



2024:KER:61504

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

FRIDAY, THE 9TH DAY OF AUGUST 2024/18TH SRAVANA, 1946

W.A.NO.445 OF 2024
AGAINST THE JUDGMENT DATED 23.02.2024 IN W.P(C).NO.42469 OF 2023
OF HIGH COURT OF KERALA

APPELLANT(S)/3RD RESPONDENT:

THE DIRECTOR
TRAMS UNION CIBIL LIMITED, ONE INDIA BULLS CENTER,
TOWER #2A, 19TH FLOOR, SENAPATI BAPAT MARG, ELPHINSTONE ROAD,
MUMBAI, PIN - 400013

BY ADV.SRI.C.AJITH KUMAR
BY ADV.SRI.RAJEEVU L.G.
BY ADV.SMT.VARSHA S.S.

RESPONDENT(S)/PETITIONER & 1ST & 2ND RESPONDENTS:

- 1 SAJEED.V.M.
AGED 52 YEARS
S/O.MOOSAKUTTY, PUTHIYAPUNNATHARA HOUSE, POCHACKAL P.O
PALIAVALLY, CHERTHALA, ALAPPUZHA DISTRICT, PIN - 688526
- 2 THE RESERVE BANK OF INDIA
BRANCH OFFICE, P.B.NO.6507, NANDAVANAM, PALAYAM,
THIRUVANANTHAPURAM, KERALA. REP BY BRANCH MANAGER.
PIN - 695033
- 3 THE BRANCH MANAGER
ICICI BANK LTD, EDAPPALLY BRANCH, EDAPPALLY P.O,
PIN - 682024

BY ADV.SRI.C.S.ABDUL SAMMAD FOR R1
BY ADV.SRI.LAL K JOSEPH FOR R3
BY ADV.SRI.V.D.BALAKRISHNA KARTHA (B-77)
BY ADV.SRI.SURESH SUKUMAR (K/634/1997)
BY ADV.SRI.ANZIL SALIM(K/000447/2018)

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 09.08.2024
ALONG WITH W.A.NO.444/2024 & W.A.NO.447/2024, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:



2024:KER:61504

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

FRIDAY, THE 9TH DAY OF AUGUST 2024/18TH SRAVANA, 1946

W.A.NO.444 OF 2024
AGAINST THE JUDGMENT DATED 23.02.2024 IN W.P(C).NO.863 OF 2024
OF HIGH COURT OF KERALA

APPELLANT(S)/3RD RESPONDENT:

THE DIRECTOR
TRANS UNION CIBIL LIMITED, ONE INDIA BULLS CENTER,
TOWER #2A, 19TH FLOOR, SENAPATI BAPAT MARG,
ELPHINSTONE ROAD, MUMBAI, PIN - 400013.

BY ADV.SRI.C.AJITH KUMAR
BY ADV.SRI.RAJEEVU L.G.
BY ADV.SMT.VARSHA S.S.

RESPONDENT(S)/PETITIONER & 1ST & 2ND RESPONDENTS:

- 1 SAJEED.V.M
AGED 52 YEARS, S/O.MOOSAKUTTY, PUTHIYAPUNNATHARA,
POOCHACKAL P.O, PANAVALLY, CHERTHALA,
ALAPPUZHA DISTRICT., PIN - 688526
- 2 THE RESERVE BANK OF INDIA
REPRESENTED BY BRANCH MANAGER, BRANCH OFFICE,
P.B.NO.6507, NANDAVANAM, PALAYAM,
THIRUVANANTHAPURAM, KERALA, PIN - 695033
- 3 THE BRANCH MANAGER
INDIA BULLS HOUSING FINANCE LTD,
SAI KRISHNA BUILDING, GROUND FLOOR, PMG JUNCTION,
THIRUVANANTHAPURAM, PIN - 695033

