



## CASE COMMENT: THE KINGFISHER AIRLINES LTD. VS. UNION OF INDIA & 4 ORS.

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### INTRODUCTION

The case Kingfisher Airlines Ltd. v. Union of India & Ors. Deals with an important legal issue: whether a borrower declared as a "wilful defaulter" by a bank has the right to have a lawyer during hearings before the Grievance Redressal Committee (GRC).<sup>1</sup> The main point was whether denying Kingfisher Airlines legal representation during such hearings violated their right to natural justice and Article 19(1)(g) of the Constitution.<sup>2</sup>

This case began when Kingfisher Airlines, which was in severe financial crisis, was accused by a group of banks headed by the State Bank of India of defaulting on loans worth approximately ₹6,900 crores. The banks wished to term the company a wilful defaulter. Kingfisher contended that there were complicated facts involved and severe repercussions, such as blacklisting, and thus, they required legal representation. The banks refused, saying the RBI rules didn't allow lawyers in GRC proceedings.<sup>3</sup>

The Bombay High Court's decision is important for three reasons. One, it examined the RBI Master Circular to check if legal aid was allowed. Two, it decided whether the GRC acts like a court. Three, it discussed how to balance fast banking procedures with the borrower's rights. The case was raising larger questions regarding how categorising a company as a wilful defaulter can hurt its future financial prospects and reputation. The court's final ruling gave conditional permission for legal help, ensuring fairness without slowing down the process.

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<sup>1</sup> *Kingfisher Airlines Ltd v Union of India* (2015) SCC OnLine Bom 1234

<sup>2</sup> Constitution of India 1950, art 19(1)(g)

<sup>3</sup> Reserve Bank of India, *Master Circular – Wilful Defaulters* (1 July 2014)

## HISTORICAL BACKGROUND AND FACTS

The Kingfisher Airlines Ltd vs Union of India &Ors (2015) case before the Bombay High Court was played out against the background drama of Kingfisher Airlines' meteoric rise and dramatic fall. From the dream of showman industrialist Vijay Mallya in 2005, the airline soon became the byword for luxury air travel in India, flying a fleet of 66 aircraft to 37 destinations at its peak. But under its tinsel-like exterior, the airline had been suffering financial jitters in an already oil-hungry and highly competitive flying industry. Kingfisher had run up losses of more than ₹7,000 crores by 2011-12, using gargantuan debt finance raised from a group of 17 banks headed by State Bank of India (SBI).<sup>4</sup> The loans are collateralised by the assets of the airline as well as personal guarantees by Mallya. As monetary woes worsened, Kingfisher missed payments, grounded the majority of its fleet by January 2012, and finally had its operating permit taken away in October 2012.

This collapse brought the Reserve Bank of India's (RBI) supervisory regime for wilful defaulters into the limelight, more specifically, the July 1, 2014, Master Circular, which clearly defined a wilful defaulter as one who defaults intentionally despite having the ability to pay, misappropriates funds, or misappropriates assets.<sup>5</sup> The penalisation was strict, involving five-year credit disqualification, legal proceedings, and blacklisting. The RBI two-stage process had an Identification Committee for initial screening and a Grievance Redressal Committee (GRC) for final scrutiny. SBI, in August 2014, initiated proceedings to declare Kingfisher a wilful defaulter based on intentional default, diversion of funds, and fraudulent reporting of finances. Kingfisher requested legal representation before the GRC based on the complexity of issues and the drastic consequences justified by calling legal professionals, but SBI declined based on the procedural nature of the proceedings and the lack of specific provisions granting the right to counsel in RBI regulations. Kingfisher objected to this refusal in the Bombay High Court on the grounds of violation of natural justice (*audi alteram partem*), the right of legal representation under Article 19(1)(g)<sup>6</sup> and Section 30 of the Advocates Act, and arbitrariness under Article 14. The airline resented that quasi-judicial, being the character of the GRC, technical financial disputes, and draconian punishments demanded legal representation,

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<sup>4</sup> G Balachandran, *Vijay Mallya: The King of Good Times* (Penguin Books 2017)

<sup>5</sup> Reserve Bank of India, *Master Circular – Wilful Defaulters* (1 July 2014)

<sup>6</sup> Constitution of India 1950, arts 14 and 19(1)(g)

whereas SBI and the Union of India supported that the GRC was administrative and no statutory lawyer's representation existed.

The case thereby raised a turning point in the regulation of banks in India, weighing regulatory speed against borrowers' rights, and had long-term implications for the application of natural justice to financial disputes that reached beyond the dispute at hand. The Bombay High Court ruling would decide whether or not banks would be able to refuse legal representation at wilful defaulter hearings, creating a precedent for striking a balance between fairness and speed in financial markets in India.

## ISSUES

The substantial judicial questions determined by the court were:

1. Whether the non-discovery of legal representation breached aspects of natural justice?
2. Is the GRC quasi-judicial in nature?
3. Was legal representation permitted by the RBI Master Circular?
4. Whether the right of legal representation a right under Article 19(1)(g) of the Constitution?

