

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 24662 of 2019

and

W.M.P. Nos. 24320 and 24322 of 2019

Srinivasa Rao

...Petitioner

-vs-

1. Information Commissioner,
O/o. Central Information Commission,
Room No.311, III Floor,
CIC Bhawan,
Baba Gangnath Marg,
Munirka,
New Delhi - 110 067.
2. The First Appellate Authority,
General Manager,
State Bank of India,
7th Floor, Local Head Office,
No.16, College Lane,
Chennai - 6.
3. Central Public Information Officer,
Deputy General Manager (Customer Service),
State Bank of India,
Zone-I, Region-2,
Administrative Unit, 86,
Rajaji Salai,
Chennai - 1.

...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, directing the First Respondent to call for the entire record relating the impugned order in complaint No.CIC/SBIND/C/2017/173471 dated 02.05.2019 passed by the First Respondent to quash the same and consequently direct the Third Respondent to furnish the information to Petitioner application dated 23.06.2017.

For Petitioner : Mr. I.Balamurugan
For Respondents : Mr. Venkatasamy Babu,
Central Government
Standing Counsel (for R1)
Mr. S.Makesh (for R2 and R3)

O R D E R
(through video conference)

Heard Mr. I.Balamurugan, Learned Counsel for the Petitioner, Mr. Venkatasamy Babu, Learned Central Government Standing Counsel for the First Respondent and Mr. S.Makesh, Learned Counsel for the Second and Third Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. This Court during the earlier hearing on 12.08.2020 had passed the following self-explanatory order:-

"2. The Petitioner had made an online request for information on 23.06.2017 to the Third Respondent regarding details of a fraudulent transaction on his SBI card on 31.05.2017, to which a cryptic reply dated 27.10.2017 was communicated to the Petitioner that the information sought was not available, except the particulars of the nearest Banking Ombudsman for which also the Petitioner was required to ascertain from the official website of the Reserve Bank of India. There was no order passed by the Second Respondent in the appeal filed by the Petitioner against the order passed by the Third Respondent, and the First Respondent, viz., Central Information Commission, by an order dated 02.05.2019 held that the reply dated 27.10.2019 given by the Third Respondent was reasonable and that it was not the appropriate forum for the Petitioner to redress his grievance. The Petitioner has filed this Writ Petition challenging the said proceedings.

3. In the Counter affidavit dated 10.05.2020 filed by the Second Respondent, it has been explained as follows:-

"5. I state that M/s. SBI Cards and Payment Services Private Limited, is doing credit cards business whereas State Bank of India is doing only banking business. Further, both are different entities and M/s. State Bank of India have no control over the affairs of M/s. SBI Cards and Payment Services Private Limited. Therefore, there was no privity of contract between the Petitioner and State Bank of India. Hence, State Bank of India is nothing to do with the transactions which

have taken place between the Petitioner and SBI Cards and Payment Services Private Limited Company. Therefore, it is obvious that they cannot have any information which the Petitioner sought for about credit card."

There is nothing to show that the Second and Third Respondents had explained the aforesaid position to the Petitioner at any time earlier, which is now sought to be canvassed before this Court, to justify that State Bank of India is not responsible for the acts relating to transaction arising out of the use of SBI card issued by another legal entity, viz., SBI Cards and Payment Services Private Limited.

4. In this context, it requires to be pointed out that Section 6(3) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act' for short), reads as follows:-

"6. Request for obtaining information:-

(3) Where an application is made to a public authority requesting for an information,-

(i) which is held by another public authority; or
(ii) the subject matter of which is more closely connected with the functions of another public authority, the public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer: Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application."

In response to the query made by this Court, Learned Counsel appearing for the Second and Third Respondents, on instructions, states that SBI Cards and Payment Services Private Limited is not a 'Public Authority' for the purpose of the Act. However, it cannot be lost sight of the fact that State Bank of India as well as the SBI Cards and Payment Services Private Limited use the same logo, which gives the impression to the public at large as if both the organizations are closely linked with each other. It is also noticed from the contentions of the Petitioner in the affidavit filed in support of the Writ Petition that the fraudster had misrepresented to him in a telephone call as if he was from Kalpakam Branch of State Bank of India.

