

IN THE SUPREME COURT OF INDIA
EXTRAORDINARY CIVIL JURISDICTION
CIVIL WRIT PETITION NO. 291 OF 1998

COMMON CAUSE
(A Registered Society)

--- Petitioner.

Versus

Union of India & Ors.

--- Respondents

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Petitioner

through

H. D. Shourie
Director
(In-Person)

New Delhi.
Dated :

A

SYNOPSIS AND LIST OF DATES

1. During the past few years there has apparently been laxity in effecting supervision of Public Sector and Private Sector Banks in the matter particularly of advancing loans to industry, trade and for other purposes, and also particularly in effecting recoveries of the advanced loans, with the result that huge amounts of loans have remained unrecovered. These non-recovered loans have now been given the euphemistic appellation of Non-performing Assets. According to reports appearing in Press which have remained uncontradicted the NPAs have accumulated to the astounding figure of Rs.43,577 crores. This amount, with inclusion of appropriate interest accrued thereon, would amount to 4 to 5 times this figure which comprises the non-recovered alarming amount of advanced loans which to a large extent have become irrecoverable. Attempts have continued to be made by the Ministry of Finance of Union of India and the Reserve Bank of India, Respondents No. 1 and 2 to play down the figure.
2. This enormous accumulation of NPAs is stated to have been caused by the policy adopted by the Respondents in 1980s' to encourage the Banks to liberally advance loans to the "needy and weaker" Sections which were renamed as priority sectors. After earmarking credit to the extent of 50% for Government securities, 40% was directed to be advanced to the Weaker Section and the balance was to be used for assisting medium and large industries and wholesale trade.

3. Recovery effort by the Banks has not been effective and sustained, with the result, that the funds advanced as loans have remained unrecovered to a very large extent. This inevitably is harmful to interests of the economy of the country which in turn adversely affect the interest and life of the people and future development of the country.

4. Endeavour has been made by the Petitioner to collect data and reports appearing in the Press as well as the official Report of the Reserve Bank of India, and on the basis of these, the Petitioner is submitting this Writ Petition to seek appropriate directions from the Hon'ble Court to the Respondents No.1 and 2, Ministry of Finance of the Union of India and the Reserve Bank of India, for ensuring that effective steps are taken by the Banks to secure recovery of loans advanced, to the maximum extent possible, and also to ensure that in future advancement of loans by the Banks does not continue to jeopardise the interests of the country.

Hence this Writ Petition.

IN THE SUPREME COURT OF INDIA
EXTRAORDINARY CIVIL JURISDICTION
CIVIL WRIT PETITION NO. OF 1998

In the matter of :

COMMON CAUSE (A Registered Society)
through its Director
Shri H. D. Shourie
A-31 West End,
New Delhi - 110021.

... Petitioner.

Versus

1. Union of India,
Ministry of Finance,
North-Block, Secretariat,
New Delhi - 110001.
Through Secretary, Min. of
Finance.
2. Reserve Bank of India,
1, World Trade Centre,
Cuffe Parade,
Colaba,
MUMBAI - 400 005.
Through the Governor of RBI.

... Respondents.

PETITION UNDER ARTICLE 32 OF THE
CONSTITUTION OF INDIA FOR ISSUANCE
OF A WRIT IN THE NATURE OF MANDAMUS
OR ANY OTHER APPROPRIATE WRIT, ORDER
OR DIRECTION, DIRECTING THE RESPONDENTS
TO FORMULATE DEFINITE POLICY LAYING
DOWN PROCEDURE FOR RECOVERY OF THE
LOANS AND ADVANCES, TOGETHER WITH
INTEREST ACCRUED THEREON, WHICH ARE
PRESENTLY BEING TREATED AS NON-
PERFORMING ASSETS OF BANKS THUS
CAUSING LOSS TO PUBLIC EXCHEQUER
AMOUNTING TO APPROXIMATELY RS.43,577
CRORES PLUS INTEREST ACCRUED THEREON.

