2026:KER:41848

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE P. V. BALAKRISHNAN

TUESDAY, THE 18TH DAY OF AUGUST 2026 / 27TH SRAVANA, 1948

WP(C) NO. 26654 OF 2026

PETITIONERS:

1 M/S. TRIVANDRUM MOTORS PRIVATE LIMITED,
REPRESENTED BY ITS MANAGING DIRECTOR,
TC 91/579, NURANJANAM AVENUE,
NEAR KARIKKAKOM TEMPLE, ANAYARA,
TRIVANDRUM, PIN - 695029

2 HARI MOHANDAS,
AGED 50 YEARS
TC 6/358, OMANA VILASOM,
KARIMANKULAM ROAD, VATTIYOORKAVE,
THIRUVANANTHAPURAM, PIN - 695013

BY ADVS.
SHRI.C.K.KARUNAKARAN
SHRI.C.E.UNNIKRISHNAN
SMT.LEKSHMI P. NAIR
SMT.SHIFNA MUHAMMED SHUKKUR
SMT.KRISHNA SURESH
SMT.MEKHA MANOJ
SHRI.ANIRUDH INDUKALADHARAN

RESPONDENTS:

1 UNION OF INDIA, REPRESENTED BY ITS SECRETARY,
MINISTRY OF MICRO, SMALL AND MEDIUM ENTERPRISES
UDYOG BHAVAN, RAFI MARG, NEW DELHI, PIN - 110011

2 RESERVE BANK OF INDIA, REPRESENTED BY ITS
EXECUTIVE DIRECTOR,
SHAHID BHAGAT SINGH ROAD,
DEPARTMENT OF SUPERVISION, MUMBAI, PIN - 400001

3 THE INDIAN BANK, REPRESENTED BY ITS MANAGING DIRECTOR,AVVAI SHANMUGAM SALAI, ROYAPETTAH, CHENNAI, PIN - 600014

4 CHIEF MANAGER AND PRINCIPAL OFFICER , INDIAN BANK,THIRUVANANTHAPURAM BRANCH, INDIAN BANK TOWERS, M.G.ROAD THIRUVANANTHAPURAM, PIN - 695001

5 THE AUTHORISED OFFICER, INDIAN BANK,THIRUVANANTHAPURAM BRANCH, INDIAN BANK TOWERS, M.G. ROAD, THIRUVANANTHAPURAM, PIN - 695001

6 THE COMMITTEE FOR STRESSED MICRO SMALL AND MEDIUM ENTERPRISES, REPRESENTED BY THE BRANCH MANAGER INDIAN BANK, THIRUVANNATHAPURAM BRANCH, INDIAN BANK TOWERS, M.G.ROAD, THIRUVANANTHAPURAM, PIN - 695001

BY ADVS.
SMT.LAILA I.S. , CGC
SHRI.M.GOPIKRISHNAN NAMBIAR
SRI.BINOY VASUDEVAN
SMT.K.V.RAJESWARI
SHRI.K.JOHN MATHAI
SRI.JOSON MANAVALAN
SRI.KURYAN THOMAS
SHRI.PAULOSE C. ABRAHAM
SHRI.RAJA KANNAN
SMT.AKHILA NAMBIAR

SRI. P. SREEKUMAR, CENTRAL GOVERNMENT COUNSEL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18.08.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

2026:KER:65026

P.V. BALAKRISHNAN, J.

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W.P.(C)No.26654 of 2026

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Dated this the 18th day of August, 2026

JUDGMENT

The 1st petitioner is a Micro, Small, and Medium Enterprise (hereinafter referred to as the 'MSME,' for short) and a dealer of motor cars, having Udyam Registration, as evidenced by Ext.P1. The 1st petitioner had borrowed funds from the 3rd respondent through the 4th respondent branch, and when the business of the 1st petitioner ran into difficulties and showed signs of incipient sickness, the 1st petitioner approached the 4th respondent by filing Ext.P3 application dated 09.05.2026, seeking the benefit of the MSME revival and rehabilitation framework. After submission of Ext.P3, there was no response from respondents 3 to 6. Later, on 25.05.2026, Ext.P7 notice was issued by the 5th respondent under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the ‘SARFAESI Act' for short) to the petitioners. In response to Ext.P7, the petitioners sent Ext.P8 reply dated 21.07.2026. Since there was

no response from respondents 3 to 6, the petitioners again sent Ext.P9 request seeking reference of the matter to the 6th respondent Committee. In response to Ext.P8, the petitioner received Ext.P10 letter dated 27.07.2026, stating that the matter was placed before the 6th respondent committee, and it has rejected the claim. According to the petitioners, the act of respondents 3 to 6, denying the benefits of the Micro, Small, and Medium Enterprises Development Act, 2006 (hereinafter referred to as the 'MSMED Act' for short), the notification issued thereunder, and the circular issued by the RBI is totally illegal. It is in such circumstance, the petitioners have approached this Court by filing this writ petition seeking the following reliefs: -