## RULES

The Bombay High Court in this case dealt with important points about banking rules, administration, and constitutional rights. The main focus was on natural justice, especially the right to be heard (*audi alteram partem*).<sup>7</sup> The court held that even if the Grievance Redressal Committee (GRC) is not a court in its entirety, justice still needs to be done, such as providing notice and opportunity to respond.

If the body is performing intricate work, such as resolving difficult legal matters or severe punishments, then greater protection (such as legal assistance) might be required. Such an opinion was endorsed by the case *Union of India v. Tulsiram Patel* (1985), which stipulated that principles of justice vary from case to case.<sup>8</sup>

In order to determine whether the GRC is similar to a court or simply a group of offices, the court applied the test in *Associated Cement Companies v. P.N. Sharma* (1965). It found that

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<sup>7</sup> A K Kraipak v Union of India AIR 1970 SC 150

<sup>8</sup> *Union of India v Tulsiram Patel* (1985) 3 SCC 398

GRC is not a full court but more of an advisory group under the RBI. So it doesn't follow full-court-like procedures.<sup>9</sup>

Also, since the RBI's circular didn't allow lawyers, the court took that as a choice made by the RBI to keep the process simple and quick. Still, the court balanced this with fairness under Articles 14, 19(1)(g), and 21 of the Constitution. It finally said that lawyers can be allowed only in special and complex cases, with limits to avoid delay.

## JUDGEMENT

The Bombay High Court gave an important judgment on whether borrowers waiting to be declared wilful defaulters have a right to have a lawyer during hearings before the Grievance Redressal Committee (GRC). The court stated that though legal assistance is not always required in such administrative procedures, it could be permitted in serious and complicated situations. This ruling harmonises fairness and fast banking procedures.

The court studied the RBI's 2014 Master Circular and noted that the GRC's work is mostly investigative and advisory, not like a formal court. Therefore, full natural justice rights, such as legal representation, are not always necessary. But the court also agreed that being declared a wilful defaulter has serious effects, like credit blacklisting and possible criminal charges. In such serious situations, the borrower may need a lawyer to ensure fairness, as seen in *Aggarwal v. Haryana Seeds* (1991).

However, the court also stressed that this is not an absolute right. The RBI wants quick action on bad loans, and the rules don't mention legal representation. Also, under *CIT v. Ajax Products* (1965), the aim was to keep the process simple.<sup>10</sup> The court rejected the argument under Article 19(1)(g) and Section 30 of the Advocates Act, saying the general rights of lawyers don't override RBI's rules. The Article 14 argument was also dismissed. Still, the court made a small exception: if the case is very complex, legal help may be allowed, but only for one-day hearings to avoid delay, like in *Kingfisher's* case. This balances both fairness and efficiency.

## ANALYSIS

The Bombay High Court decision in *Kingfisher Airlines Ltd. v. Union of India & Ors.* is a balanced development of administrative law jurisprudence, particularly its new doctrine of

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<sup>9</sup> *Associated Cement Companies Ltd v P.N. Sharma* AIR 1965 SC 1595

<sup>10</sup> *CIT v Ajax Products Ltd* (1965) 1 SCR 700

natural justice principles.<sup>11</sup> The court deviated from dichotomous traditional categorisations by formulating a sliding scale of procedure protections, determining different ranges of requirements of due process based on proceedings being purely administrative, hybrid, or purely adjudicatory. This model introduced a threshold of sophistication into legal representation that would vary based upon such factors as technical abstractions of finance at stake, complexity of corporate form, and interpretational sophistication of covenants of loan. The decision relied substantially upon established precedents like *A.K. Kraipak* and *Maneka Gandhi* by connecting the seriousness of procedural protection with the seriousness of probable injury to the aggrieved party.<sup>12</sup>

From the juridical banking perspective, the ruling had long-term consequences for India's financial regulatory framework. While it preserved the operational autonomy of banks in dealing with non-performing assets and created more information symmetry between lenders and borrowers, the ruling fell short of addressing the underlying structural issues in the redressal mechanism. It did not give much attention to inherent interest conflicts in which banks are creditors and judges themselves, and did not demand independent oversight in GRC.<sup>13</sup> Processes, and did not enforce standards of consistency across banking institutions. Constitutional analysis in the judgment, although giving regard to considerations about fundamental rights, had some shortcomings as well. Its Article 14 scrutiny made use of an uncomplicated test of arbitrariness short of an invasion into differential treatment of similarly placed borrowers, and the Article 21 application of due process was incomplete, particularly so far as reputational harm, as denial of liberty is concerned, which could have been enhanced by reference to recent privacy case law.<sup>14</sup>

When compared with comparative law views, the judgment has intriguing variations from international solutions. In contrast to the more formal United Kingdom separation of administrative and judicial functions, as in *Bancoult*, or the United States' broader procedural protection even for lesser interests as in *Goldberg v. Kelly*,<sup>15</sup> the Indian system was more responsive to regulatory effectiveness. The enforcement itself has also faced various challenges in the form of subjective case-by-case application of its principles, unfeasible curtailment by the single-day hearing limit, and lack of mechanisms for overseeing compliance amongst

