$~70

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

\+ W.P.(C) 13239/2018

SHRI FEROZ ALAM ..... Petitioner

Through: Mr V.V. Gautam, Mr Prashant Kumar Dubey and Ms Anjali Singhal, Advocates.

versus

CHAIRMAN, STATE BANK OF INDIA AND ORS. ..... Respondents

Through: Mr H.S. Parihar and Mr Kuldepe S., Advocates for RBI/R-2.
Mr Rajiv Kapur, Advocate for R-1/SBI.
Mr Amit Mahajan, CGSC for UOI and Mr Randeep Sachdeva, Advocate for R-3 & 4.
Ms Hetu Arora Sethi, Advocate for R-5 & 6.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

O R D E R

% **07.12.2018**

CM No. 51521/2018

1. Exemption is allowed, subject to all just exceptions.

2. The application stands disposed of.

W.P.(C) 13239/2018 and CM No. 51520/2018

3. Issue notice. The learned counsel appearing for the respondents accept notice.

4. The petitioner has filed the present petition, *inter alia,* praying as under:-

"(a) Issue a writ in the nature of mandamus or any other appropriate writ, order or direction, to the Respondent No.l, not to threat and force the Petitioner to deposit an amount of Rs.1,73,000/- and not to fasten the liability of payment of amount ibid upon the Petitioner, alongwith interest and penalty thereof, which has been debited from the credit card of the Petitioner by some hacker on 22.05.2018 during 9:59 hours to 10:07 hours, due to the failure, negligence and carelessness of the Respondent No.l and their employees.

(b) Issue a writ in the nature of mandamus or any other appropriate writ, order or direction, to the Respondent No.2, to issue direction to the Banking Ombudsman of Reserve Bank of India, to decide upon the complaint dated 02.06.2018 of the Petitioner at the earliest.

(c) Issue a writ in the nature of mandamus or any other appropriate writ, order or direction, to the Respondents No.5 & 6 to investigate the FIR dated 08.08.2018 registered at P.S. Okhla, in pursuance to the Petitioner's complaint dated 04.06.2018 in the subject matter and to provide the justice to the Petitioner."

5. It is the petitioner's case that on 22.05.2018, there were unauthorised transactions on the credit card issued to him on 22.05.2018. The petitioner states that at the material time, he was travelling in Metro Train between Seelmapur and Govind Puri. He claims that within a period of five minutes of receiving the intimation about the first transaction (a debit of ₹48,000/- from his credit card), he lodged a complaint with the Customer Service Department of the respondent no.1 (State Bank of India). He states that despite lodging the said complaint and the credit card being blocked, further transactions were effective. In all, unauthorised transactions of ₹1,73,000/- were effected.

6. The petitioner's grievance is with regard to the action for recovery of the said amount being taken by respondent no.1. The petitioner states that he has been regularly visited by recovery agents even though, he has disputed the said liability. According to the petitioner, in terms of the RBI's Circular dated 06.07.2017, he is not liable to pay any amount as the complaint for unauthorised transaction was lodged immediately.

7. Mr Kapur, learned counsel appearing for respondent no.1 submits that respondent no.1 has not issued the credit card and has also not taken steps for recovery of any amount from the petitioner. He states that the credit card was issued by the SBI Cards and Payment Services Pvt. Ltd., which is a separate entity.

8. Mr Parihar, learned counsel appearing for Reserve Bank of India (RBI) states that the petitioner's complaint made to the Banking Ombudsman of RBI has already been decided.

9. In view of the above, this Court considers it apposite to dispose of the petition with the following directions:-

(a) That RBI (respondent no.2) shall communicate the decision taken by the Banking Ombudsman with regard to the complaint made by the petitioner within a period of two weeks from today.

(b) SBI (respondent no.1) and/or SBI Cards and Payment Services Pvt. Ltd. is restrained from sending any collection agent or using any coercive methods for recovering any amount from the petitioner. They are of course at liberty to file for appropriate recovery of the said amount and all contentions of the parties in that regard are reserved.

(c) The petitioner has already filed an FIR. The concerned Police Authorities shall take the necessary steps in accordance with law.

10. The petition is disposed of in the aforesaid terms. The pending application is also disposed of.

11. Order *dasti* under signature of Court Master.

VIBHU BAKHRU, J

DECEMBER 07, 2018
RK