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# SC seeks finance ministry's reply on waiver of interest on loans during moratorium period

BY PTI | UPDATED: JUN 04, 2020, 01.00 PM IST

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New Delhi: The [Supreme Court](#) Thursday sought finance ministry's reply on waiver of [interest](#) on loans during the [moratorium](#) period after the [RBI](#) said it would not be prudent to go for a "forced waiver of interest" risking financial viability of the banks. The top court said there are two aspects under consideration in this matter - no interest payment on loans during the moratorium period and no interest to be charged on interest.

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A bench of Justices Ashok Bhushan, Sanjay Kishan Kaul and M R Shah said that these are challenging times and it is a serious issue as on one hand moratorium is granted and on other hand interest is charged on loans.

The bench was hearing a plea, filed by Gajendra Sharma, in which he has sought a direction to declare the portion of RBI's March 27 notification "as ultra vires to the extent it charges interest on the loan amount during the moratorium period, which create hardship to the petitioner being borrower and creates hindrance and obstruction in 'right to life' guaranteed by Article 21 of the Constitution of India".

Sharma, a resident of Agra, has also sought a direction to the government and the Reserve Bank of India (RBI) to provide relief in re-payment of loan by not charging interest during the moratorium period.

Solicitor General Tushar Mehta, appearing for the Centre, said that he would like to file the reply of finance ministry on the issue and sought

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Senior advocate Rajeev Dutta, appearing for petitioner Gajendra Sharma, said that now the cat is out of the bag as RBI is saying profitability of the banks is primary.

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He referred to the recent order of the apex court in the [Air India](#) matter on booking of middle seats on the non-scheduled flights to bring the stranded Indians from abroad. The court had said that economic interest is not higher than the health of people.

Dutta said that by the submission of the RBI, it means that only banks should earn profit while rest of the country goes down during the [pandemic](#).

He said the petitioner would like to file a rejoinder to the reply filed by the RBI.

Mehta said he would consult the finance ministry and try to find out a solution to both the questions asked by the bench and file a response to



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The top court asked the Solicitor General to file the response by June 12 and allowed the petitioner and other parties to file rejoinder by then.

At the outset, the top court took note of the fact that RBI's reply was leaked to the media before the matter was taken up before the court. "Is RBI filing the reply first in media and then in court?"

Dutta said this was a move to sensationalise the issue.

The bench said that it highly deprecates this practice and this should not happen again.

On May 26, the top court had asked the Centre and the RBI to respond to the plea challenging levy of interest on loans during the moratorium period.

The RBI in its reply has told the top court that it is taking all possible measures to provide relief with regard to debt repayments on account of the fallout of Covid-19 but it does not consider it prudent to go for a "forced waiver of interest, risking the financial viability of the banks it is mandated to regulate, and putting the interests of the depositors in jeopardy".

In its reply, to the plea the RBI said that regulatory package is, in its essence, in the nature of a moratorium/deferment and "cannot be construed to be a waiver".

"While the Reserve Bank is taking all possible measures to provide relief to the real sector with regard to debt repayments on account of the fallout of Covid-19, it does not consider it prudent or appropriate to go for a forced waiver of interest, risking the financial viability of the banks it is mandated to regulate, and putting the interests of the depositors in jeopardy," the Reserve Bank has said in its affidavit.

It said the mandate of the Reserve Bank as far as regulation of banks is concerned draws upon the considerations of protection of depositors' interest and maintenance of financial stability, which also require that the banks remain financially sound and profitable.

The RBI has said that the March 27 circular announcing moratorium was later modified on April 17 and May 23 by which the moratorium period was extended by another three months that is from June 1 to August 31, 2020 on payment of all installments in respect of term loans (including agricultural term loans, retail and crop loans).

which subsequently stood modified on April 17, 2020 and May 23, 2020 were with the objective of mitigating the burden of debt servicing brought about by disruptions on account of Covid-19 pandemic and to ensure the continuity of viable businesses.

"Therefore, the regulatory package is, in its essence, in the nature of a moratorium/deferment and cannot be construed to be a waiver," it has said.

The RBI said that in order to ameliorate the difficulties faced by borrowers in repaying the accumulated interest for the moratorium period, on May 23 it had announced that in respect of working capital facilities, lending institutions may, at their discretion, convert the accumulated interest for the deferment period up to August 31, 2020, into a funded interest term loan (FITL) which shall be repayable not later than March 31, 2021.

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