> ''i) To issue a writ of mandamus or such other appropriate writ, order or direction commanding Respondents 3 to 5 to forthwith refer the Exhibit P 3 and Exhibit P 9 applications to the 6th Respondent Committee for Stressed Micro, Small and Medium Enterprises.
> ii) To direct the 6th Respondent to consider Exhibits P3 and Exhibit P9 Applications under Exhibit P4 and P5 framework for rehabilitation/revival of the 1st Petitioner and to pass appropriate orders.
> iii) To issue a writ of mandamus or such other appropriate writ, order or direction to the 2nd Respondent to investigate into the affairs of the 3rd Respondent to ensure that the mandate in Exhibit P4 is being strictly followed, and to take punitive actions against the 3rd respondent for violating the provisions of the Exhibit P4 in exercise of the powers under the Banking regulation Act 1949.
> iv) To declare that the Exhibits P4 and P5 have statutory force and they are binding on Respondents 3 to 6 and for

noncompliance thereof Respondents 3 to 6 are liable to be proceeded against by the 2nd respondent.
v) To declare the classification for the 1st Petitioner's accounts as NPA, and pursuing Sarfaesi action by Respondents 3 to 6 as arbitrary, illegal and a violation of Exhibits P4 and P5 Frameworks and the Exhibit P6 Policy of the 3rd Respondent.
vi) To issue a Writ in the nature of certiorari, or such other appropriate Writ, order or direction calling for the records of the case leading up to Exhibits P7, Exhibit P10 and Exhibit P14, and to quash them.''

2. Heard the learned counsel for the petitioners and the learned counsel appearing for respondents 1 to 5. There is no representation for the 6th respondent.

3. The learned counsel for the petitioners submitted that the 1st petitioner, being an MSME, has promptly approached respondents 3 to 6, when it showed signs of incipient stress by seeking to refer its case to the 6th respondent for granting the benefits of the MSMED Act, the notification issued thereunder, and the circular issued by the RBI. He submitted that, even before the account of the petitioners were classified as NPA, the petitioners have raised the said claim by preferring Ext.P3, and even after issuance of Ext.P7 Section 13(2) notice, they have reiterated their claims in Exts.P8 and P9. He argued that respondents 3 to 6, have in a callous manner, replied to Ext.P8, in the form of Ext.P10, stating that the 6th respondent committee

has already considered the claim of the petitioners and has rejected it. He submitted that the petitioners have not been afforded an opportunity of hearing before the alleged decision was taken by the 6th respondent, and they were also not given an opportunity to substantiate their claim by producing relevant documents. He further argued that the classification of the account of the petitioners as NPA itself is illegal, in the light of the notification issued under the MSMED Act.

4. *Per contra*, the learned counsel for respondents 3 to 5, by referring to the counter affidavit filed by the 3rd respondent and relying on Ext.R3(a), contended that the claim for revival/rehabilitation raised by the petitioners, has already been considered by the 6th respondent, on 22.05.2026, and the said request has been declined. But, he fairly submitted that Ext.R3(a) was neither communicated to the petitioners nor were they granted an opportunity of hearing by the 6th respondent, before passing Ext.R3(a) order.

5. On an anxious consideration of the rival submissions and the materials on record, I find considerable force in the submissions made by the learned counsel for the petitioners.

The materials on record, especially Ext.P3 would show that immediately on the petitioners showing signs of incipient stress, they have, by filing Ext.P3 representation before respondents 3 to 6, sought the benefit of the MSME revival and rehabilitation framework. It is not disputed that respondents 3 to 6 have not taken any action on Ext.P3 and they have issued Ext.P7 notice under Section 13(2) of the SARFAESI Act. It is also discernible that the petitioners have again raised their grievance in the form of Exts. P8 and P9, on receipt of Ext. P7 seeking the benefit of the MSMED Act, the notification and the circular of the RBI.

