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Editorial

STANDBY GRETA

The world came to know Greta Thunberg in August 2018 as a Swedish High School student who protested outside her Parliament with a sign reading "School Strike for climate change". It's a measure of how much traction her message got among youth around the world that within a year she got a respectful hearing from the U.S. law makers. The impact of her initiative is so great that on Friday the 20th September, 2019 millions of children around the world played truant from school. Instead of spending a day in the classroom, they head out into the street to protest government inaction and corporate culpability in climate change. This is possibly the biggest environment movement to date, led primarily by school students and young people. They had sent a strong message ahead of U.N. Climate Summit on 23rd September, 2019 in New York.

The movement took place in atleast 150 countries with hosting of more than 2500 events protesting climate change. The protest spread to India also with protest being held in all major metros, state capitals and even in local centres.

We have to appreciate that global warming, indiscriminate felling of trees, uncontrolled urbanization, emission of greenhouse gases, melting of glaciers are all posing serious threat to our planet and our very existence. It is apprehended that unless checked, the melting of the glacier will raise the sea level to such a height that all the major cities in and around the coastal area will be flooded making it inhabitable. We are experiencing an unbearable summer, followed by unpredictable behaviour of nature in the rainy season. There is a sudden increase in the number of depressions that are hitting Indian shores on regular intervals. The memories of cyclone PHANI is vivid in our memory which caused wanton destruction of lives and properties in Odisha, part of West Bengal and in neighbouring Bangladesh. As we are getting ready for going to press, cyclone HIKKA is hovering over Arabian Sea and may cause serious devastation in Oman sparing Gujarat this time.

We are also aware of the devastating fire in the Amazon forest. It is estimated that the rain forest in Amazon basin accounts for 20% of the global oxygen requirement. Reports had appeared that the fire was deliberately set in to clean the area for handing over the same to the corporates. Allegations are there that the forest area of Western Ghats and more specifically the tribal inhabited area of Chhattisgarhis under the close lense of corporate looters. It is a sad tale of industrialization and modern society that the kind of international cooperation that is needed to tackle the problem of global warming and climate change has receded with the rising tide of populist nationalism. One example is how rich countries have not lived upto the Paris Agreement on climate change to mobilise US$ 100 billion to help the developing world. Another example is how the battle to put out the Amazon fire was overshadowed by a standoff between the Brazilian President Bolsonaro and French President Macron and other Latin American head of states.

Back to our homeland, we need to have a sustained policy push for renewables. There has to be a long term effort to protect the forest cover that acts as a carbon sink. Unfortunately, populist nationalism has been taking a big toll hereto. This playbook shuns the structural reforms needed to rescue the climate which in turn badly affects the economy. Avoiding problems, letting them fester will leave a septic legacy for future generation. This is why Common Bond supports the call to eliminate PLASTIC and appeal to all to make it a national movement from the auspicious day 2nd October, 2019 the 150th birth anniversary of Mahatma Gandhi.

We welcome the commitment of India given by the Indian Prime Minister in UN that India's renewable energy target will be increased to 450GW. We are reassured that India is not only talking about the seriousness of this issue but is adopting a practical roadmap. We trust that following the Indian example and under the impact of the global movement initiated by the 16year old Greta Thunberg who arrived in New York ahead of the UN Climate summit aboard her zero emission sailboat from Europe as a protest against high emission impact of the aviation industry will finally lead to a global coordination for a sustained fight against disruptive climatic changes. We know how corporates are sacrificing priceless values of our climate for making an unimaginable amount of money. Greta told with humility "Please save your praise. We do not want it. Do not invite us here to tell us how inspiring we are without actually doing anything about it".

We have lot of issues. But we have to ensure that our planets remain habitable for us and generations to come. We have already made a criminal offence by destroying our neighbourhood making the place less habitable for generations to come. Let us take a vow that we should do something positive to make the climate movement really effective so that the planet become really habitable to our kids who skipped school for building up a largest ever climate movement. Common Bond salutes Greta Thunberg, all our sons and daughters who participated in the movement on 20th September throughout the world including India. Let us now do our bit in our own neighbourhood, in our workplace and in our house.

A warm festive greeting of Navratri, Durga Puja, Dussera and Diwali to all our readers, members of AIBOC and their family members.

SHARED INFORMATION

We are sharing this write-up for NPS subscribers with the rider that our opposition to NPS is total and we are in favour of having a Defined Pension Scheme as existing.

There are very few ***retirement products*** that help you accumulate a retirement nest egg and one such product is the ***National Pension System (NPS)***. NPS is a market linked, defined-contribution product that needs you to invest regularly in the funds of your choice. Being a market-linked product, returns are based on the performance of the fund that you choose. There are eight ***pension fund managers*** to choose from and one of the ways to choose your fund manager is by tracking the returns. Here is a breakdown of the performance of different funds of the private sector NPS.