To

Hon'ble The Chief Justice of India and His Lordship's
Companion Justices of the Supreme Court of India,

The Humble Petition of the Petitioner abovenamed,

MOST RESPECTFULLY SHEWETH :

1. That the Petitioner is a Society duly registered under the Societies Registration Act, 1860, and is engaged in taking up various common problems of the people for securing redressal thereof. The Petitioner Society has also brought to Court various constitutional problems. The Petitioner has an established locus standi in its capacity as a bonafide public interest organisation for taking up matters of general public importance.

2. That Respondent No.1 is the Ministry of Finance of the Government of India, responsible for implementation of legislations relating to public finance and for safeguarding financial interests of the nation by formulating sound policies for management of the country's financial resources. Respondent No.2 is Government of India's nodal Bank and is responsible, inter alia, for implementing the Government of India's policies pertaining to the banking system and its acts as regulatory body for ensuring proper, judicious, purposeful and gainful functioning of banking sector of the country.

3. That the banks in the country carry out business of safeguarding bank funds and ensure utilization of surplus funds judiciously, to earn reasonable return on such investments for the benefit of their depositors. They also bear the inalienable responsibility to ensure that the loans/advances granted by them are repaid by the loanees alongwith the interest accrued thereon, in full and on schedule. The Banks are also required to exercise due diligence and precautionary measures to eliminate any fraud or defaults in the conduct of this business.

4. That the Petitioner as a public interest organisation is greatly concerned at the enormous escalation of non-recovered

loans advanced by the public and private sector Banks in the country during the last few years. The non-recovered loans have now been given by the euphemistic appellation or having become Non-Performing Assets (hereinafter referred to as NPAs) attempting to give an impression as though these non-recovered loans are still likely to be available in the near future for utilisation by the Banks, whereas from the developments during these years it appears that increasingly substantial portion of these loans is likely to remain non-recoverable and may eventually have to be written off. The aggregate figure of these Non-Performing Assets (NPAs) is reported to be the huge figure of Rs.43,577 crores, on the basis of data stated to have been compiled by the Banking Division of the Ministry of Finance. In the list of defaulting banks, NPAs are stated to be led by State Bank of India Group with Rs.14,367 crores and the others account for Rs.29,207 crores. Such astoundingly higher figures of NPAs are stated to lead to dampening effect on the efforts for effecting reforms and strengthening the banks for improving performance of the banking system. Efforts of the banks towards reducing the NPAs by effecting recoveries of outstanding loans do not appear to be leading to any noteworthy results. It is generally believed that if accrual of due interest on the outstanding NPAs was to be taken into consideration, the aggregate amount of non-recovered loans would be of the order of not less than about Rs.200,000 crores. This entire episode of advancement of loans of such large amounts by the Banks to various Sectors of the economy, non-recovery thereof, and relegating these to the convenient category of NPAs, is obviously a matter of grave concern to the nation because it disables utilisation of these funds for the purposes of development of country's economy and this directly affects the citizens. Attempts to effect recovery of the outstanding loans appear to have been inadequate and ineffective. Referring the cases'

to the Board of Industrial and Financial Reconstruction (BIFR) have also not yielded any positive results. These facts and problems have been presented in this Petition alongwith references to the newspaper reports which the Petitioner has been able to trace out and put together, and which have remained uncontradicted, supplemented by the published Report of the Reserve Bank of India.

5. That in the 1980's, with the twin purpose of firstly to generate additional avenues for investment of the idle funds of the banks and secondly to provide easy financial assistance to the socially weaker sections of Society and other needy people, the Government of India had framed policies aiming at goading the nationalised banks to disburse loans/advances liberally to the needy and weaker sectors (renamed priority sectors). The credit was earmarked; approximately 50% was invested in Government securities, 40% of the balance went to weaker sectors and the balance was to be used for assisting medium and large industry and wholesale trade. This earmarking finds mention in the

*
Hindustan Press report which appeared in newspaper of 12-1-1998
Times
(ANNEXURE A).

6. That no stringent and positive rules and regulations to ensure safe and timely repayment of these loans appear to have been framed. As a result, the recovery process became an irretrievable casualty and huge amounts of outstanding dues got categorised as Non-performing Assets (NPAs) of the concerned Banks. In simple language NPAs really denote bad and doubtful debts, mostly the former. Quantum of Non-performing Assets as percentage of total advances is obviously one of the critical indicators of the quality of bank's loan portfolio and hence of its overall health. Assessed on the basis of the volume of gross NPAs of nationalised banks, financial health of these banks would appear to be far from very sound.

