IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2281 of 2024

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Pradip Kumar Prasad S/o Hari Narayan Prasad Resident of Village-Lachhi Kheriya P.O. Sonahula P.S. Gopalpur Distt. Gopalganj, at Present Residing at G-541, Tribeni Tissue Estate, Refaitpur Hooghly, Chandrahati, P.S.-Mongra, Distt.-Hooghly (WB).

... ... Petitioner/s

Versus

1. Punjab National Bank, through its Regional Manager, Chanakya Palace, R Block, Patna-1.
2. The Regional Manager, Chanakya Palace, R Block, Patna-1.
3. The Branch Manager, Punjab National Bank, Rajabazar Branch, P.S.-Shastrinagar, Distt.-Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Madhukar
For the Respondent/s : Mr. Mritunjay Kumar

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL JUDGMENT
Date : 09-12-2024

Heard the learned counsel for the parties.

The present writ petition has been filed for the following reliefs:-

> *"i. For issuance of a writ in the nature of certiorari for quashing the letter dt. 26.5.23, issued by Respondent No. 3 by which he has directed to deposit Rs. 42099/-.*
>
> *ii. For issuance of a writ in the nature of mandamus directing and commanding to the respondents' authorities to correct the CIBIL Score of the petitioner.*
>
> *iii. For issuance of a writ in the nature of mandamus directing and commanding to the respondents' authorities to pay minimum Rs. 2 Lacs to the petitioner for his willful harassment and mental torture because the respondents' authorities without any fault of the petitioner, are harassing the petitioner since 2014.*
>
> *iv. for any other appropriate writ/writs, direction/directions, as this Hon'ble Court thinks fit and proper in the facts and circumstances of this case."*

3. It is the case of the petitioner that he was having a saving account in the Punjab National Bank and that in the month of May, 2009 an amount of Rs. 10000/- was credited to his saving bank account. The petitioner under the impression that the said amount was deposited by his father has utilized the same. Thereafter, the petitioner came to know that the said amount was mistakenly credited to his account by the Bank and thought it fit to return the same. However, the respondent-Bank authorities refused to receive the said amount stating that the petitioner is liable to pay interest on the same and in case he intends to return the said amount, he has to do so with interest.

4. Learned counsel has stated that at no point of time, the petitioner had entered into any agreement with the respondent-Bank. That the said amount was credited to his account which admittedly is a saving bank account. Learned counsel has stated that even if he had not utilized the said amount, the saving bank account could not have carried more than 5% simple interest. Therefore, the authorities cannot charge the commercial rate of interest for the lapses committed by them. Learned counsel has stated that due to the action of the respondent-Bank, the CIBIL Score of the petitioner is getting affected and, therefore, seeks a direction by this Court to the respondents to rectify the CIBIL Score and also take back the amount of Rs. 10,000/-.

5. *Per contra*, the learned counsel for the respondent-Bank has vehemently opposed the very maintainability of the present writ petition and stated that the petitioner very well knew that the amount which was credited to his account did not belong to him and the petitioner with a *mala fide* intention withdrew the amount periodically. Learned counsel has stated that the respondent-Bank in consonance with the RBI guidelines are charging the interest and the petitioner is liable to pay an amount of approximately Rs. 44,000/- as on date. Learned counsel has stated that unless and until the petitioner pays the said amount, he will be shown as defaulter and the CIBIL Score will automatically reflect the same. Learned counsel has therefore, prayed this Hon'ble Court to dismiss the present writ petition.

6. Admittedly, as seen from the record and also the statement of account of the petitioner filed by the respondent-Bank (Annexure-A) along with the supplementary counter-affidavit, the petitioner was having a saving account in the respondent-Bank and on 21.05.2009, an amount of Rs. 10,000/- was credited to his account. Admittedly, the amount of Rs. 10,000/- was credited by the Bank by mistake and the petitioner is also accepting the same and he is willing to return the said amount.

7. The only question is as to whether the Bank can charge a commercial rate of interest on said amount or not.

8. A perusal of the statement of the account reveals that the Bank is charging an interest at the rate of 14.52% to 16.25% for various periods which is getting compounded. This Court is of the opinion that the Bank cannot charge the above interest rates as there is no privity of contract (ii) that the petitioner is not a borrower (iii) the petitioner cannot be punished for the lapses committed by the Bank authorities themselves. As rightly pointed out by the petitioner, his account is the saving bank account and even if Rs. 10,000/- was deposited by mistake, it could have carried a maximum interest of up to 5% only. But however, to meet the ends of justice and to do equity to both the parties, this Court is of the opinion that the petitioner is liable to return the amount of Rs. 10,000/- along with simple interest of 8% payable from 21.05.2009 till the date of actual payment. Accordingly, there shall be a direction to the respondent-Bank to calculate the simple interest at the rate of 8% on the amount of Rs. 10,000/- from 21.05.2009 till today and intimate the petitioner the total amount payable by him. On such intimation, the petitioner shall immediately clear the outstanding amount within a period of ten days from the receipt of the said intimation. After the payment of the outstanding amount by the petitioner, the authorities shall take necessary steps for informing the CIBIL about the clearance of the loan and also requesting them to rectify the CIBIL Score of the petitioner.

9. With the above direction, the present writ petition stands allowed to the extent indicated.

(A. Abhishek Reddy, J)

Ayush/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.12.2024.
Transmission Date	NA