THERE IS NOTHING PERMANENT EXCEPT CHANGE

Returns (in %): 1 year, 3 years, 5 years

Fund Manager	Tier-1 account: Equity fund (1 year)	Equity fund (3 years)	Equity fund (5 years)	Government bond fund (1 year)	Government bond fund (3 years)	Government bond fund (5 years)	Corporate debt fund (1 year)	Corporate debt fund (3 years)	Corporate debt fund (5 years)
Birla Sun Life Pension Scheme	-6.70	—	—	19.14	—	—	13.97	—	—
HDFC Pension Fund	-6.25	8.79	8.11	19.40	8.40	11.06	13.98	8.54	10.41
ICICI Prudential Pension Fund	-6.64	7.26	7.18	19.04	8.40	11.14	14.08	8.66	10.71
Kotak Pension Fund	-4.58	7.62	7.43	19.71	8.42	11.14	11.61	7.91	10.03
LIC Pension Fund	-7.65	6.07	6.19	22.15	10.22	12.12	13.95	8.08	10.19
SBI Pension Fund	-6.53	7.59	7.40	19.22	8.58	11.30	13.74	8.47	10.28
UTI Retirement Solutions	-7.68	7.24	7.72	18.84	8.00	10.71	11.64	7.61	9.72
Benchmark index	Nifty 50 Total Return: -4.35	9.31	8.09	CCIL All Sovereign Bond-TRI: 19.14	8.31	10.59	CCIL Bond Broad-TRI: 15.60	8.22	10.23

AUM: assets under management; NAV: net asset value. For the Equity Fund the benchmark is NIFTY 50 Total Return, Government Bond Fund the benchmark is CCIL All Sovereign Bond - TRI, Corporate Debt Fund the benchmark is CCIL Bond Broad - TRI. Returns as on 30 Aug 2019. Assets as on 31 Jul 2019. 1-year returns are absolute returns

SHARED ARTICLE

We are sharing an edited version of an article by Jaslene Bawa and Sankarshan Basu published in the Business Line dated September 13, 2019 highlighting the current troubles in YES Bank. We do not own any responsibility for the opinion expressed by the authors. However, the article gives a snapshot of the functioning of private sector bank for which it may be of some interest for our readers.

Borrower name	Total loan exposure (₹ crore)
Top 5	25,130
Reliance Group (ADAG)	13,000
DHFL	3,700
Zee Limited (Essel Group)	3,300
IL&FS	2,600
CG Power and Industrial Solutions	2,530

Serious doubt has been expressed about the health of Yes Bank due to rise in defaults and speculative loans in its Advance Book aggregating ? 29,960 crore which is 1.99 times their present market net worth while the reported GNPA is 0.8 times the net worth. There are apprehensions that reported and likely defaults will bring the Yes Bank NPA level to over 17.5% of its reported Advances worth ?2,36,300 crore as on June 30, 2019. The top five borrowers account for 54% of this total defaults. It will also be of some interest to have a look into who are those top 5 reported top defaulters of the bank.

Most of the Yes Bank's borrowers have pledged Promoter's shares as collateral not only with Yes Bank alone but also with multiple lenders and mutual fund houses. Generally this is fine, but can prove to be a risky scenario if other lenders liquidate their collaterals resulting in a significant decrease in collateral value. In such a scenario, a borrower might not be able to bring in additional collateral to Yes Bank as buffer increasing the possibility of default and thus leading to increased NPA. The last two quarters have witnessed a steady decline in the net interest income and a net loss was reported in March 2019 due to increase in provision, a trend likely to continue. From the published financials the GNPA of the bank increased from 1.28 in March 2018 to 5.01 in June 2019 while CAR declined from 18.4 in March 2018 to 15.7 in June 2019.

It is evident that there is chaos in the heavenly garden of private sector banks where Yes Bank is a precious planted tree.

LEARNING NEVER EXHAUSTS THE MIND

AIBOC Circular No./2019/62 **Date: 23.09.2019**
To All Affiliates (Please Circulate)

Dear Comrade,

48 HRS. BANK STRIKE DEFERRED

We reproduce below text of the joint circular no. 05/2019 dated 23.09.2019 issued by four officers' organisations on the captioned subject for your information.

