

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3102 of 2023

Jay Vikrant S/o Late Janardan Prasad, R/o Flat No. 405, Sri Shyam Enclave,
Road No. 3, New Patliputra Colony, P.S. Patliputra, District-Patna.

... .. Petitioner/s

Versus

1. The Reserve Bank of India Patna Region, Patna through its Regional Director.
2. The Ombudsman, Reserve Bank of India, Patna Region, Patna.
3. ICICI Bank Limited through its Managing Director, Mumbai.
4. The Zonal Manager, ICICI Bank Patna Zone, Boring Road, Patna.
5. The Commercial and Consumer Cards Head, ICICI Bank Limited, Mumbai.
6. The Branch Manager, Boring Road Branch, ICICI Bank, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Siddharth Harsh, Adv.
For the Respondent/s : Mr. Amit Prakash, Adv.

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 17-04-2023 1. The petitioner by way of this writ petition has
prayed for quashing of the letter dated 10.01.2023, passed by
the Ombudsman, Centralised Receipt and processing Centre,
Reserve Bank of India, informing about the closure of the
complaint filed by the petitioner against the I.C.I.C.I. Bank.

2. Learned counsel for the petitioner submits that the auto debit return fees has been charged on its Credit Card, which could not have been charged on monthly basis by the Bank namely the I.C.I.C.I. Bank.

3. It is noticed that the I.C.I.C.I. Bank has also



initiated SARFAESI provisions against the petitioner and a notice has been given to him under Section 13 (3) of the Act with respect to certain other accounts and petitioner has raised objections in relation thereto. The dispute raised by the petitioner is purely of civil nature, which requires to be adjudicated by a competent Court.

4. Further this Court finds that the issues relating to commercial transactions and Bank transactions between a consumer and the Bank, which is a private Bank, cannot be taken up in writ petition, as has been held by the Supreme Court **in 2003 (10) SCC 733 (Federal Bank Ltd. vs. Sagar Thomas & Ors.)**, wherein the Supreme Court has held as under:-

“18. From the decisions referred to above, the position that emerges is that a writ petition under Article 226 of the Constitution of India may be maintainable against (i) the State (Government); (ii) an authority; (iii) a statutory body; (iv) an instrumentality or agency of the State; (v) a company which is financed and owned by the State; (vi) a private body run substantially on State funding; (vii) a private body discharging public duty or positive obligation of public nature; and (viii)



a person or a body under liability to discharge any function under any statute, to compel it to perform such a statutory function.

27. Such private companies would normally not be amenable to the writ jurisdiction under Article 226 of the Constitution. But in certain circumstances a writ may issue to such private bodies or persons as there may be statutes which need to be complied with by all concerned including the private companies. For example, there are certain legislations like the Industrial Disputes Act, the Minimum Wages Act, the Factories Act or for maintaining proper environment, say the Air (Prevention and Control of Pollution) Act, 1981 or the Water (Prevention and Control of Pollution) Act, 1974 etc. or statutes of the like nature which fasten certain duties and responsibilities statutorily upon such private bodies which they are bound to comply with. If they violate such a statutory provision a writ would certainly be issued for compliance with those provisions. For instance, if a private employer dispenses with the service of its



employee in violation of the provisions contained under the Industrial Disputes Act, in innumerable cases the High Court interfered and has issued the writ to the private bodies and the companies in that regard. But the difficulty in issuing a writ may arise where there may not be any non-compliance with or violation of any statutory provision by the private body. In that event a writ may not be issued at all. Other remedies, as may be available, may have to be resorted to.”

5. Keeping in view the specific provisions contained under the Commercial Courts Act as well as the D.R.T. provisions, this Court finds the writ petition to be not maintainable.

6. Accordingly, the writ petition stands dismissed.

(Sanjeev Prakash Sharma, J)

Pravinkumar/-

Item No. 12

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