



High Court Upholds Debtors' Right to Travel

For Prelims: [Fundamental Rights](#), [Article 21](#), [Supreme Court](#), [Fugitive Economic Offenders Act, 2018](#), [Article 14](#), [Reserve Bank of India](#), [Money laundering](#)

For Mains: Framework governing loan defaulters in India, Measures aim to balance the interests of lenders and borrowers

Source: [IE](#)

Why in News?

The Bombay High Court ruled that [public sector banks \(PSBs\)](#) cannot request **Look Out Circulars (LOCs)** against [loan defaulters](#).

- The court set aside the central government's **Office Memoranda (OM)** empowering PSBs to do so. The court stated that these tactics violate [fundamental rights](#) guaranteed under the Constitution.

Note:

- LOC is a circular letter used by authorities in India to check whether a travelling person is wanted by the police.

Why did the High Court Rule Against Banks Restricting Debtors' Travel?

- **Legal Challenge:**
 - LOCs were issued by the **Bureau of Immigration** of the **Ministry of Home Affairs (MHA)** based on Office Memoranda (OM) from 27th October 2010.
 - In September 2018, amendments to the OM were introduced, authorising the issuance of a LOC to prevent individuals from travelling abroad **if their departure was harmful to the country's "economic interest"**.
 - It empowered PSB officials (managing director and chief executive officers) to request immigration authorities to issue LOCs against default borrowers.
 - The default borrowers included **not only the borrowers but also the guarantors for repayment of loans**, and the principal officers or directors of corporate entities in debt.
- **Petitioners' Argument:**
 - Petitioners contended that the OM's infringed upon fundamental rights, **including the right to life with dignity under [Article 21](#)**.
 - They argued that the government created an improper classification between public and private banks, regulated by the [Reserve Bank of India \(RBI\)](#).

- Petitioners argued that the "**economic interest of India**" cannot be the same as the "**financial interests**" of a PSB.
- **Centre's Submission:**
 - The MHA argued that the circulars contained necessary "checks and balances" for **deprivation of life or personal liberty**, as required by the established legal procedure.
- **Court Stance:**
 - The court referring to the case *Viraj Chetan Shah v Union Of India & Anr, 2024*, noted that the **government failed to prove debt recovery due to the person being denied permission to travel abroad**.
 - It criticised the use of LOCs as a strong-arm tactic to bypass legal proceedings, which PSBs see as inconveniences and irritants.
 - It emphasised that the **fundamental right to travel abroad cannot be curtailed by executive action without a government statute**.
 - The court also expressed concern that PSBs were given unilateral power in debt recovery, effectively making them judge and executioner. It found it incomprehensible that **bank officials were elevated to the same status as high-ranking police officers**.
 - The court found if a borrower **solely deals with non-PSBs, no LOC can be issued**, but even one PSB involvement poses a risk.
 - The court dismissed the differentiation between PSB and private bank borrowers as arbitrary. Considered invalid **under Article 14**, the court deemed the inclusion of only PSBs in the LOC provision arbitrary.
- **Implications of the Verdict:**
 - The ruling does not affect existing restraint orders issued by competent authorities.
 - Banks can still seek orders from courts or tribunals to restrain individuals from travelling abroad but cannot ask the centre to issue **Look Out Circulars**.
 - Banks can also invoke powers under the **Fugitive Economic Offenders Act, of 2018** to recover the loan.
 - The judgement will not prevent the central government from framing an appropriate law consistent with Article 21 of the Constitution.

Fugitive Economic Offenders Act, 2018.

- It provides measures to deter fugitive economic offenders from evading the process of law in India by staying outside the jurisdiction of Indian courts, to preserve the sanctity of the rule of law in India and for matters connected therewith or incidental thereto.
- It empowers authorities for non-conviction-based attachment and confiscation of proceeds of crime and properties and assets of a 'fugitive economic offender', against whom a warrant for arrest about a **Scheduled Offence has been issued by any court in India** and who has left the country to avoid criminal prosecution or judicial processes.
 - An individual is declared a **Fugitive Economic Offender (FEO)** if an arrest warrant has been issued for committing an offence specified under the Act, and the total value of the offence is **at least Rs 100 crore**.
- Offences listed in the act include **counterfeiting government stamps** or currency, cheque dishonour, **money laundering**, and transactions defrauding creditors.

What are the Legal Rights of the Defaulters?

- The Reserve Bank of India (RBI) directed banks and finance companies to undertake **compromise settlements or technical write-offs** on accounts categorised as wilful defaulters or fraud.
 - **Wilful offenders or companies** involved in fraud will no longer face prejudice from lenders due to criminal proceedings against them.
- Borrowers who have undergone compromise settlements can apply for fresh loans after a **minimum cooling period of at least 12 months**.
 - Regulated banks and finance companies have the flexibility to stipulate higher cooling periods in line with their board-approved policies.
- The legal rights of defaulters in India include the **right to receive a notice, fair debt collection**

practices, grievance redressal, seek legal assistance, and fair credit reporting.

Drishti Mains Question:

Q. Discuss the legal and regulatory framework governing loan defaulters in India. Analyse the role of public sector banks in dealing with default cases and the challenges they face in debt recovery.

Q. How are banking reforms aligning with broader financial inclusion goals while tackling the issue of loan defaults?

UPSC Civil Services Examination Previous Year Question (PYQ)

Prelims

Q. With reference to the governance of public sector banking in India, consider the following statements: (2018)

1. Capital infusion into public sector banks by the Government of India has steadily increased in the last decade.
2. To put the public sector banks in order, the merger of associate banks with the parent State Bank of India has been affected.

Which of the statements given above is/are correct?

(a) 1 only

(b) 2 only

(c) Both 1 and 2

(d) Neither 1 nor 2

Ans: (b)