With greetings,
Sd/-
(SoumyaDatta)
General Secretary

Text of the Joint Circular No. 05/2019 dated 23.09.2019
ALL INDIA BANK OFFICERS' CONFEDERATION (AIBOC)
ALL INDIA BANK OFFICERS' ASSOCIATION (AIBOA)
INDIAN NATIONAL BANK OFFICERS' CONGRESS (INBOC)
NATIONAL ORGANISATION OF BANK OFFICERS (NOBO)

Ref: Joint Circular No. 05 ***Date: 23rd September 2019***
Camp : New Delhi
Date : 23rd September, 2019

To
All Affiliates of AIBOC/AIBOA/INBOC/NOBO

Dear Comrades,

DELEGATION OF FOUR OFFICERS' ORGANISATIONS MET FINANCE SECRETARY, GOVT. OF INDIA
48 HRS. STRIKE BY OFFICERS' ORGANISATIONS STANDS DEFERRED

Today our delegation met Shri Rajeev Kumar, Finance Secretary, with whom the issues related to mergers, Wage Revision, the full mandate from the remaining five banks, incorporation of Sec 17(A) of PC Act, 2018 as a part of the service conditions, introduction of full 5 day week, reduction of cash transaction hours, issues related to retirees and also scrapping of selling of third party products were discussed threadbare.

2. The Finance Secretary was positive in formation of a committee consisting of all concerned to address the issues arising out of the proposed merger of 10 banks including preserving the identity of all the banks. An appeal was made to us to revisit our strike call in view of the discussions.

3. In view of the consideration of the positive and workable solution by the Finance Secretary, Govt. of India, the 48 hours strike from midnight of 25th September, 2019 to 27th September, 2019 stands deferred.

We shall inform the developments in due course.

With revolutionary greetings,

Yours comradely,

Sd/-	Sd/-	Sd/-	Sd/-
(Soumya Datta)	**(Nagarajan S)**	**(K K Nair)**	**(Viraj V Tikekar)**
General Secretary	General Secretary	General Secretary	General Secretary
AIBOC	AIBOA	INBOC	NOBO

THE JOURNEY OF A THOUSAND MILES BEGINS WITH ONE STEP

NEWS FROM THE STATE UNIT

1ST WOMEN'S CONVENTION OF AIBOC PUNJAB STATE UNIT

The Punjab State Unit of All India Bank Officers Confederation (AIBOC) deserves all praise for organising their 1st State level Women's Convention on 22nd September, 2019. More than 250 Lady Bank Officers from different Public Sector Banks as well as Scheduled Private banks attended this gala meet. The Convention was inaugurated by Mrs Poonamdeep Kaur, IAS, Additional Deputy Commissioner, Patiala. Dr Shelly Jaitely, Dy CMO, Patiala and Ms Cynthia Noronha, Deputy General Manager State Bank of India, Chandigarh Circle were the Guests of honor. The audience was enthralled by the special presence of National Poet Shri Dinesh Devgrahia who entertains the lady officers with his unique way of reciting poems.

Shri Rajiv Sirhindi, Secretary of AIBOC Punjab welcomed all the Guests and all the lady participants who have reached Patiala from far flung area of the state. He told that a separate wing of lady officers under the banner of AIBOC Punjab State will also be constituted for better inculcation of female Bank Officers in the Trade Union movement. The brief introduction of Chief Guest as well other Guests was made by Shri Harinder Gupta, President, SBI Officers' Association, Patiala. Speaking on the occasion Shri Deepak Sharma, Joint General Secretary of the Confederation expressed his happiness on the efforts of AIBOC Punjab in organizing such a meet especially for the lady officers of the Banks.

ARTICLE

SOME RELEVANT QUESTIONS ON MERGER

In what comes as the second wave of the government's effort to revive the economy, government announced a slew of banking reforms measures including merging 10 public sector banks into 4 entities. This would take the number of public sector banks of the country from 27 in 2017 to 12. A look at the banks that is proposed to be merged: Bank to be merged

Bank to be merged	Size of merged entity	Total business
Punjab National Bank, Oriental Bank of Commerce and United Bank of India	2nd largest PSB	₹ 18 lakh crore
Canara Bank and Syndicate Bank	4th largest PSB	₹ 15.2 lakh crore
Union Bank of India, Andhra Bank and Corporation Bank	5th largest PSB	₹ 14.6 lakh crore
Indian Bank and Allahabad Bank	7th largest PSB	₹ 8.08 lakh crore

This announcement comes exactly one and half month after the bank men celebrated the 50th anniversary of bank nationalization on 19th July. We have pointed out in our earlier issues that the crisis in the Indian banking system is directly linked with several macro-economic factors. If we make a quick and brief recapitulation, we will observe that a huge amount of liquidity is injected in the Indian financial system particularly after 2006 with the easing of norms governing foreign capital inflow. The banking system which is flushed with liquidity has to find an outlet to deploy this surplus fund. The financial crisis post the collapse of Lehmen Brothers really came as a boon to the Indian banking when the government liberalized the lending norms to ward off the ill-effect of recession to reach the Indian shore. The indiscriminate lending which followed turned into non-performing asset with the change of guard in the North Block. RBI initiated asset quality review and tightened the NPA identification norm forcing the entire public sector banks to post net losses quarter after quarter raising serious doubts