6. Be that as it may, a perusal of Ext.P10 would go to show that the bank has given a reply to Ext.P8 by stating that the 6th respondent Committee, in its meeting held on 20.05.2026, after deliberations, has declined to grant the benefit of the revival scheme sought for by the petitioners. A perusal of Ext.R3(a) produced by the bank would also confirm the said fact and shows that the 6th respondent in its meeting held on 20.05.2026 has considered the case of the petitioners and has declined the benefits sought for by the petitioners. But it is very pertinent to note that Ext.R3(a) decision taken by the 6th

respondent has not been communicated to the petitioners at any point of time. That apart, a perusal of Ext.R3(a) would go to show that the petitioners were neither afforded an opportunity of hearing nor an opportunity to produce materials, before the decision was taken by the committee. It is beyond doubt that the Committee, being a statutory authority, is bound to follow the principles of natural justice while taking a decision, which will have a bearing on the rights of the applicant. If so, for the afore reasons, I have no hesitation to find that the decision of the 6th respondent-Committee cannot be sustained.

Ergo, this writ petition is allowed and the decsion of the 6th respondent as reflected in Ext.P10 is set aside. Consequently, there shall be a direction to the 6th respondent to re-consider Exts. P3, P8, and P9 requests made by the petitioners after affording an opportunity of hearing to the petitioners. If in any case, the 6th respondent requires any documents/materials to be produced by the petitioners before it, the 6th respondent shall grant reasonable time to the petitioners for the same. The 6th respondent shall take a call in the matter, within a period of two months from the date of receipt of a copy of this judgment by

passing a speaking order and communicate the same to the petitioners. Till a decision is taken on Exts. P3, P8, and P9 as ordered afore, no coercive steps shall be taken against the petitioners.

Sd/-

P.V. BALAKRISHNAN
JUDGE

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APPENDIX OF WP(C) NO. 26654 OF 2026

PETITIONER EXHIBITS

EXHIBIT P 1	**A TRUE COPY OF 1ST PETITIONER'S UDYAM REGISTRATION CERTIFICATE DATED 14.01.2021**
EXHIBIT P 2	**A TRUE COPY OF THE CREDIT SANCTION NO. 22/2024-2025 DATED 27.03.2025**
EXHIBIT P 3	**A TRUE COPY OF THE 1ST PETITIONER'S APPLICATION DATED 09.05.2026**
EXHIBIT P 4	**1ST RESPONDENT'S NOTIFICATION NUMBER S.O.1432(4) DATED 29.05.2015**
EXHIBIT P 5	**THE 2ND RESPONDENT'S FRAMEWORK FOR REVIVAL AND REHABILITATION OF MSMES HAVING LOAN LIMITS UP-TO RS. 25 CRORES, UNDER ITS COMMUNICATION NO. RBI/2015-2016/338 DATED 17.03.2016**
EXHIBIT P 6	**A TRUE COPY OF THE RELEVANT EXTRACTS BANK'S POLICY FOR MICRO, SMALL AND MEDIUM ENTERPRISES EXTRACTED FROM THE BANK'S WEBSITE**
EXHIBIT P 7	**THE 4TH RESPONDENT'S DEMAND NOTICE DATED 25.05.2026 UNDER OF SEC 13(2) OF SARFAESI ACT**
EXHIBIT P 8	**THE PETITIONER'S REPLY TO THE 13(2) NOTICE, DATED 21.07.2026**
EXHIBIT P 9	**. A TRUE COPY OF THE PETITIONER'S REQUEST DATED 21.07.2026, WITHOUT ENCLOSURES**
EXHIBIT P 10	**A TRUE COPY OF THE REPLY OF THE 4TH RESPONDENT DATED 27.07.2026**
EXHIBIT P 11	**A TRUE COPY OF THE ECLGS 5.0 SCHEME ISSUED BY THE NATIONAL CREDIT GUARANTEE TRUSTEE COMPANY, A WHOLLY OWNED COMPANY OF THE DEPARTMENT OF FINANCIAL SERVICES (DFS) MINISTRY OF FINANCE, GOVERNMENT OF INDIA**
EXHIBIT P 12	**A TRUE COPY OF 1ST PETITIONER'S LETTER DATED 16.05.2026 ISSUED AT THE INSTANCE OF THE 4TH RESPONDENT**

EXHIBIT P 13	**A TRUE COPY OF THE BOARD RESOLUTION DATED 19.05.2026 SUBMITTED TO THE 4TH RESPONDENT**
EXHIBIT P 14	**A TRUE COPY OF THE POSSESSION NOTICE DATED 28.07.2026**

RESPONDENT EXHIBITS

EXHIBIT R3(A)	**TRUE COPY OF THE DECISION OF THE COMMITTEE FOR MSME DATED 22-05-2026**