7. That the Banks merrily carried these NPAs in their books to bloat up profits and make their balance sheets look more respectable, forgetting their basic function of being the trustees of depositors. As a fall-out of the lackadaisical handling of this important matter and as a result of the inherent weakness of the whole scheme, amount of such bad debts went on piling up from year to year.

8. That as stated in foregoing paragraph 4, according to ^{*} information published in the newspaper report of 12-11-1997 (ANNEXURE B) the data compiled by the Banking Division in the Ministry of Finance, Government of India, has pegged the gross Non-performing Assets (NPAs) of all the nationalised banks at the staggering figure of Rs.43,577 crores. This amount will have further increased in the intervening period. If one takes into account the outstanding interest, chargeable at 6% to 12% per annum, the actual total amount of NPAs would work out to four to five times of this figure. In fact the interest on these loans should be reckoned at the Prime Lending Rate in force from time to time in which case the loss figure would be further alarmingly higher.

*
Hindustan
Times

9. That instead of basing its observations on the gross NPAs, the Reserve Bank of India in sub-paras 1.53 and 1.54 of Para 5 of the Chapter "Banking Developments and Policy Perspectives" of their published Report on "Trend and Progress of Banking in India in 1996-97" (ANNEXURE C) has relied on the net outstandings of NPAs, arrived at by excluding (i) balance interest due but not received (ii) DICGC/ECGC claim received and kept in suspense account pending adjustment (iii) part payments received and kept in suspense account and (iv) total provisions held for bad debts. The RBI claims that this is an internationally recognised procedure. However, since this methodology produces a very low and unrealistic figure, it is widely open to criticism specially in regard to exclusion of the

outstanding interest and the total provision held. This point becomes more clear when the amount of gross NPAs plus approximate outstanding interest for five years is compared with the figure of net NPAs of Rs.13,902 crores indicated by the RBI in the Report cited above.

10. That RBI's above-mentioned Report further states that priority sector advances accounted for 47% of the total NPAs and non-priority Sector advances for the balance. In fact the ratio of outstandings in respect of the non-priority sector specially should have been just minimal - may be 5% at the most. Even the figures quoted by the RBI in the said Report indicate that the net of NPAs of nationalised banks had increased from Rs.12,935.5 crores in 1995-96 to Rs.13,902.7 crores in 1996-97 which is a clear proof that measures taken by the banks to recover the outstanding NPAs have not been effective at all.

11. That it is obvious that big business houses which were granted large amounts of loans have been able to avoid repayment of loan plus interest partly by taking advantage of the non-existence of any stringent recovery mechanism and partly because of the political/official patronage enjoyed by them. Such defaulters have been able to obtain large monetary concessions, write offs, waivers, reduction in the rate of interest etc. Banks have been too willing to accede to pleas for grant of these concessions because, firstly, the recovery through legal process was considered to be a long drawn affair and secondly they found it difficult to resist the pressure from powerful vested interests.

12. That not only have the Banks managed to accumulate huge amounts of NPAs, attempts are also made to conceal the correct magnitude of NPAs by resorting to financial jugglery specially by not showing the amounts of principal and interest

separately in their accounts. Further, the banks calculate 6% to 12% simple interest and do not include the outstanding interest till date on NPAs so that the amount of loss may not appear too large. In all fairness the banks should calculate interest at Prime Lending Rate till the date of recovery and indicate it clearly and separately in the accounts. By adopting various devious methodologies, the Banks have obviously been presenting rosy picture of their financial health by showing as "good" advances which were in fact bad and of doubtful nature.

13. That guidelines issued by RBI on the basis of recommendations of a Committee stated to have been appointed by Government regarding norms to be adopted for income recognition, asset classification and provisioning of assets of bad or doubtful nature have been ignored to a great extent. Provisions regarding classification of assets into (i) Standard assets (ii) Sub-standard assets (iii) Doubtful assets and (iv) Lost assets have not generally been followed by the Banks according report appearing in a newspaper of 21-1-1998 (ANNEXURE D).

