2026:DHC:6873

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\# **CNR No. DLHC010259692026**

Date of decision: 10.08.2026

\+ W.P.(C) 8120/2026 & CM APPL. 38692/2026

TUSHAR DEY .....Petitioner

Through: Mrs. Gunjan Sinha Jain, Mr. Ishaan Mukherjee, Mr. Sahasradeep Sharma, Ms. Pragya, Mr. Raghav Sharma, Advs.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Ankur Yadav, SPC with Mr. Rahul Kumar Sharma, Govt Pleader for UOI
Mr. Kush Sharma, Mr. Atharva Gaur, Ms. Niharika Tanwar, Mr. Nishchay Nigam, Mr. Anmol Gupta, Advs. for R-2
Mr. Ankur Yadav, SPC with Mr. Rahul Kumar Sharma, Adv. for UOI/ Bureau of Immigration

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

: **JASMEET SINGH, J (*ORAL*)**

1. This is a writ petition filed under Article 226 of the Constitution of India seeking the following prayers :-

"a. Issue a Writ in the nature of Certiorari, Order or direction or any other Writ, order or direction thereby calling upon the Respondent No. 2 to produce the records with respect to Look out circular and thereafter quash the Look Out Circular issued by the Respondent No. 2 Bank against the Petitioner; and

b. Issue a Writ in the nature of Mandamus, Order or Direction or any other Writ order or direction, thereby directing the Respondent No. 2, being a leader of the consortium, to instruct all other members of the consortium to forthwith withdraw their LOC's, if any issued by individual consortium member banks; ..."

2. The brief facts of the case are that the petitioner is a former Independent and Non-Executive Director of Birla Aircon Infrastructure Private Limited ***("BAIPL").*** The petitioner was associated with the said company in a limited capacity and had resigned from the Board on 03.07.2013.

3. In May 2022, the petitioner learnt that his name had been included by the respondent No. 2 bank in a list of alleged wilful defaulters in relation to credit facilities which had been extended to BAIPL. However, the petitioner had neither received any Show Cause Notice nor been supplied with material supporting the inclusion of his name among the wilful defaulters, nor had a hearing afforded to him.

4. The petitioner, aggrieved that he had not been given the opportunity to place on record the fact that he resigned from BAIPL in 2013 before the alleged defaults, challenged the action of the respondent

No. 2 in W.P. (C) 9211/2022, which is currently pending before this Court.

5. The petitioner, on 04.06.2026, was set to travel abroad to visit his wife and daughter, but was stopped by the immigration authorities at the Indira Gandhi International Airport, New Delhi, and informed that a Look Out Circular ***("LOC")*** has been issued against him. The petitioner was denied permission to board his flight and had to abandon his travel plans.

6. The petitioner was never informed that an LOC had been issued against him. No copy of the LOC was ever provided to him, and no personal hearing was ever given to the petitioner before issuing the LOC. The petitioner was merely informed that the LOC had been issued at the behest of the respondent No. 2 bank.

7. The counter affidavit has been filed by the respondent No. 2 bank, wherein, the respondent No. 2 bank has stated in paragraph No. 3 as under:

> *"3. That petitioner was Non-Executive Director of Birla Aircon Infrastructure Pvt. Ltd. ("BAIPL"). BAIPL had taken a loan of Rs. 19 Crores from the Respondent No. 2 bank on 01.08.2011. Due to default in repayment of the outstanding amount, the account of BAIPL was declared NPA on 31.03.2014. The current outstanding as on date is 7.20 crores. The Petitioner was one of the personal guarantors."*

8. Additionally, it has also been stated by the respondent bank in their Counter Affidavit that the LOC has been issued as a preventive

measure as per para No. 8(b) (xv) of the Office Memorandum No. 25016/19/2017-Imm dated 12.10.2018 issued by the Ministry of Home Affairs.

