

**IN THE HIGH COURT AT CALCUTTA
(Constitutional Writ Jurisdiction)
ORIGINAL SIDE**

Present:

The Hon'ble Justice Krishna Rao

W.P.O. No. 642 of 2025

J. Thomas Finance Private Limited & Anr.

Vs.

Reserve Bank of India & Ors.

Mr. Ratnanko Banerji, Sr. Adv.

Mr. Rabindra K. Mitra

Mr. Siddharth Sharma

Mr. Rishav Dutt

Ms. Patrali Ganguli

....For the petitioners.

Mr. Aman Agarwal

Mr. Debabrata Das

Mr. A. Sarkar

Mr. Pratik Acharjee

....For the RBI.

Hearing Concluded On : 08.04.2026

Judgment on : 20.04.2026

Krishna Rao, J.:

1. The petitioners have filed the present writ petition challenging the email dated 4th July, 2025, issued by the respondent no.3 by rejecting the application filed by the petitioners for Voluntary Surrender of Certificate of Registration of Non-Banking Financial Company, herein after referred to as “NBFC”.
2. The petitioner no. 1 is a NBFC operating as Non-Deposit Taking Company. The Reserve Bank of India has granted Certificate of Registration being No. 05.00378 dated 26th February, 1998, in the name of the petitioner no.1. In the year 2024, the Board of Directors of the petitioner no.1 took a decision that it was no longer commercially feasible for the petitioner no.1 to continue operating the business of NBFC as the petitioner no.1 is unable to make good profits from running its NBFC business and was incurring substantial expenditures to comply with the various statutory compliances that are mandatory for an NBFC company, accordingly, the management of the petitioner no.1 decided to discontinue the NBFC business and took a decision to surrender the original Certificate of Registration to the respondent no.1.
3. By an email dated 18th February, 2025, the respondent no.1 informed the petitioner no.1 regarding the requirement of achieving the minimum Net Owned Fund of Rs. 5,00,00,000/- (Rupees Five Crores Only) by 31st March, 2025 and Rs. 10,00,00,000/- (Rupees Ten Crores) by 31st March, 2027. The respondent no.1 specifically noted that as per

returns submitted by the petitioner no.1 for the financial year ending 31st March, 2024, the petitioner no.1's Net Owned Fund stood at Rs. 2,66,47,000/- (Rupees Two Crores Sixty Six Lakhs Forty Seven Thousand Only), which was below the prescribed limit i.e. 5,00,00,000/-. It was also informed to the petitioner no.1 to ensure compliance with the minimum Net Owned Fund requirement within the stipulated timeline, failing which regulatory action would be taken against the petitioner no.1.

4. On 28th February, 2025, the Board of Directors of the petitioner no.1 had convened a meeting and the Board of Directors with the majority approved the proposal to surrender the petitioners' original Certificate of Registration to the respondent no.1. On the basis of the decision taken by the Board of Directors of the petitioner no.1, on 18th March, 2025, the petitioners have filed an application for Voluntary Surrender of its Certificate of Registration as an NBFC.
5. The respondent no.1 had issued a notice to the petitioners on 30th May, 2025, on the allegation of non-compliance and directed the petitioners to furnish comments/explanation for not maintaining the required Net Owned Fund position. The petitioners have submitted its reply on 6th June, 2025, informing that the petitioner no.1 had already submitted an application for surrender of the NBFC registration and the same is pending for confirmation and requested the respondent no. 1 to consider the application filed by the petitioners. The petitioner no.1 also submitted a detailed letter enclosing copy of Audited Financial

Statement for the year ending 31st March, 2025, Statutory Auditor's Certificate, Certificate of Net Owned Fund, Non-Banking Financial Companies Auditors' Certificate as per requirements.

- 6.** On 23rd April, 2025, the respondent no.1 had rejected the application filed by the petitioner no.1 for surrender of NBFC Certificate of registration which the petitioner came to know on 4th July, 2025. The reason assigned for rejection of the application was “maintaining Principal Business Criteria (hereinafter referred to as “PBC”) as on 31st December, 2024”.
- 7.** Mr. Ratnanko Banerji, Learned Senior Advocate representing the petitioners submits that the respondents under Section 45-IA(6)(i) of the Reserve Bank of India Act, 1934, has a duty and obligation to cancel the registration if an NBFC company “ceases to carry on the business of a non-banking financial institution in India”.
- 8.** Mr. Banerji submits that a non-banking financial company has financial assets more than 50% of its total assets and income from financial assets more than 50% of the gross income as per paragraph 2 of the Reserve Bank of India's Circular dated 19th October, 2006. He submits that the financial assets held by the petitioner no.1 are surplus funds parked in market-linked investments such as mutual funds and therefore, the purpose and objective of the said Circular is not applicable.