Economic
Times

14. That as per a circular stated to have been issued by RBI where a borrower defaults with respect to a particular facility, then all facilities granted to such a borrower should also be classified as NPA. The purpose of this provision is to safeguard the banks against possible loss that may arise from dealing with borrowers whose credentials are in doubt. However, considered in the context of banking sector as a whole, this provision would appear to be quite inadequate. For example, a borrower may have availed of loan facilities from more than one bank, his facility in the event of any default on his part in one bank, will be classified as NPA only in that particular bank. Other banks from whom he has availed of loan facilities may not be aware of the deterioration

in his credentials by virtue of the default in one bank. Such borrower could, therefore, prove to be a potential source of risk for other banks. Similarly, there might have been cases where the default on the part of one member unit of a business group did not debar other member units of the same group from enjoying loan facilities from the same bank or other banks. Unfortunately, neither the RBI nor the lending Banks have ever shown any concern to remedy such eventualities.

15. That as per the existing guidelines, only if interest payment remains past due for two quarters i.e., six months (for the year ending 31st March, 1995 and thereafter), the advance is to be treated as an NPA. It is not clear whether these two quarters have necessarily to be consecutive quarters or in totality during one year. Thus default in payment of interest for the last quarter of a year and 1st quarter of the succeeding year may not make the loan liable to be treated as NPA. This would thus continue to be taken into account as a "good" advance thus muddying the financial picture to that extent, and providing a lacuna for exploitation by any ill-meaning party.

16. That the Finance Ministry is reported to have admitted that 27 nationalised banks had written off a staggering amount of Rs.4,010 crores as bad debt during 1994-95 and 1995-96. This is obvious from the reports appearing in the Press. Most of the defaulters are said to be men of substantial means. Small industrialist politicians and their favourites and traders form the bulk of those who have, in effect, defrauded the banks in this manner. Incidentally the amounts written off during 1994-95 and 1995-96 were more than the profits earned by the nationalised banks. It is also reported that the

Finance Ministry has justified write off of bad debts on the plea that these were sanctioned without any tangible or realisable securities which has been accepted as commercial mis-judgement. Legal action against the delinquents is reported to have been steadfastly refused claiming that legal action takes unduly long time and is rather expensive. Just about 2 per cent of such fraudulent cases are stated to have been referred to the CBI and even in such cases the Central Board of Bank Frauds usually comes to the rescue of the defaulters by stalling the sanction to proceed against them.

^{*}Economic Times / 17. That, as is apparent from a newspaper report dated 7-4-1997 (ANNEXURE E), with a view to shoring up their bottom lines in the recent years, a number of weak and underperforming banks have been extending short term loans in order to convert non-performing assets into standard account. This attempt of window-dressing is a serious negation of the accepted canons of financial propriety which should have been detected and nipped in the bud at the earliest possible opportunity. But it is clear that even the RBI appointed aitors have conveniently overlooked such flouting of procedures. The modus operandi adopted in this manipulation is based on the fact that issue of such short term loans does not result in any increase in the overall exposure of the Bank and the adhoc loan leads to simultaneous reduction in cash credit outstanding.

^{*}Economic Times / 18. That as per a report published in a newspaper dated 29-4-1997 (ANNEXURE F) the recent decision of the RBI to entrust all important inspection of banks branches to the respective Head offices of the banks whose branches themselves were found to be in default, has resulted in serious down-grading of system of supervision, thus providing further opportunities to the banks with delinquent tendencies. This new decision is reported to have been objected to by All India Reserve Bank

Employees' Association as it negates the very basic purpose of branch inspection and provides opportunities to the unscrupulous top people to plunder the banks.