9. Mr. Gaur, learned counsel for the respondent No. 2 bank, states that the fact that the petitioner was one of the personal guarantors, as mentioned in paragraph No. 3 of the counter affidavit, was an inadvertent error and at no point in time was the petitioner one of the personal guarantors.

10. The law with regard to the powers of the bank to issue LOC, is discussed elaborately in the judgment of this Court in ***Rajesh Kumar Mehta v. Union of India & Ors.*** in ***W.P(C) 11707/2022,*** and more particularly paragraph Nos. 13, 25 and 26, which read as under:

> *"13. It is well settled that the right to travel abroad is guaranteed under Article 21 of the Constitution of India which cannot be taken away in an arbitrary and illegal manner [Refer: Maneka Gandhi v. Union of India,* ***(1978) 1 SCC 248****]. This Court is now coming across a large number of cases where banks are now insisting on opening of Look Out Circulars only as a measure to recover money without initiating any criminal proceedings. ...*
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> *xxx*
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> *25. Lookout Circular has been issued against the Petitioner only because of the inability of the company to repay its debts for which the Petitioner stood guarantee. There are no criminal proceedings against the Petitioner and there is no allegation that the Petitioner was instrumental in*

defalcation or siphoning off the money. The Bank has already initiated steps against the Petitioner and the company by taking steps under the RDDB Act, SARFAESI Act and under the IBC. This Court is of the opinion that after resorting to all the remedies available in law, the Bank cannot open a Lookout Circular as an arm-twisting tactic to recover debt from a person who is otherwise unable to pay more so when there are no allegations that he was engaged in any fraud or in any siphoning off or defalcation of the amounts given as loan.

26. Lookout Circular is a major impediment for a person who wants to travel abroad. There is plethora of judgments which states that no person can be deprived of his right to go abroad other than for very compelling reasons. In Maneka Gandhi v Union of India, ***(1978) 1 SCC 248****, the Apex Court has held as under:-*

> *"5. …Thus, no person can be deprived of his right to go abroad unless there is a law made by the State prescribing the procedure for so depriving him and the deprivation is effected strictly in accordance with such procedure. It was for this reason, in order to comply with the requirement of Article 21, that Parliament enacted the Passports Act, 1967 for regulating the right to go abroad. It is clear from the provisions of the Passports Act, 1967 that it lays down the circumstances under which a passport may be issued*

or refused or cancelled or impounded and also prescribes a procedure for doing so, but the question is whether that is sufficient compliance with Article 21. Is the prescription of some sort of procedure enough or must the procedure comply with any particular requirements? Obviously, the procedure cannot be arbitrary, unfair or unreasonable. This indeed was conceded by the learned Attorney-General who with his usual candour frankly stated that it was not possible for him to contend that any procedure howsoever arbitrary, oppressive or unjust may be prescribed by the law…." …"

11. A perusal of the aforesaid paragraphs demonstrate that the right to travel abroad is a fundamental right. Further, there are no allegations in the counter affidavit filed by the respondent No. 2 that the petitioner was engaged in any fraud or any siphoning or defalcation of the funds given as loan. Further, it is admitted by the respondent No. 2 that the petitioner herein is not a personal guarantor to said loan.

12. The respondents have already initiated their appropriate action including SARFAESI proceedings against BAIPL and all guarantors. Merely because the petitioner was a non-executive director of a company and the company has been unable to pay its dues to the bank (for which the bank has already initiated appropriate legal action), an LOC against the petitioner to curtail his right to travel cannot be initiated.

13. Consequently, the petition is allowed and the LOC issued against the

petitioner hereby stands cancelled.

14. Mr. Sharma, learned counsel appears on behalf of the Bureau of Immigration is directed to communicate the Order passed today to the Bureau of Immigration.

15. The petition is disposed of in the aforesaid terms.

JASMEET SINGH, J

AUGUST 10, 2026/sp
(Corrected and released on 18.08.2026)