BY ADV.SRI.C.S.ABDUL SAMMAD FOR R1
BY ADV.SRI.LAL K JOSEPH FOR R3
BY ADV.SRI.V.D.BALAKRISHNA KARTHA (B-77)
BY ADV.SRI.SURESH SUKUMAR (K/634/1997)
BY ADV.SRI.ANZIL SALIM(K/000447/2018)

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 09.08.2024,
ALONG WITH W.A.NO.445/2024 AND W.A.NO.447/2024, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:



2024:KER:61504

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

FRIDAY, THE 9TH DAY OF AUGUST 2024/18TH SRAVANA, 1946W.A.NO.447 OF 2024AGAINST THE JUDGMENT DATED 23.02.2024 IN W.P(C).NO.2363 OF 2024
OF HIGH COURT OF KERALAAPPELLANT(S)/3RD RESPONDENT:THE DIRECTOR
TRANSUNION CIBIL LIMITED, ONE INDIA BULLS CENTER, TOWER
#2A, 19TH FLOOR, SENAPATI BAPAT MARG, ELPHINSTONE ROAD,
MUMBAI, PIN - 400013BY ADV.SRI.C.AJITH KUMAR
BY ADV.SRI.RAJEEVU L.G.
BY ADV.SMT.VARSHA S.S.RESPONDENT(S)/PETITIONER & 1ST & 2ND RESPONDENTS:

- 1 SAJEED V.M
AGED 52 YEARS, S/O.MOOSAKUTTY, PUTHIYAPUNNATHARA,
POOCHACKAL P.O., PANAVALLY, CHERTHALA, ALAPPUZHA DISTRICT,
PIN - 688526
- 2 THE RESERVE BANK OF INDIA, REPRESENTED BY BRANCH MANAGER
BRANCH OFFICE, P.B.NO.6507, NANDAVANAM, PALAYAM,
THIRUVANANTHAPURAM, KERALA, PIN - 695033
- 3 THE BRANCH MANAGER
M/S.KOTAK MAHINDRA BANK LTD, KUMARAPILLAI ESTATES,
GROUND FLOOR, M.G. ROAD, KOCHI, PIN - 682035

BY ADV.SRI.C.S.ABDUL SAMMAD FOR R1
BY ADV.SRI.LAL K JOSEPH FOR R3
BY ADV.SRI.V.D.BALAKRISHNA KARTHA (B-77)
BY ADV.SRI.SURESH SUKUMAR (K/634/1997)
BY ADV.SRI.ANZIL SALIM(K/000447/2018)

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 09.08.2024
ALONG WITH W.A.NO.444/2024 AND W.A.NO.445/2024, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:

**J U D G M E N T****Dr. A.K. Jayasankaran Nambiar, J.**

The 3rd respondent in W.P.(C).Nos.42469 of 2023, 863 of 2024 and 2623 of 2024 is the appellant before us aggrieved by the common judgment dated 23.02.2024 of a learned Single Judge in the writ petitions.

2. The writ petitions were filed by a person, who had availed loans from three credit institutions, and he was essentially aggrieved by the inaction on the part of the appellant herein to rectify his credit rating notwithstanding that he had settled the loan accounts with the credit institutions honourably. The stand of the appellant before the writ court was that the delay in rectification of the writ petitioner's credit rating was on account of non-receipt of comments from the respective credit institutions on the writ petitioner's request.

3. The learned Single Judge, who considered the matter, disposed the writ petition by directing the appellant herein to consider the request of the writ petitioner for a rectification of his credit rating, after hearing the credit institutions concerned and the writ petitioner, and to take a decision in the matter within three months from the date of receipt of a copy of the judgment.



4. Before us, the contention of the appellant is that the directions of the learned Single Judge as against the appellant, to the extent it requires the appellant to adjudicate on the credit rating of the writ petitioner, is unworkable inasmuch as it would force the appellant to do something for which it is not empowered by the regulating statute namely, the Credit Information Companies (Regulation) Act, 2005 [hereinafter referred to as the "CICRA"]. It is stated, with reference to Section 21 of the CICRA, that the appellant can only make corrections, deletions or additions to the credit information after such corrections/deletions or additions have been certified as correct by the credit institution concerned.