A MAN CAN BE DESTROYED BUT NOT DEFEATED

about their own viability and that of the system itself. This brief analysis by way of recapitulation is provided to remind our readership that the crisis of Indian banking is created by exogenous factors over which the bank officers in particular have no control. It has also to be kept in mind that the banks have to pay the price for implementing the decisions which are probably more political in nature than driven by normal commercial prudence of banking operations.

The two major goals of the mega-merger that was announced by the government on 30.08.2019 were:

I) Creation of big banks with an enhanced capacity to keep credit and

II) To ensure that these big banks are able to compete globally and will be able to increase their operational efficiency by reducing their cost of lending.

The date chosen by the government are really very significant. On 30.08.2019 itself the newspaper published the RBI's observation that the lack of demand is hobbling the economy's animal spirit with the apprehension that the deceleration in the economy is in the nature of soft patch mutating hopefully into a cyclical down swing rather than deep structural slow down. RBI also observed that bank frauds went by 73.8% in value during 2018-19 as compared to the position reported in the previous year. RBI also observed that monetization in the economy increased in the economy possibly pointing to a failure of a dream digital run as envisaged during demonetization. This is not the end of the story. The day the mega-merger was announced, the government also announced that India's GDP growth rate plummeted to a 6 year low of 5% in the first quarter of 2019-20 led by a dramatic slowdown in the manufacturing sector followed by crisis in the real estate sector whose growth rate also plummeted. It is another issue altogether to pose the question that if two major sectors like manufacturing and real estate are reeling under the impact of slowdown whether cyclical or structural, how could the mega-merger will ensure flow of enhanced credit unless these structural issues are addressed.

There is an under-current of optimism among a section of the bank men and more particularly pronounced in small sized banks that on being acquired they would be eligible for getting all such elusive benefits that are supposedly available to the employees of so called big size banks. By governments own estimate theoretically there are two big sized public sector banks in India namely SBI and BOB. We are not sure that whether their HR practices are the best or officers working there have a perfect work-life balance. If that be the case, it is not clear that how the aggregation of Balance Sheet will address the problems of ideal HR practices in the merged entity. In a recent published interview, a top executive of one of the so called big banks observed "I would like to give the analogy of a step mother. In an amalgamation when there is a bigger entity and two smaller entities, that feeling is always there. People will always judge whether they are being treated in a step motherly fashion. So we have to be quite wary of these things. And sometimes in our attempt to seem impartial, probably the bias is on the other side. So you are bending backwards that might create another imbalance. I think the biggest challenge is that while we have to be impartial, the balance has to be maintained. Right now all of us are on a very fragile platform.........I would give myself a year or two for full integration including emotional integration. The tendency right now is that if we have three branches in the same location, one branch is called by the acquirer bank name while the other two are called as e-A bank and e-B bank (say)." This is the story of emotional integration nearly a year after the merger process through alternative mechanism was initiated. We only hope that someday such emotional integration do take place. But what we fail to appreciate that why the officers will have to swim through a phase of emotional upheaval for the purpose of creating bigger banks, the economic justification of which we will consider in the paragraphs to follow.

Obviously, we have to wait to see the benefits that may flow and about which so much hype has been created. But skeptic as we are, certain issues are coming to our mind. There are some references to Indian banks becoming global in size. If we take the largest of the merger that have been proposed, which is PNB combining with OBC and UBI, it is going to give us the bank which is about one-third the size of the 50th largest bank in the world. The correlation between size and efficiency is suspect beyond a certain minimum size. This size is quite low and empirically found to be an asset base of around $10 billion. There is no evidence of many advantages of

WHOEVER IS HAPPY WILL MAKE OTHERS HAPPY TOO growing beyond this point.

In order to make the merger successful we need to satisfy at least two conditions:

a) A very high degree of managerial ability

b) At least one of the entities in the merger must be financially strong

Unfortunately, none of these two conditions are satisfied in the merger that is being proposed. If the bank is not able to make a success of the existing level of operation and deliver the performance based on the existing level of assets, how does the merger can become successful out of a much bigger and more complex entity? The question is not answered simply by referring to theoretical belief that such merger will lead to economies of scale ensuring greater efficiency.

