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

\+ **W.P.(C) 10205/2016**

B.S. ARORA ..... Petitioner

Through Mr B.S. Arora, Mr Tausif Alam, Advocates.

versus

ANDHRA BANK & ORS ..... Respondents

Through Mr P.B. A. Srinivasan, Advocate with Ms Vidhi Gupta, Advocate for R1.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

O R D E R

% **06.11.2017**

VIBHU BAKHRU, J

1. The petitioner has filed the present petition, *inter alia*, impugning an order dated 22.06.2016 passed by the Central Information Commission (hereafter 'CIC'). He further prays that the respondent no.1 (hereafter 'the Bank') be directed to provide the information as sought for by him in his application dated 07.02.2014. The principal ground urged by the petitioner is that the Bank has denied information sought by the petitioner by incorrectly stating that the same was not available with the Bank. The petitioner claims that the records clearly indicate that the said information is available with the Bank and has been deliberately withheld.

2. Briefly stated, the relevant facts necessary to address the controversy are as under:-

2.1 The petitioner filed an application dated 07.02.2014 under the Right to Information Act, 2005 (hereafter 'the Act'), *inter alia*, seeking the following information:-

> "1) Total Number of Cards Issued for 2011-12, 2012-13 and 2013-14
> 2) Month wise No of Co-branded Card Issued by the bank since it was launched.
> 3) Month wise number of transaction carried out by the card holder for more than Rs.100/- since launch of the Card.
> 4) Month wise amount of transactions carried out by all the cardholders.
> 5) Number of Grievance Received from Customers."

2.2 By a letter dated 28.03.2014, the Bank responded to the said application, *inter alia*, stating as under:-

> "We informed you that the information sought by you pertains to health product of IFLIC for which the necessary information is available only with IFLIC but not at our end. We have requested IFLIC to provide the information but IFLIC informed that they do not fall within the preview of public authority and hence they are not bound under RTI Act."

2.3 Aggrieved by the denial of information, the petitioner preferred an appeal before the First Appellate Authority (hereafter 'FAA') which was also rejected by an order dated 13.06.2014. The petitioner carried the matter in a second appeal under Section 19 (3) of the Act, before the CIC, which was disposed of by the impugned order.

2.4 The CIC held that as far as information sought at point no.5 - that is, the number of grievances received from customers - is concerned, there is no reason for respondent no.2 to deny the same and is accordingly directed the Bank to provide such information. Insofar as other information sought by the petitioner is concerned, the CIC was sceptical regarding the Bank's response that the same was not available with it. Accordingly, the CIC directed the CPIO to file an affidavit clearly affirming the following:-

> "(i) The Respondent Bank does not have on its record any information other than the number of non-personalised cards issued, as mentioned in the CPIO's written submissions dated 13.5.2016.
>
> (ii) There is no agreement between the Respondent Bank and IFLIC under which the bank, as a shareholder of IFLIC, can access the information concerning the cards from IFLIC.
>
> (iii) The bank is not receiving any commission from IFLIC in respect of issuance of cards."

2.5 In compliance with the aforesaid directions, the Bank filed an affidavit before the CIC, wherein it was affirmed as under:-

> "i) That the Bank does not have on its record any information other than the number of non-personalised cards issued, as mentioned in our Written Submissions dated 13.05.2016.
>
> ii) That there is no agreement between the Bank and IFLIC under which the Bank, as a shareholder of IFLIC, can access the information concerning the cards from IFLIC.
>
> iii) That the Bank is not receiving any commission from IFLIC in respect of issuance of the cards."

2.6 In view of the aforesaid, the CIC rejected the petitioner's second appeal.

3. It is not disputed that the petitioner has been provided the information regarding the number of grievances received by the concerned department of the Bank with regard to the co-branded IFLIC Health Card; the Bank by its letter dated 11.07.2016 unequivocally informed the petitioner that: "*No grievance is received by the concerned department (Credit Card Division)*

of the Bank regarding the co-branded IFLIC Health Card during the period 2011-12- to 2013-14."

4. The petitioner has been informed by a letter dated 11.07.2016 that no grievance was received by the concerned department of the Bank regarding the Co-Branded IFLIC Card during the period 2011-12 to 2013-14.

5. The petitioner also does not wish to press for information regarding month wise information as sought at Point No.3 and 4 of his application dated 07.02.2014; that is, month-wise transactions carried out by Card Holder for more than ₹100 and month-wise transactions carried out by all Card Holders.

6. Thus, the only controversy that is required to be considered is with regard to the information as to the total number of cards issued during the year 2011-12 to 2013-14.

7. It is contended on behalf of the petitioner that such information is available with the Bank and the same is clearly established by the counter affidavit filed on its behalf, wherein it is affirmed that the Bank had collected a premium of ₹125.20 crores for its insurance business by selling 52864 policies for the entire financial year 2012-13. The said premium also included premium collected for IFLIC cards. The petitioner contends that this is contrary to the affidavit affirmed on behalf of the Bank before the CIC wherein it had affirmed that the Bank "*is not receiving any commission from IFLIC in respect of issuance of the cards*."

8. This Court finds the aforesaid contention unmerited. The learned counsel for the Bank has clarified that non- personalized cards are issued by the Bank to IFLIC and no premium or commission is collected on issuance of the said cards. It has been explained that the premium or commission

collected is on the basis of the receipt of the cards as and when claims are made. In other words, there is no direct relation with the number of the cards issued and the premium collected.

9. In view of the above explanation, it is apparent that there is no repugnancy between the counter affidavit filed on behalf of the Bank in this Court and the affidavit filed on its behalf before the CIC. A careful examination of the affidavit filed on behalf of the Bank before the CIC indicates that it was affirmed that no commission is received in respect of *'issuance of the cards'*. It is not the Bank's case that no premium or any commission is collected on the co-branded cards.

10. In view of the above, this Court finds no infirmity with the order passed by the CIC.

11. The question whether IFLIC is a public authority or not, it is not required to be decided as the information sought by the petitioner was not from IFLIC but from the Bank. The said question is left open.

12. In view of the above, the present petition is dismissed. No order as to costs.

VIBHU BAKHRU, J

NOVEMBER 06, 2017
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