IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2022

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.3982 of 2018

Dr.P.Santhi
Principal,
Kongunadu College of Education,
Velagoundampatti,
Namakkal District. ... Petitioner

Vs

The Branch Manager,
State Bank of India,
Puthur East Branch,
2/9 Thiruchengode Main Road,
Velagoundampatty,
Thiruchengode Taluk,
Namakkal District. ... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondent to return the interest amount of Rs.33294 which was illegally taken from SB Account No.31017387182.

For Petitioner : Mr.A.E.Kalaiselvan

For Respondent : Mr.K.Chandrasekaran

ORDER

The petitioner has filed this writ petition for a writ of mandamus, to direct the respondent to return the interest amount of Rs.33,294/- which was illegally debited for the petitioner's saving bank Account No.31017387182.

2.The specific case of the petitioner is that the petitioner has opened a savings bank account with the respondent bank on 01.11.2010 and was making cash deposits and withdrawing the amounts. It is submitted that the petitioner is merely the Principal of Kongunadu College of Education. It is further submitted that without any transactions by the respondent, by the impugned communication dated 30.11.2017, respondent proceeded to debit a sum of Rs.33,294/- from the petitioner's aforesaid account, on the ground that the petitioner was not entitled to operate a saving account.

3.The learned counsel for the petitioner has drawn the attention to RBI guidelines, in particular, a reference is made to Para 6 of the Savings Bank Rules which is reproduced below:-

> "6.As per RBI directives, Government Departments or Bodies who for performance of their functions depend on Budgetary Allocations cannot open Savings Bank Accounts. Examples of such nature are Municipal Corporations or

Committees, Panchayats Samitees, State Housing Boards, Water and Sewerage Boards, State Text Book Publishing Corporations or Socieites, Metropolitan Development Authorities, State/District level Cooperative Housing Societies etc.

However, the following Agencies/Organisations are, exempted from the above rules and hence savings bank accounts can be opened in their names:

(i)Primary Co-operative Credit Society which is being finacned by the Bank (PACS),

(ii)Khadi and Village Industries Boards,

(iii)Agriculture Produce Market Committees,

(iv)Societies registered under Societies Registration Act, 1860 or any other corresponding law in force in State or a Union Territory,

(v)Companies licensed by the Central Government under Section 8 of Companies Act, 2013 or Section 25 of Companies Act, 1956 or under the corresponding provision in the Indian Companies Act, 1913 and permitted, not to add to their names the words 'Limited' or the words 'Private Limited',

(vi)Institutions other than those mentioned above and whose entire income is exempt from payment of income tax under Income-Tax Act, 1961,

(vii)Government departments/bodies/agencies in respect of grants/subsidies released for implementation of various Programmes/Schemes sponsored by Central Government/State Governments subject to production of an authorisation from the respective Government departments to open Savings Bank Accounts.

(viii).Development of Women and Children in Rural Areas (DWCRA).

(ix).Self-help Groups (SHGs), registered or unregistered, which are engaged in promoting savings habit among their members.

(x).Farmers' Clubs – Vikas Volunteer Vahini (VVV),

(xi)Hindu Undivided Family.

Normally eldest member of the HUF will operate the

> account as Karta of the HUF. (Only current Account will be opened if the HUF is engaged in any business activity)
>
> For opening of Non-Individual Savings Bank Accounts, the KYC documents prescribed for establishing account-based relationship for the legal entity will obtained in addition to the KYC documents of its beneficial owner, authorised signatory or the power of attorney holder.

4.The writ petition is opposed by the learned counsel for the respondent stating that though the Saving Bank Account was opened by the petitioner, the petitioner was routing transactions of the college and therefore the petitioner was not entitled to operate the aforesaid account and since interest was wrongly give to the petitioner as the petitioner's aforesaid account was saving account it was recovered.

5.It is submitted that if the petitioner made a proper declaration at the time of opening of the account, for using it to college purpose, the petitioner would have been asked to open the current account. It is therefore submitted that since the petitioner had given an incorrect details at the time of opening of the saving account to the respondent bank, the aforesaid amount was debited as interest was credited wrongly.

6.That apart, it is submitted that the petitioner has not entitled to file a writ petition as it is private dispute and does not require the disposal under Article 226 of the constitution of India.

7.The learned counsel for the respondent submits that the account was opened without furnishing KYC details. It is submitted that since the petitioner was entitled only to open current account, interest which was credited to the petitioner into the account were rightly recovered.

8.I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondent.

9.The respondent bank having allowed the petitioner to open a saving bank account ought to have been vigilant and ought not to have allowed the saving account to be used for any transaction. In case, the amounts relating to the college were routed into the petitioner's saving account, the bank should have declined and refused to clear the cheques and returned the same. The RBI guidelines which has been produced by the petitioner relates to Government Departments or Bodies who for performance of their functions depend on

Budgetary Allocations cannot open Savings Bank Accounts. Examples of such Government Departments or Bodies are Municipal Corporations, Committees, Panchayat Samitees, State Housing Boards, Water & Sewerage Boards, State Text Book Publishing Corporations, Societies, Metropolitan Development Authorities and State/District level Cooperative Housing Societies etc.

10.The facts remains that the amount having routed which was a saving account ought to have been recovered only after due process of law after issuing a proper notice to the petitioner. There are however mechanism for grievance redressal under the provisions of the Bank Regulations Act, 1947 and under the guidelines issued by the RBI.

11.Considering the fact that matter can be decided by an appropriate authority such as Banking OMBUDSMAN, I am inclined to dispose this writ petition by giving liberty to the petitioner to file an appropriate application before the Banking OMBUDSMAN, who shall consider and pass appropriate orders and after examining the guidelines issued by the RBI. The petitioner is at liberty to file appropriate application before the Banking Ombudsman within a period of four weeks from the date of receipt of a copy of this order.

12.Accordingly, this writ petition stands disposed of. No costs.

08.11.2022

Index: Yes/ No
Internet : Yes/No
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To

The Branch Manager,
State Bank of India,
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2/9 Thiruchengode Main Road,
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Thiruchengode Taluk,
Namakkal District.

C. SARAVANAN, J.

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