There is some logic behind the argument that the merger may lead to a better resolution of NPA problems. This logic is based on the assumption that when we have multiple banks trying to resolve NPAs which are common to them, we have senior or middle management deputed for meeting for having discussion with their counterparts from other banks. Then they have to go back to their own top management for a decision and have to come back again for next round of meeting. It goes on and on. Therefore the resolution of NPA become difficult when there are multiple banks involved in the process. So to that extent there are fewer number of banks the resolution of NPAs may become a little easier.

There is another set of argument favouring merger which is that the bigger entities enables it to give bigger loans which will give the banks a degree of pricing power vis-à-vis the corporate because the corporates have been playing one bank against the other. So the combined bank with a bigger amount of funding improves the bargaining position of the bank. But this is again a theoretical argument for ease in corporate lending and NPA resolution. But a vital point is missed in this line of argument as these are missed when we talk of HR integration that inter-personal relationship built over the years plays a crucial role either in the management of NPA or MSME finance. Merger will play havoc on such inter-personal relationship an may turn out to be counterproductive in having desired result from merger whatever be the theoretical argument put forward to justify it.

As we pointed out in the beginning the Centre has proposed four set of mergers. The merged entities will be bigger banks with large balance sheet, so run the government argument. For instance PNBs current business is around ₹ 11.8 lakh crore. Post-merger the new entity will have a total business of nearly ₹18 lakh crore. Canara bank too will see a 50% jump in its business post-merger. In the case of Union Bank of India and Indian Bank the banks business will double post-merger. So, when the merger process is completed there will be three more PSBs with business of ₹ 15 lakh crore and above besides SBI and who will either be at par or above the two major private sector players HDFC and ICICI bank. But such simplistic line addition of loans and deposits alone cannot create big institutions. The most important point even at the cost of repetition is the presence of a strong leadership who cans steer the banks through this complex process of integration. If we go back to PNB story, the current CMD will relinquish his office within a short period followed by MD of UBI. In such a scenario the question naturally arises that who will lead and manage such a complex integration process. Integration does not imply upgrading of facilities from a particular version of FINNACLE to a higher version but a complex merger of human resources, Treasury function, assets merger, etc., which requires a dedicated leadership function. Ignoring this aspect, the initiation of a process of merger will definitely be counterproductive.

One plus one is definitely two. But for those talking of bank merger outside the orbit of the ongoing challenges, the merger could happily add up to 1, 1. Ironically, this may also be the situation post the government thinking about retaining the identity of the merged banks in some way or other. Sadly, the government exuberance in building banks with greater capacity to lend stands on weak grounds. Let us look back at the recent two mergers.

SBI that grew bigger in April 2017 after merging its 5 associates has since been saddled with huge legacy of bad loans. On a standalone basis SBI GNPA stood at 6.9% as of March 2017 and that of its associates stood at 20%. This has weighed on SBIleading to weak earnings and muted credit growth. SBI reported for the first time in its history a loss to the extent of ?

6,500 crore in F.Y. 18 and has not really come out of the trauma of this merger even today. There is no empirical evidence that credit disbursement has accelerated, in fact it remained muted at around 4.8% in F.Y. 18. In F.Y. 19 the credit growth was higher at 14% but this is largely a lower base effect rather than acceleration in credit disbursement post-merger. The profit in F.Y. 19 remained muted at ? 862 crore compared to average annual profit of more than? 8,000 crore earned by it till F.Y.18 before merger. It may still be early days to assess the BOB merger but the first quarterly result of June 2019 revealed a severe impact on profitability and assets quality. Credit growth for the merged entity was a modest 6 odd percent in June quarter. While the standalone credit growth of BOB was 12% it was offset by fall in the assets portfolio of two merged entities namely Vijaya Bank and Dena Bank. The proposed mega merger can prove more challenging and cause further disruption in lending given the much weaker balance sheet of the acquirer and acquired along with absence of strong leader to steer the integration process. We are told that when the country is bracing economic slowdown,such merger will inject liquidity in the system. But empirical evidence is suggesting that credit disbursement has actually slowed down. Can we really afford it?

There are further evidence that merger will require more pumping of capital into the merged entity to keep them floating. The fact that the Centre has to pump in ₹ 7,000 crore into BOB this fiscal clearly indicate that the buck will not stop with the merger itself and creation of big banks. There will be continued stress on the government fiscal deficit.