19. That gross NPAs as a ratio of outstanding credit are reported to have shown a decline from 25% in 1995-96 to around 17.5% in 1996-97; apparently due to write off or compromise mechanism resorted to by the banks. This is ^{*}apparent from a newspaper report dated 7-10-97 (ANNEXURE G). ^{*}
Economic Times / This ratio is considered too high for profitable operations. Incidentally in the foreign banks operating in India, this ratio ranges between 2 to 3%. Be that as it may, it is accepted by experts that the ratio of NPA to total advances should be brought down to around 5% to ensure profitable and healthy functioning of the Banks. There are reports that in the State Bank of India alone, the NPAs amount to more than 56% of the net worth of the Bank. In Bank of Baroda it is reported to be 74% and in the PNB 107%. This only means that NPAs are a potential treat to the viability of the Banks themselves, because if this magnitude of NPAs were to be written off then a bulk of Banks own capital would instantly disappear. In this maze of financial infirmity of the Banks, it is all the more disconcerting to note that NPAs shot up by 57% since 1996-97.

20. That against the huge backlog of NPAs amounting to over Rs.44,000 crores, the banks are reported to have so far filed suits to recover only about Rs.6000 crores (15%). This ^{*}is apparent from the report in a newspaper dated 26-10-1997 ^{*}
Indian Express / (ANNEXURE H). The Banks are wary of instituting legal cases because this remedy inevitably takes years to bear fruit and the procedure entails additional liability by way of legal

fees and expenses. Even cases taken to Board of Industrial and Financial Reconstruction (BIFR) take unduly long time to resolve. In fact, borrowers prefer the BIFR route with the sole purpose of delaying recovery at a very minimal cost specially because there is no time schedule for finalising cases by the BIFR. Once the case is filed with BIFR, the concerned Bank just loses interest and is quite content with waiver and write off decided by BIFR. Recalcitrant borrowers have found BIFR process a rather convenient escape route to offload their financial liability. Often such borrowers and manipulators shift their operations to other banks and continue to enjoy bank loans.

21. That in the context of these constraints, the banks generally resort to such short term strategies as compromise solutions, sacrifices etc. This short circuiting of the problem has only resulted in meagre recoveries and colossal write off of principal and interest and ultimate loss to the exchequer. The main argument in favour of such fast though loss-infested remedies is that problem loans require far more administration and attention resulting in all round increase in the work load of the concerned staff/officers.

22. That taking refuge under the Bank Regulations Act, the banks are generally loath to divulge the names of the loanee companies and the extent of outstandings against them. In fact, RBI has been keeping the list of Corporate defaulters as a top ^{*}secret. However, as per a Press report published on 26-10-1997 ^{*}(ANNEXURE H) leading corporate houses like the Modis, the Chhabrias, the Tatas, Raunaq Singh Group, JK Group, Khemkas and the Birlas are some of the prominent defaulters and Banks have filed suits against only some of the companies belonging to these groups. Ironically even in these circumstances, these

Indian
Express

defaulting Group companies continue to obtain further loans from financial institutions and banks.

23. That the dire need to evolve an effective and unassailable methodology to arrest this fatal malaise afflicting the financial health of the nation, is, therefore, too pressing to be ignored any longer. The policy guidelines finally evolved for strict enforcement will have to plug all loopholes which have so far been exploited by the offending borrowers in feathering their nests by defrauding the national banks of such huge amounts. Main factors leading to such a high level of NPAs among the nationalised banks are: (i) connivance of Bank officers (ii) bad payment ethics (iii) diversion and siphoning off of funds by borrowers (iv) lack of sincerity and commitment on the part of promoters (v) slow legal process (vi) lackadaisical handling of cases by BIFR (vii) lack of a foolproof reporting system aimed at early detection of deception (viii) lack of effective inspection of the operations of the banks (ix) undue and unwarranted use of political/official patronage (x) loopholes available to the rogue borrowers to continue to raise bank loans even after failing to repay the earlier ones etc.

24. That in view of the above, the present Petition is being preferred on the following

GROUND

- (a) Because the Union Government and the Reserve Bank of India have failed to lay down a foolproof and stringent procedure to ensure on-schedule recovery of the loans and interest accrued thereon.
- (b) Because the Union Government and Reserve Bank of India have failed to strictly follow whatever regulations were in force from time to time for enforcing recovery of outstandings from the loanees and for appropriate action regarding these loans.

