

24.11.2021.
Court No.13
Item No. 37
ap

**W.P.A. No. 14390 of 2021
(Through Video Conference)**

**Mrs. Kiran Tewary
Versus
The Banking Ombudsman, Kolkata Center & Ors.**

Mr. Anindya Bose,
Mr. Chandrachur Chatterjee,
Mr. Diptendu Mondal.

...For the petitioner.

Mr. Subhabrata Datta,
Mr. Abdus Salam.

...For the State.

Mr. Debashis Saha,
Ms. Dipika Basu,
Ms. Namrata Chatterjee.

...For the respondent nos.2 & 3.

Affidavit-of-service filed in Court today be taken
on record.

The writ petitioner is aggrieved by an order of
the Banking Ombudsman dated 17th March, 2021
whereby his complaint against the State Bank of India
as regards unauthorized deduction of Rs.65,000/-
from her account has been rejected.

Counsel for the petitioner submits that pursuant
to a fraudulent telephone call, she has been duped
into parting with a sum of Rs.65,000/- from her
account. The said account is held with the State Bank
of India.

It is submitted that the Ombudsman has
borrowed a statement from the FIR registered by
Rabindra Sarober Police Station that the petitioner has

shared her OTP with the telecaller. It is further submitted that the petitioner had not stated in her complaint that she has, in fact, shared such OTP.

Counsel for the State Bank of India submits that in the absence of OTP, the transaction could not have been completed and the OTP is only sent to the petitioner's mobile phone.

It is submitted that the Bank warns its customer from sharing the OTP with anybody.

This Court is of the view that the finding of the Banking Ombudsman cannot be conclusive in so far as the petitioner is concerned.

Hence, the petitioner shall be entitled to institute appropriate civil and/or other proceedings. In the event of such proceeding being instituted, the Forum shall be proceeded to deal the same, uninfluenced by any observations made by the Banking Ombudsman.

Since the State Bank of India has not used any affidavit, the allegations made in this writ petition shall not be deemed to have been admitted by them.

With the aforesaid observations, the instant writ petition shall stand disposed of.

There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)