There are some ideas that start out brilliant, fade away when not acted upon, then make a comeback when all else fails and are finally done to death with poor execution. It is the reincarnation of Narasimham recommendation which has been put in operation with merger of SBI with its associates followed by merger of BOB with Dena and Vijaya Bank and finally this mega merger. Unfortunately, after a tumultuous 4 to 5 years when nearly all the PSBs are saddled with humungous losses, weak capital and fragile balance sheet along with the government running out of cash and ideas, it seems to have dug out the long buried notion of bank consolidation to effect the so called rescue the ailing banks. But we have tried to show that the Centres effort to create mammoth institutions is not really the panacea for all the problems plaguing the banking sector. It will not reboot the credit engine to drive the economy. The resultant disruption that the integration process will create will actually slowdown the credit disbursement, recovery of loans and creates a severe HR problem that will leave its imprint on the entire sector for the years to come. And what a bad news it will be when the country is fighting a recession. We are only afraid that will have a catastrophic impact on the entire financial sector. Is anybody listening? Will the policy maker give a relook in the whole issue setting aside any egoistic feeling they may have to open a genuine dialogue with all the stake holders so that the interest of the employees, customer, and citizenry at large and in the ultimate the interest of the financial institution and the nation is protected?

SHARED NEWS

THANKS TO HON'BLE SHRI PIYUSH GOYAL, UNION MINISTER OF RAILWAYS FOR HIS BRILLIANT SUMMATION ON THE ROLE OF PUBLIC SECTOR BANKS IN MUMBAI. EXCERPTS OF HIS COMMENTS PUBLISHED FOR OUR READERS

Statement of Piyush Goyal when Privatization Lobbyist batted for Privatization of PSU Banks.

1. Private Banks have more scandals today than PSU Banks today.

2. Most Scandalous things are coming Up from Private Banks, HFCs & NBFCs.

3. Privatization is not the panacea of all the problems in Banking Sector.

4. Public Sector Banks are reason behind India Developed So Much in every field like infra, power, manufacturing, real estate.

5. PSU banks helped & backed Indian entrepreneurs through thick n think & helped them to grow.

6. No private Bank provide loans to young entrepreneur who wanting to start business, it's the Govt Bank who stood By.

COMING TOGETHER IS BEGINNING, WORKING TOGETHER IS SUCCESS

7. It's public Sector Banks who have taken risk in even remotest projects of this country & helped but not private bank.

8. Private Banks only lensing to cozy comfortable retail lending, served those who paying high taxes not to poors & Farmers.

9. We Must Continue to support Public Sector banks if India want to grow Further. Hats off to these Public Sector Bankers.

CIRCULARS

45 dated 30thAugust, 2019: Rise in protest against merger. Text of UFBU Circular No. UFBU/2019/05 dated 30.08.2019

46 dated 02nd September, 2019: Save PNB Save INDIA.Text of Letter No. AIBOC/2019/67 dated 02.09.2019 written to the Directors of Punjab National Bank

47 dated 03rd September, 2019: Merger of Public Sector Banks - AIBOC Delegation Meets Ms Mamata Banerjee, Chief Minister, Govt. of West Bengal

48 dated 04thSeptember, 2019: Save Corporation Bank Save INDIA.Text of Letter No. AIBOC/2019/71 dated 04.09.2019 written to the Directors of Corporation Bank

49 dated 04th September, 2019: Save Andhra Bank Save INDIA.Text of Letter No. AIBOC/2019/70 dated 04.09.2019 written to the Directors of Andhra Bank

50 dated 04th September, 2019: Save Syndicate Bank Save INDIA.Text of Letter No. AIBOC/2019/72 dated 04.09.2019 written to the Directors of Syndicate Bank

51 dated 06th September, 2019: Save Union Bankof India Save Nation.Text of Letter No. AIBOC/2019/77 dated 06.09.2019 written to the Directors of Union Bank of India

52 dated 06th September, 2019: Save UBI Save INDIA.Text of Letter No. AIBOC/2019/73dated 06.09.2019 written to the Directors of United Bank of India

53 dated 10th September, 2019: Save Allahabad Bank Save INDIA.Text of Letter No. AIBOC/2019/74 dated 10.09.2019 written to the Directors of Allahabad Bank

54 dated 10th September, 2019: Save OBC Save INDIA.Text of Letter No. AIBOC/2019/75dated 10.09.2019 written to the Directors of Oriental Bank of Commerce

55 dated 10th September, 2019: Save Indian Bank Save INDIA.Text of Letter No. AIBOC/2019/76 dated 10.09.2019 written to the Directors of Indian Bank

56 dated 10th September, 2019: Save Canara Bank Save INDIA.Text of Letter No. AIBOC/2019/78 dated 10.09.2019 written to the Directors of Canara Bank

57 dated 13th September, 2019: Strike call on 26th& 27thSeptember, 2019 on merger, salary revision and other issues. Text of Joint Circular No. 01 dated 13.09.2019by 4 officers' organisations

58 dated 15thSeptember, 2019: Text of Joint Communication No. 02/2019 dated 13.09.2019 by 4 officers' organisations to its affiliates on general guidelines for implementation of programmes of actions