- (c) Because the Reserve Bank of India has failed to conduct close supervision over the functioning of the nationalised banks with a view to bringing out the serious lapses on the part of the banks and for initiating action against the delinquent Banks and the borrowers.
- (d) Because the huge amounts of bad and doubtful debts were sugar-coated as Non-Performing Assets and instead of making serious efforts to recover the outstanding amounts the Banks in consultation with the Reserve Bank of India and the Union Government decided to resort to various easy ways out like compromises with the loanees, sacrifices, write off etc. on the plea that attempts to effect recoveries through legal process would be unproductive and longdrawn affairs.
- (e) Because the banks have been adopting various debatable measures to shore profitability results and also to show reduced amounts of NPAs.
- (f) Because Central Bureau of Investigation (CBI) was not allowed to handle cases of frauds and the investigations were entrusted to the Headquarters of the Banks concerned.
- (g) Because BIFR has been taking unduly long time to process and decide NPAs cases referred to it, thus causing undue deferment of settlement of recovery cases.
- (h) Because sanctions to institute cases against senior officers of the Banks were not forthcoming from the competent authorities.

(i) Because the Reserve Bank of India has failed to set up any effective authority for avoidance, detection and processing of frauds in the Banks.

(j) Because unduly large amounts were advanced to some big industrial/commercial houses at the cost of the needs of the priority Sector and their cases of delinquency have also been treated with the same leniency. Even effective action to attach the collaterals furnished by these influential loanees at the time of sanction of loans does not seem to have been taken by the loaning Banks/Reserve Bank of India.

(k) Because the number of Debt Recovery Tribunals set up for handling NPAs cases is too small and these Tribunals do not enjoy enough funds to handle such cases effectively.

25. That the Petitioner submits the following

REMEDIES

(i) It is necessary that the Ministry of Finance and the RBI immediately undertake a thorough and comprehensive review of the existing rules and regulations relating to the avoidance of mass-scale generation of NPAs so that the Banks, financial institutions and tax payers are not taken for a ride by manipulators who get away with their defaults through the safety valves provided by the system of drawbacks enumerated above.

- (ii) Nationalised banks must develop necessary expertise for feasibility of loan positivity, risk appraisal and risk management. They must immediately introduce curative and preventive measures consisting of early detection of warning signals, periodical loan appraisal and review procedures, loan rating and exception reporting system, and the guidelines for compromise settlement require to be strengthened. The banks also need to evolve an efficient information system which keeps track of the performance of the borrowers so that action for recovery can be initiated before the loan becomes doubtful.
- (iii) The bank managements instead of having to be guided by a strict regime in the matter of grant of loans, should have freedom to extend loans only to those who are in a position to repay at the appreciable rate of interest. Bank authorities must be made solely responsible for proper and up-to-date administration of the advances and their timely recovery along with the interest accrued thereon. This will not only secure the loan but will also improve productivity of the banks.
- (iv) It is often reported that in many cases the default in recovery occurs because of the complicity of the concerned bank officers. Strict disciplinary action needs to be taken against such unscrupulous bank officers and once their guilt is established, they should be asked to make good the loss, besides facing other legal penalties. Immediate action needs to be initiated by the Bank authorities to attach the properties pledged

as collaterals by the loanees at the time of sanction of loans.

(v) There is need to increase the number of Debt Recovery Tribunals and they should be invested with sharper teeth enabling them to discharge their duties more effectively. They must be made to settle cases in a prescribed time-frame. The number of cases settled by the existing Tribunals to-date are reported to to be very insignificant.

(vi) The banking system in the country remains handicapped in the absence of an adequate legal framework to ensure early settlement of the suits filed against the defaulting borrowers. This deficiency needs to be met in order to safeguard financial interests of the banks.

^{*}Economic Times / (vii)

^{*}As is apparent from a newspaper report dated 8-12-1996 (ANNEXURE I) the Comptroller and Auditor General of India, has expressed concern about the prevailing unsavoury conditions regarding huge accumulation of NPAs and is reported to have suggested setting up of a specialised agency for investigating into the banking frauds which keep rocking the financial market ever so often. It is, therefore, imperative that CAG's suggestion is implemented without any delay. It is strongly felt that the proposal to set up an agency on the suggested lines of Serious Fraud Office of U.K. be considered for handling all bank frauds

and for eradicating such attempts in future.