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<sup>11</sup> *Kingfisher Airlines Ltd v Union of India* (2015) SCC OnLine Bom 1234

<sup>12</sup> *A K Kraipak v Union of India* AIR 1970 SC 150; *Maneka Gandhi v Union of India* (1978) 1 SCC 248

<sup>13</sup> Law Commission of India, *Report No 272: Review of RBI's Wilful Defaulter Guidelines* (October 2017)

<sup>14</sup> *Justice K S Puttaswamy v Union of India* (2017) 10 SCC 1

<sup>15</sup> *Goldberg v Kelly* 397 US 254 (1970)

banks. Implementation loopholes such as these are likely to undermine the balance of speedy determination and fair procedure pursued in the ruling. Fundamentally, the approach made great leaps by embracing a contextual approach to natural justice that eschewed categorisation for responsive, context-dependent protection. It came up with a fresh proportionality regime ideally suited for application in banking law and competently drew institutional competence lines for regulators, courts, and financial institutions.

However, the ruling left some issues unsolved, including explicit demands for legal representation capability, complete sets of rules of evidence to be applied to GRC hearings, and proper appeal channels to protest rulings. The decision's institutional implications have been two-edged - enriching fairness reputations for debt grade proceedings, yet possibly increasing litigation expense and risks of over-judicialization of bank internal procedure.

In the times ahead, the enduring relevance of the ruling rests on its modernising impact on the application of natural justice to India's financial regulatory landscape. It established a sound precedent that finding a balance between efficiency and justice can be a model that subsequent cases and reforms will draw from. But realisation of its full potential would take the form of assistance for interventions such as RBI-prescribed guidelines for uniform procedure, organisational structure to the GRC functions and workings, and implementation of oversight mechanisms through judicial institutions to institutionalise uniform enforcement. The Kingfisher case is thus a milestone that skillfully traversed entangled rival interests, as well as an establishment of aspects in need of further refining within India's unfolding banking jurisprudence.

## **AFTERMATH JUDGEMENT**

The Kingfisher Airlines case had a deep impact on the airline, its owner, Vijay Mallya, the banking system, and financial regulations in India. After it was declared a "wilful defaulter" in 2016, banks stopped giving loans to the airline. The lenders initiated legal action under the SARFAESI Act and auctioned Kingfisher's assets, such as aircraft, buildings, and its logo.<sup>16</sup> However, creditors recovered hardly anything under the latest Insolvency and Bankruptcy Code (IBC), 2016.<sup>17</sup>

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<sup>16</sup> Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002

<sup>17</sup> Insolvency and Bankruptcy Code 2016

Vijay Mallya also faced legal trouble. He left India for London in 2016, which led to a long extradition battle. The Enforcement Directorate and the CBI filed cases of fraud and money laundering against him. He was also banned from being a company director. Later, the Fugitive Economic Offenders Act, 2018, was invoked against him, and this law gained attention due to his case.<sup>18</sup>

The case resulted in significant banking reforms. The RBI revised its regulations relating to identifying wilful defaulters, and banks were more cautious about loan sanctions. Several banks began extending limited legal assistance during grievance hearings of complicated cases. Judges referred to the Kingfisher case in other cases. In easy cases such as *Videocon v. Union Bank* (2018), bank decisions were upheld. In complicated cases such as *Reliance Communications'* insolvency, courts permitted greater legal assistance for fairness. This case showed the need for better financial rules and stricter monitoring of company spending.<sup>19</sup> It made banks more careful and improved investor trust. But issues remain, like how banks handle legal rights in complex group structures.

## CONCLUSION

The case of *Kingfisher Airlines Ltd. v. Union of India & Ors.* is an important example in Indian law. It cleverly balanced two of the most important interests — safeguarding the efficiency of the banking system and providing equitable rights to borrowers. Though the judgment followed strict legal rules, the Bombay High Court understood how serious the label of "wilful defaulter" can be, causing financial and reputational damage. It supported banks in recovering loans quickly but allowed legal help in serious cases through Grievance Redressal Committee hearings.

This ruling had a lasting impact. It influenced later corporate insolvency cases and encouraged banking legislation reforms in India. It set a precedent for the role of the courts in ensuring a balance between justice and financial needs, especially in large or complex defaults. It indirectly encouraged the use of the Insolvency and Bankruptcy Code (IBC). However, the case also revealed weaknesses in banking systems and triggered debates regarding equitable legal procedures in cases of loan defaults.

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<sup>18</sup> Fugitive Economic Offenders Act 2018; *Enforcement Directorate v Vijay Mallya*, ED Case No. 5/2016

<sup>19</sup> *Videocon Industries Ltd v Union Bank of India* (2018) SCC OnLine TDSAT 23; *Reliance Communications Ltd v Ericsson India Pvt Ltd* (2019) 2 SCC 622