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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2022

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.8212 of 2019 &
WMP.No.8777 of 2019

The Coordinator
Centralized Admission Committee (CENTAC)
Pondicherry Enginnering College Campus
Pillaichavady, Puducherry ...Petitioner

VS.

- 1.The Branch Manager
Kotak Mahindra Bank Ltd.
Nungambakkam Branch, Chennai-34
- 2.The Branch Manager
Canara Bank, Pondicherry Engineering College Campus
Pillaichavady, Puducherry
- 3.Mr.Johan Sujit (Student)
- 4.The Dean
Sri Mankula Vinayagar Medical College and
Hospital, Kalitheerthalkuppam, Madagadipet
Puducherry- 605 017 ... Respondent

Prayer: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of mandamus directing the respondents 1 and 2 to recredit the amount of Rs.16,00,000/- (Rupees sixteen lakhs only) to our account No.8441101051633 which was mistakenly credited twice to the bank account of 3rd Respondent (Unsuccessful student) while returning his prerequisite deposit for taking part in counselling for allotment of medical seats under management quota.

For Petitioner : Mr.C.T.Ramesh,
Additional Government Pleader

For Respondents: M/s.Chandrasudan [R1]
M/s.Balavijayan for
Mr.R.Rajaraj [R4]



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O R D E R

The petitioner is the Coordinator, Centralized Admission Committee that conducts the process of admission for the Pondicherry Engineering College ('college'). For academic year 2019-20, a sum of Rs.16,00,000/- has been received from R3, one Johan Sujeet, who had applied for admission to the college. The amount was to be refunded admittedly, since admission was not granted to the candidate and he was thus entitled to refund of the amount.

2. It is the claim of the petitioner that the amount has been transferred to the bank account of R3 not once, but twice, R3 disputes this submission. The petitioner has made attempts to have the amount re-credited to its account, engaging in communication with Canara Bank/R1 where R3 holds his account.

3. A reply was received from R1 on 26.09.2018, wherein they convey the stand of R3 to the effect that he has made two payments one of Rs.16 lakhs to the petitioner and another of an identical amount to Sri Mankula Vinyagar Medical College, Pondicherry. The stand of R3 is thus, that he is entitled to a refund of both payments as both the PEC & R4 fall within the ambit of the Centralized Admission Committee.

4. However, learned counsel appearing for R4 disputes this position in entirety and states that the college has not been in receipt of any amount from the petitioner.

5. Dehors, the conflict in factual stands of the parties, what would clinch the issue in this case is an analysis of the flow of funds and the bank statements of the private respondent in R1 bank that must be looked into to ascertain whether there had, in fact been a dual payment of Rs.16,00,000/- as averred by him to both PEC & R4.

6. Likewise, the accounts of the petitioner in R2 bank are also to be verified to ascertain the veracity of their statement that two remittances have been made by it and to ascertain the destination of the credits. In the opinion of the Court, the authority most suited to undertake this exercise would be the Ombudsman of the Reserve Bank of India, since multiple banking institutions are involved in the transaction.

7. It is made clear that neither this Court nor the Ombudsman, to which this matter is now referred are, concerned with the allegations or the rival contentions that are made by the parties. What is to be ascertained is the factual position as to the flow of funds.



8. The Banking Ombudsman Scheme, 2006, a copy of which fortuitously happens to be available in the Court while this order is being dictated, states in Section 8 (h) that complaints involving allegations of delay and non-credit of proceeds to the accounts of parties, would fall within the scope of the Ombudsman. Then again, the procedure set out for filing of a complaint including limitation will have no application in this matter, as jurisdiction upon the Ombudsman is conferred by reference of this Court, under this order.

9. A copy of the writ petition and the counters filed by R1 and R4 will be forwarded along with a copy of this order to the Ombudsman, who shall fix a date for hearing of all parties. It is relevant, at this juncture, to note that R3 has remained silent and has neither entered appearance nor filed a counter in the matter thus far.

10. The petitioner has thus far been protected as R1 holds a lien over a sum of Rs.16,00,000/- in R3's bank account. This shall continue for a period of twelve weeks from today, within which time the matter shall be decided by the Ombudsman.

11. Registry to amend the cause-title qua R3, such as the address reads 'No.39, Sterling Road' instead of 'No.38, Sterling Road'.

12. This writ petition is disposed in the above terms. Connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

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To

1.The Branch Manager
Kotak Mahindra Bank Ltd.
Nungambakkam Branch, Chennai-34

2.The Branch Manager
Canara Bank, Pondicherry Engineering College Campus
Pillaichavady, Puducherry

+1cc to Mr.V.Sivalingam, Advocate SR.No.11011
+1cc to Government Pleader(Pondy) SR.No.11368

W.P.No.8212 of 2019 &
WMP.No.8777 of 2019

SVI (CO)
GMY(10/06/2022)