9. Mr. Banerji submits that the petitioner has submitted a detailed representation with the request for grant of personal hearing as under the Second Proviso of Section 45-IA(6) of the Reserve Bank of India Act, 1934 which mandates that in the event of cancellation under Sub-Section (6) of Section 45-IA of the Reserve Bank of India Act, 1934, a “reasonable opportunity of hearing” shall be given to the company before making an order of cancellation but in the case of the petitioners, no opportunity of hearing was provided to the petitioners.
10. Mr. Banerji submits that the action of the respondent authorities by rejecting the application of the petitioner no.1 amounts to an unauthorized and unlawful interference with the business operation of the petitioners and is in direct violation of their fundamental right guaranteed to carry on business under Article 19(1)(g) of the Constitution of India, 1950. In support of his case, he has relied upon the judgment in the case of ***Harinagar Sugar Mills Ltd. (Biscuit Division) and Another Vs. State of Maharashtra and Others*** reported in ***2025 SCC OnLine SC 1303***.
11. Mr. Aman Agarwal, Learned Advocate representing the respondents submits that if a company’s financial assets to total assets (net of intangibles) and financial income to total income, are more than 50%, i.e. if it is meeting the twin condition of Principal Business Criteria (PBC), it would be identified as an NBFC. Accordingly, a company would be required to hold a Certificate of Registration from the Reserve Bank so long it is meeting twin condition of PBC.

- 12.** Mr. Agarwal submits that the Reserve Bank of India may cancel the Certificate of Registration of an NBFC on account of voluntary surrender in terms of Section 45-IA(6)(i) of the Reserve Bank of India Act, 1934, if the NBFC ceases to carry on the business of a non-banking financial institution i.e. not meeting the twin condition of PBC. He further submits that as long as the NBFC meets the PBC, voluntary cancellation of Certificate of Registration cannot be permitted.
- 13.** The Reserve Bank of India rejected the application of the petitioner for surrendering the Certificate of Registration of NBFC of the petitioner no.1 on the ground that the petitioner company was meeting the PBC as on 31st December, 2024, as per the Statutory Auditor's certificate dated 25th March, 2025. Section 45-IA(6)(i) of the Reserve Bank of India provides that "*The Bank may cancel a certificate of registration granted to a non-banking financial company under this section if such company:*
(i) Ceases to carry on the business of a non-banking financial institution in India or....."
- 14.** The petitioners were apprehending that if the petitioners of their own, reduces the PBC, it will be the violation of the terms and conditions of the license granted to the petitioners. By an order dated 13th January, 2026, this Court directed the respondent no.1 to address the issue, if the petitioners reduces PBC of their own, whether it will be violation of the terms and conditions of the Certificate of Registration and how the quantum of PBC can be reduced so as to enable the respondents to

take appropriate decision for allowing the petitioners to surrender the Certificate of Registration.

- 15.** It is admitted by the respondent no.1 that for the purpose of voluntary cancellation, reducing the PBC to less than 50% while holding the Certificate of Registration will not conflict with the terms and conditions of the Certificate of Registration. It was also informed by the respondent no.1 that (i) the quantum of PBC may be reduced by liquidation of financial assets (investments in equities or mutual funds or other investments of alike nature) and by deploying the proceeds thereof into the proposed new non NBFBI business which would lead to decrease in financial assets to less than 50% of the total assets. (ii) By increase in total assets of the company with corresponding reduction in financial assets and (iii) by reduction of FI/TI to below 50%.
- 16.** The petitioners taking into consideration of the stand of the respondent no.1 reduced its Principal Business Criteria (PBC) below 50% and shown the percentage of Financial Assets to Total Assets as 0.81% and percentage of Financial Income to Gross Income shown as 99.99% in the balance sheet dated 20th February, 2026.
- 17.** After reducing the PBC below 50%, the petitioners have forwarded the Chartered Accountant Certificate dated 20th February, 2026 to the respondent no.1 on 17th March, 2026, with the request for issuance of direction for voluntary surrender of Certificate of Registration.

- 18.** As per Press Release: 1998-99/1269 dated 8th April, 1999, the Reserve Bank of India to consider the gross assets and the gross income for identification of principal business of an NBFC which reads as follows:

“The Reserve Bank of India today announced that in order to identify a particular company as a non-banking financial company (NBFC), it will consider both, the assets and the income pattern as evidence from the last audited balance sheet of the company to decide its principal business. The company will be treated as an NBFC if its financial assets are more than 50 per cent of its total assets (netted off by intangible assets) and income from financial assets should be more than 50 per cent of the gross income. Both these tests are required to be satisfied as the determinant factor for principal business of a company.”

- 19.** The request of the petitioners for cancellation of Certificate of Registration as an NBFC was rejected only on the ground of not meeting the twin conditions of PBC. Now the petitioners have complied with twin conditions of the PBC by reducing the Financial Assets to Total Assets as 0.81% and percentage of Financial Income to Gross Income is 99.99%.
- 20.** At the time of rejection of the application of the petitioners, dated 4th July, 2025, the respondent no.1 has neither issued any notice for reduction of twin condition of PBC nor any opportunity was given to the petitioners.
- 21.** Considering the above, the impugned communication dated 4th July, 2025, is set aside and quashed. The respondents are directed to consider the request of the petitioners dated 18th March, 2025, afresh

along with the communication dated 17th March, 2026 and the enclosures thereto and to pass a reasoned and speaking order after giving an opportunity of hearing to the petitioners within four (4) weeks from the date of communication of this order.

22. WPO No. 642 of 2025 is disposed of.

(Krishna Rao, J.)