- (viii) A Committee set up by Government of India, to consider matter regarding Capital Account Convertibility, has also suggested that a comprehensive banking legislation and enforcement machinery be put in place not only to reduce quantum of NPAs but also to ensure that such a framework serves as a deterrent for future defaulters.

Hindustan*
Times / (ix)

According to a newspaper report dated 5-9-1997 (ANNEXURE J) 70% of the cases taken up by CBI for investigation related to serious financial irregularities committed by nationalised bank officers of very high rank. Such cases get hampered because of the existing requirement of having to obtain Government concurrence for proceeding with the enquiry against bank officers of Joint Secretary rank and above. Considering the magnitude of the harm done to the country's economy by repeated bank frauds, bank officers need to be excluded from the scope of these orders of the Government of India.

- (x) The Banking law needs to be suitably amended to allow Banks to circulate list of the major defaulting borrowers, showing separately the amount of principal and interest outstanding against each and since when. This exposure of the big sharks in the game will have a salutary effect on their nefarious tendencies to hoodwink the banks and yet command continued respectability and stability in the commercial world and social fabric of society. Speedy action needs to be

initiated to recover the amounts due from them and to subject them to any other legal action for their attempts to defraud the public exchequer.

Economic Times / (x1)

According to a newspaper report dated 30-9-1997 (ANNEXURE K) some nationalised banks have suggested conversion of all bad debts of Government companies in their books into low-interest bonds of varying maturities. This deserves consideration. This, according to them, will bring down the large level of NPAs relating to the Central and State Government borrower companies by transferring the bad loan portfolios into a good statutory liquidity ratio (SLR) portfolios. Since this mechanism will result in the reduction in NPAs, it will also reduce the average cost of funds of the banks and help them reduce interest rates. It is estimated that the Central and State Public Sector Units owe approximately Rs.10,000 crores to the banks besides the interest accrued thereon.

26. That the above grounds are being taken without prejudice to one another and the Petitioner craves lead to add to or amend the above facts.

27. That the present Petition is being preferred bonafide, in the interests of the national economy, tax payers' money and in general public interest.

28. That no other Writ Petition or Proceeding has been initiated by the Petitioner in any High Court or the Supreme Court of India on the subject matter of the present Petition.

29. That the Petitioner has no alternative equally efficacious remedy in law for the cause of action being agitated herein.

PRAYERS

In the above premises, it is prayed that this Hon'ble Court may be pleased :

- (i) to issue a Writ, direction or Order or in the nature of Mandamus and/or any other appropriate writ, direction or Order directing Respondents 1 and 2
 - (a) to give consideration to the remedies suggested under foregoing paragraph 25;
 - (b) to undertake a thorough and comprehensive review of the banking legislation and banking system of the country;
 - (c) to frame rules and regulations aimed at speedy recovery of the outstanding loans and interest amount against all existing borrowers;
 - (d) to set up Fraud Detection/Investigation/Execution Agencies to handle all bank frauds;
 - (e) to check any further amounts of loans becoming NPAs/ Bad Debts in future and aim at attaining the objective to reduce NPAs to the maximum extent possible.
- (ii) to direct that individual Banks should furnish information within three months about the details of their declared NPAs, including the date of

of loan advancement, nature of default, steps taken to effect recoveries, action taken against defaulters and also against any officials who may have been involved or connived at in the processes of loan advancement and non-recovery. The Respondents Nos. 1 and 2, Ministry of Finance and the Reserve Bank of India, should furnish this information to the Hon'ble Court;

- (iii) to issue a writ, direction or order or in the nature of Mandamus and/or any other appropriate writ, direction or order directing Respondents 1 and 2 to submit report to the Hon'ble Court in three months about the action taken on the above directions and results achieved thereon, in relation particularly to effecting substantial reduction of existing NPAs, and also to ensure that in future NPAs are not allowed to accumulate beyond a specific limit which should be prescribed in this behalf; and
- (iv) to pass such other and further orders as may be deemed necessary on the facts and in the circumstances of the case.

FOR WHICH ACT OF KINDNESS, THE PETITIONER SHALL
AS IN DUTY BOUND, EVER PRAY.

Petitioner

Through

H. D. SHOURIE
DIRECTOR, COMMON CAUSE

New Delhi.
March, 1998.