59 dated 17th September, 2019: Text of Joint Circular No. 02 dated 17.09.2019 by 4 officers'organisations on discussion on wage revision with IBA

60 dated19th September,2019: Text of Joint Circular No. 03 dated 19.09.2019 by 4 officers'organisations on outcome of conciliation meeting called by CLC(C) dated19.09.2019

61 dated 20th September, 2019: Text of Joint Circular No. 04 dated 20.09.2019 by 4 officers'organisations on Minutes of conciliation meeting dated 19.09.2019

62 dated 23rdSeptember, 2019: Text of Joint Circular No. 05 dated 23.09.2019 by 4 officers'organisations on 48 Hrs. bank strike deferred

THE ONLY JOURNEY IS WITHIN

Judicial Verdict

2019 LLR 975
Karnataka High Court
Hon'ble Mr. B. Veerappa, J.
W.P. No. 29790/2014, Dt/-1-7-2019
Suman Saurabh
vs.
Internal Complaints Committee Hewlett Packard Global Soft Pvt. Ltd.

SEXUAL HARASSMENT OF WOMEN AT WORK-PLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013 – CONSTITUTION OF INDIA – Article 20(2) – Internal Complaint Committee (ICC) – No person shall be prosecuted and punished for the same offence more than once since it amounts to "double jeopardy" not permissible in law – ICC exercising powers under Section 11 of the Act after holding enquiry recommended termination of services – Show cause notice was issued to the petitioner as to why he be not terminated from his services – Petitioner reply to show cause notice stating that enquiry conducted by ICC is in violation of certain Rules and principles of natural justice – ICC issued notice for conducting a fresh enquiry – Petitioner challenged that notice on the ground that once the enquiry report has been submitted on which adjudication by disciplinary authority is pending, conducting of fresh enquiry – is in violation of Rules and principles of natural justice and impermissible – Held, respondents could not assist the Court whether such a procedure is permitted under the Act and Rules – Untill recommendation of ICC is not implemented in accordance with law, conducting a fresh enquiry is not permissible – Earlier proceedings have not been dropped – Recommendation of ICC is hanging on the head of petitioner – Conducting fresh enquiry is totally without jurisdiction being violation of Article 20(2) of the Constitution of India – Writ petition is allowed – Impugned order is quashed.

Paras 12, 14 and 15

For Petitioner: Sri L. Govindraj, Advocate.
For Respondents No. 1 & 2: Sri C. P. Ayappa, Advocate.
For Respondent No. 3: Sri C. Shashikanth, ASG.

IMPORTANT POINTS

* No person shall be prosecuted and punished for the same offence more than once since it amounts to "double Jeopardy" not permissible in Law.

* When earlier proceedings have not been dropped, recommendation of ICC is already hanging on the head of petitioner, conducting fresh enquiry is totally without jurisdiction being violation of Article 20(2) of the Constitution of India.

* During pendency of proceedings in enquiry before the ICC or Disciplinary Authority, conducting a fresh enquiry on the same charges once again is not permissible in law.

ORDER

B. VEERAPPA, J. – 1. Sri L. Govindraj, learned counsel for the petitioner submits that prayers (c) & (d) may be dismissed as not pressed for time being. The said submission is placed on record.

Accordingly, prayers (c) & (d) in the writ petition is dismissed as not pressed.

2. The petitioner filed the writ petition for writ of certiorari to quash the order / notice dated 23.06.2014 issued by the first respondent and to declare that second respondent has no power to hold second inquiry in respect of the same charges against the petitioner.

3. It is the case of the petitioner that the petitioner was working as an Engineer in the second respondent-Company and as on the date of filing the writ petition, he was holding the post of Manager, CSC Business Analytics Team and Programme Manager. The petitioner's performance has been rated with top ratings by the second respondent-Company as per employees rating system in the past 11 years. When things stood thus; the petitioner received an e-mail on 29.01.2014 from an employee of HR Department

NATION FIRST, ORGANISATION NEXT, INDIVIDUAL LAST requesting the petitioner to attend a meeting on the same day. The meeting however turned out to be an inquiry for alleged sexual harassment. The petitioner was forced to resign to his services upon conclusion of the meeting, without receiving a copy of the complaint and he was also not aware of the allegations made against him.

4. Upon regaining self-composure, the petitioner wrote a letter to the Committee member expressing his displeasure over the manner in which the proceedings were conducted and also forwarded a copy of that e-mail to his Manager. The petitioner's resignation was however accepted on 31.01.2014 and he was to be relieved from service on 25.03.2014 as is evident from Annexure-G. The petitioner was subjected to further inquiry on 03.02.2014 and then asked to sign documents prepared by the Committee. The petitioner declined and informed the same to his manager.

