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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 13127/2024**

RAJENDRA KUMAR BHANDARI

.....Petitioner

Through: Mr. Gaurav Barathi and Mr. Rasya
Rawal, Advs.

versus

RESERVE BANK OF INDIA & ANR.

.....Respondents

Through: Mr. Dipan Sethi and Mr. Snehashish
Bhattacharya, Advs. for R-1

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

ORDER

19.11.2024

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1. The petitioner by way of issuance of appropriate writ, seeks quashing and setting aside of the order dated 02.05.2024 bearing no. RB1/CMS/N202324016026920/2023-24 issued by respondent no.1.
2. The petitioner, who is reportedly an octogenarian pensioner, is a victim of online fraud.
3. According to him, such online fraud comprised of three successive and unauthorized transactions of Rs.1.94 lacs, Rs.1.94 lacs and Rs.1.76 lacs which happened within a span of approximately one hour. Thus, the total defrauded amount is to the tune of Rs.5.64 lacs which was siphoned off from the bank account of the petitioner maintained by him with State Bank of India, Rail Bhawan Branch, New Delhi.
4. The incident in question occurred on 11.01.2024 via online banking mode.

W.P.(C) 13127/2024

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5. The petitioner, in order to resolve the issue of his pension arrears, had called up SBI Customer Care helpline from where he was advised to call SBI's 24 x 7 helpline number which was, reportedly, dedicated for pensioners.

6. According to the petitioner, when he was talking to the concerned customer care executive, the call got disconnected abruptly and immediately thereafter, he received a call from one phone number +91 6289-177025. The caller identified herself as one Ms. Parsanjeet Kumar and, according to petitioner, such caller was later found to be a fraudulent caller. She claimed herself to be associated with SBI and assured the petitioner that she would assist him in resolving all his issues related to overdue pension. She advised him to download SBI YONO App claiming it to be necessary pre-requisite for validating the Life Certificate for pensioners.

7. Eventually, she was successful in persuading the petitioner and kept on advising him of the procedural formalities. It is contended that without realizing the fact that such caller was fraudulent one, the petitioner was instructed to input/dial a number instead of downloading the application, citing security reasons and the petitioner did not get any kind of malafide intention of such caller and, therefore, the fraudster got the remote access of the petitioner's phone and in the process such fraudster kept on getting the SMSs duly forwarded to her, without the knowledge of the petitioner and that was how the petitioner was duped of the aforesaid amount in quick succession. The duration of the entire transactions was not of more than 12 minutes.

8. According to the petitioner, he was got engaged on the call, all along by the fraudster. However, once the above said call was over, he realized that he



had been tricked into and the amount of Rs.5,64,000/- had been debited from his account. He immediately informed the *customer care executive* about the illegal and fraudulent debit.

9. On the basis of his such call, three tickets were raised for the aforesaid three debit entries.

10. According to petitioner, as far as the debit of the third transaction of Rs.1,76,000/- was concerned, the bank itself refunded the above said amount on 29.04.2024 and, therefore, the balance amount which had been fraudulently siphoned off from the account of the petitioner stood reduced to Rs.3,88,000/- for which the information was given to various agencies including the cyber crime and the complaint was also lodged under the *Reserve Bank of India Integrated Ombudsman Scheme*.

11. However, when the matter was considered by the Ombudsman, it was disposed of on 02.05.2024 by holding that the customer in question i.e. petitioner had shared his credentials and, therefore, there was no deficiency in service. The relevant part of such order dated 02.05.2024 reads as under:

“Your complaint dated 19-03-2024 against STATE BANK OF INDIA under Reserve Bank Integrated Ombudsman Scheme. 2021 (RB-IOS)-N202324016026920

Greetings from the Reserve Bank of India!

We have carefully examined the captioned complaint and our observations are given here under.

2. In connection with your complaint against State Bank of India regarding fraudulent transaction of Rs.5,64,000/-, comments were sought from the Regulated Entity (RE). RE has replied that the Transaction of Rs 5,64,000.00 dt 11.01.2024 has been done through INB for which one needs to put his user id, password and login OTP. Customer further authenticates each transactions by inputting the OTP. The disputed transaction materialized as the customer shared the INB credential and OTPs to the fraudster. In view of this, no service deficiency has been observed on the part of the bank. Your complaint is



accordingly treated as dealt with. Please note that the proceedings before the Ombudsman are summary in nature.

3. In view of the above, we have closed your complaint under clause 16(2)(a) of the Reserve Bank - Integrated Ombudsman Scheme, 2021 [1].

4. This is issued with the approval of RBI Ombudsman

5. We request you to provide feedback for the above resolution on <https://cms.rbi.org.in>

We appreciate your understanding.”

12. The contention of the petitioner is two-fold.

13. According to petitioner, the matter has not been considered in the desired manner by the Ombudsman and it is not clear whether the concerned bank i.e. State Bank of India ever informed the Ombudsman that as far as the third transaction was concerned, the amount was refunded to the petitioner which clearly indicates that it was a case of *deficiency in service*. Moreover, according to the petitioner, since his phone had been hacked, the fraudster was controlling his device and was having access to all the SMSs and, therefore, the petitioner was in no position to share OTPs and other credentials.

14. It is submitted that such important and vital aspect was never considered by the learned Ombudsman and the proceedings have rather been closed in an abrupt manner, without appreciating the above said crucial aspects.

15. Learned counsel for petitioner has also strongly relied upon *MB Power vs. Reserve Bank of India 2023 SCC OnLine Del 6790*. Para 35 and 36 of said judgment reads us under:-

“35. In light of the foregoing discussion, this court is of the considered opinion that a quasi-judicial body, such as Ombudsman, is reasonably expected to pass a well-reasoned order and any empty formality thereto,



deserves to be weeded out. The adherence to the principles of natural justice is the cornerstone of a just and fair legal system as it also proves to be a quintessential safeguard against any adjudicatory arbitrariness in judicial or administrative proceedings. Therefore, undeniably, the Ombudsman is duty bound to pass a reasoned order which would eventually foster a greater transparency in the decision-making process and also inspire the confidence of the common man in efficient dispute resolution through such bodies.

36. The Ombudsman Scheme, which seeks to achieve an earnest, cost-effective and speedy resolution of the complaints of consumers against the regulated entities, cannot be reduced to a tantalizing promise as it bridges the gap between the regulated entities and countless individuals meandering for justice. While deciding upon the complaint, the Ombudsman must fathom out appropriate reasons of rejection to uphold the integrity of its office and prevent it from becoming a mare's nest."

16. The order passed by the learned Ombudsman has already been extracted above and it is quite clear that the vital averments made by petitioner have not been evaluated and it is also evident that the learned Ombudsman has not even considered that the third transaction was duly refunded.

17. Therefore, it will be in the fitness of the things if the learned Ombudsman is requested to consider the representation of the petitioner again. The matter is accordingly remitted back to the learned Ombudsman for consideration afresh in accordance with law.

18. The petitioner shall appear before the learned Ombudsman along with a copy of this order within two weeks from today and the Ombudsman shall fix up a date of hearing and would pass reasoned order in accordance with law, after taking note of the submissions made by both the parties. Keeping in mind the fact that the petitioner herein is in his eighties, it is expected that learned Ombudsman would give requisite priority to the present matter.

19. The petition stands disposed of in the aforesaid terms.



20. It is, however, clarified that this Court has not expressed any opinion with respect to the merits of the averments made by the petitioner.

MANOJ JAIN, J

NOVEMBER 19, 2024/ns