural justice or the governing Notifications of the RBI.

56. An additional ground cited by the RBI in such direction was that even prior to the first Show-Cause Notice, the petitioner no.1-Company did not consistently maintain NOF of Rs.25 lakh, which was the then requirement. The RBI has taken a reasoned decision thereon, which cannot be reopened on merits by the Writ Court upon a re-appreciation of such materials and evidence which were produced by the petitioner no.1-company before the RBI, which was affirmed in appeal by the Central Government, the Appellate Authority, on October 29, 2020.

57. Since the Appellate Authority relied on the observations of the RBI in its order, keeping in view the position that such order of the Appellate Authority need not be as elaborate as a judicial order, we do not find any patent illegality or lack of jurisdiction tainting the order of the Appellate Authority.

58. The grounds, on which the cancellation of the first petitioner's certificate of registration was directed, were primarily two-fold – first, that petitioner no.1 did not meet the Rs.2 Crore NOF threshold as required under the 2015 Notification; and secondly, that the petitioner no.1-company did not comply with the NOF of Rs.25 lakh between the years 2012 and 2015, even prior to the 2015 Notification. Even if the writ petitioners have a grievance regarding the second aspect of the matter, the first cannot be faulted, as the petitioner no.1-company admittedly did not meet the NOF criterion of Rs.2 Crore at the relevant juncture.

59. The reliance of the writ petitioners on the earlier non-consideration of the amalgamation application is not relevant, since, although post facto, the same has since been rejected. Even if we gloss over such subsequent rejection, the mere pendency of the amalgamation application at the juncture when the certificate of registration was directed to be cancelled does not automatically translate to denial to the petitioner no.1-company any legal right of meeting the NOF criterion then prevalent, since, even if the approval application was allowed, further acts would be required to be done before the petitioner no.1 could, if at all, actually meet the Rs.2 Crore criterion, including the amalgamation scheme being finally approved by the NCLT and, thereafter, the petitioner no.1 actually attaining such NOF on such amalgamation. Moreover, the application for approval of the amalgamation scheme always ran the risk of being rejected, even if decided prior to the cancellation of the registration (which it actually has been, though post facto). Hence, such pendency could not be a ground *per se* to invalidate the cancellation of the certificate of registration.

60. Even otherwise, it is an admitted position that even if the cancellation of registration is set aside, the petitioner no.1-Company is at present unable to meet the currently subsisting NOF requirement of Rs.1000 Crore, which was introduced by the RBI vide Notification dated April 29, 2026. Thus, for all practical purposes, the challenge preferred in the writ petition has been rendered infructuous, and it would merely be an exercise in futility if the cancellation of the certificate of registration is now set aside, as it would immediately have to be followed by a surrender of the certificate by the petitioner no.1-company.

61. The writ petitioners have expressed apprehension that despite the petitioner no.1-company not meeting the current NOF criterion for being permitted to be registered or to continue as an NBFC, the cancellation of its certificate of registration would operate as a stigma and might entail its exclusion, or adversely affect it, in further transactions. However, we do not find any merit in such argument, since not meeting the NOF criterion cannot, by itself, operate as a 'stigma'. If the petitioner no.1-company, at any future point of time, is able to meet the NOF criterion then prevalent, and otherwise comply with all statutory requirements and RBI guidelines, there is no reason why it cannot make a fresh application for being registered as an NBFC or otherwise be precluded from carrying on with its business.

62. Thus, such apprehension does not have any reasonable basis.

63. In such view of the matter and under the aforesaid circumstances, the writ petition fails.

64. Accordingly, W.P.O. No.383 of 2021 is dismissed on contest without any order as to costs.

65. Urgent certified server copies of this judgment and order, if applied for, be issued to the parties upon compliance of due formalities.

(Sabyasachi Bhattacharyya, J.)