5. Thereafter, the petitioner had not received correspondence from the first respondent, but he was allowed to continue in employment even after 25.03.2014. In the circumstances, he assumed that the matter was closed. Indeed, the petitioner was sent to the United States on an assignment on 28.04.2014. Once again he was sent to the United States on 28.04.2014. Once again he was sent on 12.05.2014 on a project. While in the Unites States, he received a communication from the first respondent dated 15.05.2014, enclosing a report dated 11.05.2014 holding the petitioner guilty of some of the charges of alleged sexual harassment. The first respondent recommended for termination of petitioner's service. After receipt of e-mail, petitioner submitted his response reiterating that he is innocent in the matter while pointing out flagrant statutory violations made by the Committee. When things stood thus, the first respondent again issued the impugned notice as per Annexure-V dated 23.06.2014 initiating fresh investigation/inquiry of the complaint filed by Ms. Asharani. S. on 21.01.2014. Hence, the petitioner is before this Court.

6. The first respondent has filed the objections to the writ petition, contending that the writ petition filed against initiation of fresh investigation is not maintainable.On receipt of the complaint relating to the sexual harassment against the petitioner on 21.01.2014, the first respondent discharging its responsibilities envisaged under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (for short the Act) conducted an inquiry in a fair and unbiased manner. It is further contended that though the sexual harassment Rules were notified in December, 2013, there was lack of clarity in respect of this requirement during the early days and keeping in mind the sensitivity of the issue of sexual harassment and with an intension to protect the identity of the victim, a copy of the complaint was not served on the petitioner. However, the petitioner was proved guilty in the meeting dated 29.01.2014. The petitioner was also allowed to participate in the inquiry proceedings and the statement of the petitioner was recorded as per Annexures-W1 &W2. Statement of the victim was also recorded as per Annexures – W3 & W4. Based on the investigation, the first respondent issued report dated 11.05.2014 holding the petitioner guilty of some of the charges of alleged sexual harassment.

7. According to Section 11 of the Act, a copy of the said report was provided to the petitioner in order to record his findings. The procedure adopted by the first respondent was fair and therefore, there is bonafide on the part of the first respondent. It is further contended that thereafter an e-mail dated 22.05.2014 received by the petitioner alleging the process prescribed under the sexual harassment Rules were violated during the inquiry proceedings, on the basis of the said e-mail, the decision to conduct fresh inquiry / investigation to the complaint afresh without any conclusion or interference being drawn from the past investigation proceedings.Therefore, sought to dismiss the writ petition.

8. I have heard the learned counsels for the parties to the lis.

9. Sri, L. Govindraju, learned counsel for the petitioner reiterating the grounds urged in the petition has contended that the impugned Annexure-V dated 23.06.2014 issued by the first respondent to hold fresh inquiry / investigation is impermissible,

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when the report already submitted by the first respondent on 11.05.2014 is still pending for adjudication. Therefore, the same is liable to be quashed. He would further contend that the plain reading of the report dated 11.05.2014 prepared by the first respondent does not disclose any harassment as alleged in the complaint, much less sexual harassment. Indeed, having recorded a finding that none of the acts amounts to sexual harassment, the recommendation for imposing extreme penalty of termination is indicative of prejudice and malafides on the part of the first respondent. When the recommendation is still not implemented, the first respondent absolutely has no jurisdiction to conduct second investigation / inquiry, which is not permissible for the first respondent to initiate fresh inquiry. Therefore, sought to allow the writ petition.

10. Per contra, Sri C.P. Ayappa, learned counsel for the respondents 1 & 2 reiterating the averments made in the statement of objections contended that on the complaint made by an employee an inquiry was initiated against the petitioner and after an inquiry, the recommendation was made for termination of petitioner from his services. In the meanwhile, the first respondent received an e-mail from the petitioner stating that the first respondent has not complied certain provisions and not furnished a copy of the complaint to him. Therefore, the first respondent thought fit to initiate a fresh inquiry against the petitioner. Therefore, sought to dismiss the writ petition.

In view of the provisions of Article 20(2) of the Constitution of India, no person shall be prosecuted and punished for the same offence more than once as it amounts to “double jeopardy”. Therefore, the initiation made by the first respondent for a fresh inquiry on the same charges, on the same complaint is impermissible. Admittedly, the recommendation made by the first respondent is still pending for adjudication and the initiation of second inquiry is without jurisdiction. Therefore, the same cannot be sustained.

In view of the aforesaid reasons, the writ petition is allowed. The impugned notice / order dated 23.06.2014; Annexure-V is hereby quashed. Rule is made absolute.

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6th Floor, E-Block, Samriddhi Bhavan, 1, Strand Road,
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