5. Having due regard to the spirit behind the rationale in Section 6(3) of the Act to the fact situation in this case, as a gesture of goodwill by a model public authority, it is incumbent upon the Third Respondent to ascertain the grievance redressal mechanism existing in SBI Cards and Payment Services Private Limited with specific contact details of the concerned officials entrusted to resolve such complaints and communicate the same with the contents of para 5 of the Counter-Affidavit dated 10.05.2020 filed by the Second Respondent in this Writ Petition to the Petitioner under written acknowledgment. The Third Respondent shall also send a copy of that letter to the concerned authorities of SBI Cards and Payment Services Private Limited along with a copy of this order as well as the complaint dated 31.05.2017 received from the Petitioner requesting them to take necessary action on the same.

6. The report of compliance in this regard shall be filed in the Registry of this Court by 31.08.2020.

Post the matter under the caption 'R.T.I. cases' on 02.09.2020."

3. When the matter is taken up for hearing today, Learned Counsel for the Second and Third Respondents has produced a copy of the letter dated 17.08.2020 sent by the Third Respondent to the Petitioner and copy of the letter dated 25.09.2020 sent by the Third Respondent to M/s. SBI Cards and Payment Services Limited, in compliance of the aforesaid order dated 12.08.2020 passed by this Court, which are placed on record.

4. It is further informed that the appropriate authority, who is taking care of grievances of customer SBI Cards and Payment Services Limited, is as follows:-

"Shri. Prosenjit Dhar,
Assistant Vice President,
Customer Services,
SBI Cards
DLF Infinity Tower,
Tower B, Gurgaon,
Hararyana - 122008.

Phone No: 9769967919

Contact number : 1800 180 1290 (toll free) / Dial 39020202
(prefix local STD code)

Webseite: www.sbicard.com"

5. In view of the subsequent events, nothing remains for further consideration in this Writ Petition. Though obvious, it is made clear that the Petitioner is not precluded from working out his remedies against M/s. SBI Cards and Payment Services Limited for necessary relief before the proper forum in the manner recognized by law.

Accordingly, the Writ Petition is disposed. Consequently, the connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar

//True Copy//
Sub Assistant Registrar

vjt/dm

To

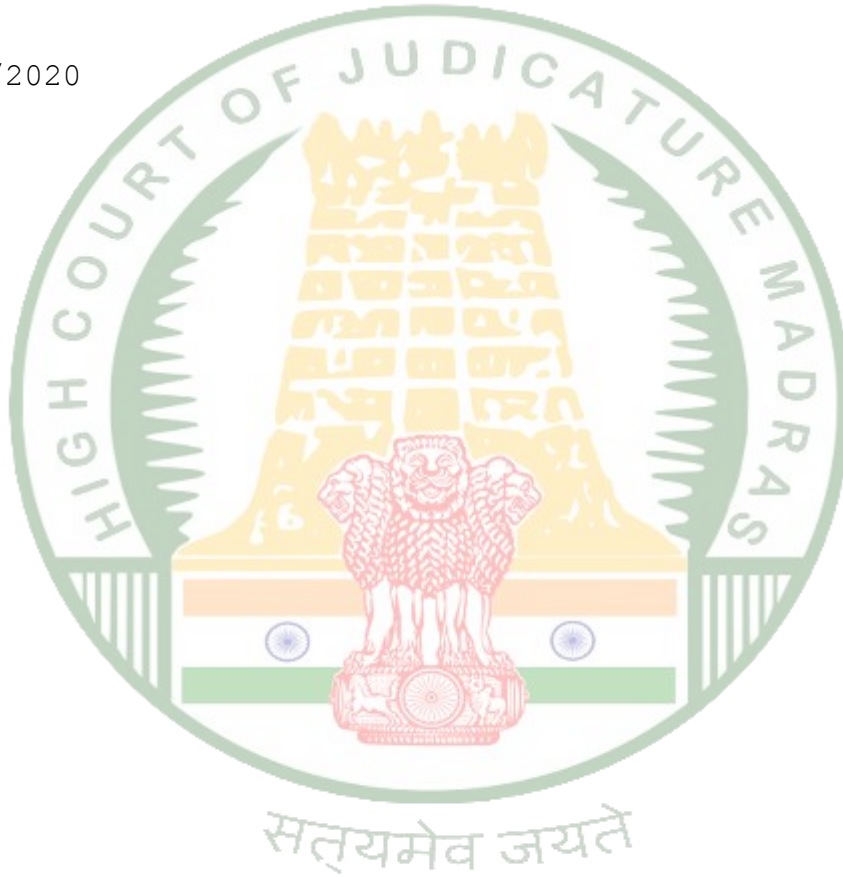
1. The Information Commissioner,
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Copy to

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Assistant Vice President,
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SAI (CO)
KKV/08/10/2020



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