

Constitution of India, Art. 14, 19(1)(g) and 21 - Lookout Circular (LoC) - Banking - Mere subsistence of an allegation of default could not trigger the issuance of the LoC - “REASON FOR OPENING OF LOC” in Clause IV, it was stated that the LoC was being issued as an exceptional case as it appeared to the concerned authority (MD & CEO of respondent no.2), on the inputs received, that departure of the petitioner would be detrimental to the economic interest of India and larger public interest. The inputs, which were the alleged basis of such opinion, were not disclosed in the LoC itself - The disclosed reason for issuance of LoC is insufficient and, in any event, does not tally with the allegations made against the petitioner - Apart from the LoC being devoid of any such reason sufficient to bring the petitioners within the purview of the Office Memorandum Office Memorandum No.25016/31/2010-Imm dated October 27, 2010 (as amended), an exceptional case had to be made out against the petitioners, which has not been done - Undoubtedly, Rs.351 crores is a substantial amount of money, but the Lookout Circular was silent as to why extraordinary circumstances were alleged by the bank in its request for the LoC - Both the LoC as well as the request by the bank for issuance of such LoC were cryptic with regard to the ground of issuance - The mere quantum of alleged default cannot be a basis for the extreme measure of restricting the personal liberty of the petitioners to travel inside or outside India - Respondent-authorities have failed to justify rationally as to why the departure of the petitioners from India would, in any manner, be detrimental to the sovereignty or security or integrity of India or to the bilateral relations with any country or to the strategic and/or economic interests of India as a whole - The mere subsistence of an allegation of default could not trigger the issuance of the LoC at the drop of a hat - As such, the expression “detrimental to the economic interests” of India ought not to be an excuse to restrain citizens of India from leaving the country without any convincing ground being disclosed for such restraint - There is no allegation that the CBI has an arrest-warrant against the petitioners and/or the petitioners’ personal participation in the CBI enquiry is of utmost necessity at the present juncture - That apart, even if the petitioners were to leave India, there is nothing on record to indicate that the recovery of any amount of default, if committed at the behest of the petitioners by the borrower-company, would affect such recovery in any manner, detrimental or otherwise - As such, the LoC was unfounded and lacked any cogent contemporaneous or prior act of the petitioners - Respondent bank has abused its authority to request for opening a Lookout Circular at the behest of the Chairman/Managing Director/Chief Executive, in the capacity of a Public Sector Bank, thereby substituting a regular proceeding for recovery of the debt in the process - The issuance of LoC cannot be an alternative for initiating recovery proceedings against the borrower itself, let alone a director of the borrower-entity.

read here

[PLRonline 476509](#)



[PLRonline 476509](#)