5. We have heard Sri.Ajith Kumar, the learned counsel for the appellant, Sri.C.S.Abdul Sammad, the learned counsel for the 1st respondent as also Sri.Lal K. Joseph, the learned counsel for the 3rd respondent.

6. At the very outset, we must admit to being quite perplexed by the submission made on behalf of the appellant. After all, the learned Single Judge had only directed the appellant to look into the request of the writ petitioner for an expeditious rectification of his credit rating after getting the necessary data for completing the said exercise from the credit institutions concerned.



7. The appellant is a credit information company whose activities are regulated by the provisions of the CICRA. A reading of the statement of objects and reasons to the said enactment indicates that institutions such as the appellant were found to be necessary to arrest the accretion of fresh non-performing assets [NPAs] in the banking sector through an efficient system of credit information on borrowers as a first step to credit risk management. The requirement of an adequate, comprehensive and reliable information system on the borrowers, through an efficient database, was felt by the Reserve Bank of India, the Central Government, credit institutions and other players in the banking and financial sector. While the statutory provisions under the CICRA are largely geared towards regulating the functioning of credit information companies like the appellant herein, Section 15 of the CICRA makes it mandatory for every credit institution to be a member of a credit information company. Section 17 obliges credit information companies to collect credit information from their member credit institutions and the latter are obliged to furnish such information when required by the credit information companies. Section 21 of the CICRA obliges the credit institutions to furnish a person requesting for credit reports, with such a report, and on receiving a request from him to update the information in his credit report, to do so as well.

8. It is against the backdrop of the above statutory scheme that regulates the functioning of the appellant company that we have to appreciate its arguments in the appeal before us. In our view, complying



with the directions of the learned Single Judge is the bare minimum that is expected of the appellant company in the discharge of its obligations towards a borrower from a credit institution, whose fate hinges on the credit rating given to him by the appellant based on the data received from the credit institutions concerned. As the credit institutions are required to mandatorily become members of credit information companies such as the appellant, and obtain credit ratings of its customers from such companies, the actions of the credit information companies have the propensity to affect the reputation of a borrower like the writ petitioner. This is equally so when the credit information company fails to act in a timely manner to obtain the credit rating of a borrower from a credit institution so as to update his credit rating. A borrower's reputation is an integral aspect of his dignity and his right to privacy which is today recognised not only as a common law right but also a fundamental right under Article 21 of our Constitution.

9. We believe that an authority like the appellant herein whose actions have the propensity to affect the fundamental rights of a citizen, has to act in a manner that demonstrates fairness and offers justification for such actions as may be adverse to the interest of the citizen **[Akshay N. Patel v. Reserve Bank of India and Another - [(2022) 3 SCC 694]]**. The culture of justification is now seen as a necessary and essential feature of administrative decision making. The administrative authority must demonstrate responsiveness, justification and demonstrated expertise. The last mentioned feature refers to the



requirement of the decision maker establishing the reasonableness of his decision by demonstrating therein his experience and expertise [**Prodair Air Products India Pvt. Ltd. v. State of Kerala - [2023 (3) KLT 234]**].

Under the statutory scheme of CICRA, it is the appellant who possesses the expertise to assign a credit rating to the borrower from a credit institution such as the writ petitioner. If the credit rating of the writ petitioner is not updated, to reflect his actual creditworthiness at any given point in time, the inaction of the appellant would affect the fundamental rights to dignity and reputation of the writ petitioner. As the hearing directed by the learned Single Judge will avoid such an eventuality, we see no reason to interdict that direction in these Writ Appeals. We therefore dismiss these writ appeals, but without any order as to costs.

Sd/-
DR. A.K.JAYASANKARAN NAMBIAR
JUDGE

Sd/-
SYAM KUMAR V.M.
JUDGE