# IN THE HIGH COURT OF JUDICATURE AT PATNA
**Civil Writ Jurisdiction Case No.14752 of 2021**

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Nand Kishor Prasad Yadav Son of Late Sri Bholi Ray Resident of Road No. 21, Sri Krishna Nagar, Chakaram, Post Office - G.P.O., Police Station- Budha Colony, District- Patna - 800001.

... ... Petitioner/s

Versus

1. The Chief Executive Officer/General Manager Indian Bank, (Erstwhile Allahabad Bank), Chennai.
2. The Chief Vigilance Officer, Indian Bank (Erstwhile Allahabad Bank), Corporate Office, Chennai.
3. The Zonal Manager, Indian Bank (Erstwhile Allahabad Bank), Budha Marg, Patna.
4. The Regional Manager, Indian Bank (Erstwhile Allahabad Bank), Budha Marg, Patna.
5. The Assistant General Manager, Indian Bank (Erstwhile Allahabad Bank), Budha Marg, Patna.
6. The Branch Manager, Main Branch, Indian Bank (Erstwhile Allahabad Bank), Budha Marg, Near Kotwali Police, Patna.
7. The Banking Ombudsman/Lok Pal, Reserve Bank of India, South Gandhi Maidan, Patna.
8. The Assistant Branch Manager, Indian Bank (Erstwhile Allahabad Bank), Budha Marg, near Kotwali Police Station, Patna.
9. State of Bihar through the Senior Superintendent of Police, Patna.
10. The Senior Superintendent of Police, Patna.
11. The Officer In-charge, Kotwali Police Station, Patna.

... ... Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Shashi Bhushan Singh, Adv. |
| For the Respondent/s | : | Mr. Rajan Ghoshrave, Adv. |

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**CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY**

ORAL ORDER

12 26-06-2024 Heard the learned counsel for the parties.

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

*"(A) For appropriate direction to the concerned Respondents No. 1 to 8 to take action on*

*the representation dated 10.08.2020, 31.08.2020, 10.09.2020, 15.09.2020, 14.10.2020 and 15.02.2021 of the petitioner filed before Respondents No 1 to 8 and set aside the wrong procedure adopted by the Respondents No. 5 to 8 violating the provision/Rule of the Master Directions issued by the Reserve Bank of India dated Nov.5, 2014 (Chapter-VII) and the Banking Ombudsman Scheme 2006 (Chapter-IV) respectively.*

*(B) To set aside the award vide reference naBai.Lo.Ka/Pat/1443/06.44.010/2020-21 dated 26 February, 2021 whereby and complaint case of the petitioner has wronlgy been closed without considering the written argument of the complainant/petitioner placed before the Ombudsman Lok Pal, RBI and pressurized the petitioner to hand over the original black cheque without order to to the Bank Manager by way of mental torturing.*

*(C) For payment of Rs. 12,50,000/- (Rs. Twelve Lacs Fifty thousand) only by way of remitting back into the Account of genuine account holder, the petitioner, which has fraudulently transferred into the Account of the fraudulent in collusion with the Allahabad Bank (Indian Bank), authorities/staffs with heavy penal interest payable thereon till the date of payment of the said amount.*

*(D) For due punishment and action against the concerned respondents for their violating the directives/scheme of the R.B.I. and under other laws for the time being.*

*(E) To pass such other order or direction for which the petitioner is duly entitled for, under the law."*

3. The only complaint of the petitioner is that he is having an account with the respondent-Bank and on 10.08.2020 he wanted to withdraw the amount from the Bank, the Bank officials have stated that there are no sufficient funds in his account. That on verification, the petitioner has found that an amount of Rs. 12,50,000/- (Rs. Twelve Lakhs Fifty Thousand)

has been withdrawn from his account vide cheque bearing No. 080494. It is the case of the petitioner that the original cheque bearing No. 080494 is still with him and therefore, the Bank officials on the basis of a fake cheque bearing No. 080494 had allowed the perpetrators to withdraw an amount of Rs. 12,50,000/- from his account. That even though the petitioner has made several representations to the Bank, they did not pay any heed and left with no other option the petitioner has approached the Banking Ombudsman.

4. Learned counsel for the petitioner has stated that even though the petitioner has been requesting the Banking Ombudsman to take up the matter, the matter was closed solely on the ground that the petitioner did not produce the original cheque bearing No. 080494 which was in his possession. Learned counsel for the petitioner has stated that the petitioner did not produce the original cheque at the behest of the respondent-Bank as there was no written order from the Banking Ombudsman. Learned counsel has stated that the present writ petition may be allowed and the matter may be remanded back to the Banking Ombudsman and the petitioner may be given an opportunity of producing the original cheque bearing No. 080494 to substantiate his claim.

5. *Per contra*, the learned counsel appearing on behalf of the respondents has stated that the petitioner did not cooperate in the matter but on the other hand he has been filing false and frivolous criminal case against the Bank officials. Learned counsel has stated that even though the petitioner has been issued several notices to produce the original cheque bearing No. 080494, the petitioner has failed to do so and the same was informed to the Banking Ombudsman who vide order dated 26.02.2021 has closed the complaint made by the petitioner. Learned counsel has stated that only due to the lapses committed by the petitioner, the issue in the present writ petition could not be resolved and the official respondents are not to be blamed for the same. Further, it is stated that as per the banking guidelines, only three months period is given for resolving the dispute and, therefore, prayed this Hon'ble Court to dismiss the present writ petition.

6. Admittedly as seen from the record, an amount of Rs. 12,50,000/- has been withdrawn from the account of the petitioner on the basis of cheque bearing No. 080494 presented at Service Branch, Mumbai on 10.08.2020. Immediately after coming to know about the withdrawal of the amount from his account, the petitioner has given a complaint to the Bank

authorities who have verified with the Service Branch and found that the cheque which has been presented by some third party is not the original cheque and immediately thereafter, they have put the petitioner on notice asking him to submit the original cheque bearing No. 080494. However, the petitioner did not choose to hand over the said cheque on the ground that the matter was pending before the Banking Ombudsman and the petitioner was of the opinion that in case the original cheque was handed over to the official respondents, he would be rendered without any proof. Once it is admitted by the authorities that the amounts lying in the account of the petitioner have been illegally withdrawn by some third party on the basis of a fabricated cheque, the Bank officials have to necessarily bear the brunt of the said fraud and they cannot escape from their responsibility. The officials should have to be vigilant in passing the cheque more so with the said cheque is only a fabriciated one.

7. Having regard to the above mentioned facts and circumstances, this Court deems it appropriate to set aside the order of Banking Ombudsman dated 26.02.2021 and remand the matter back to the said authority for deciding the matter on merits and pass necessary orders. The petitioner shall present

the original cheque bearing No. 080494 before the Banking Ombudsman. The entire exercise shall be completed as expeditiously as possible preferably within a period of three months from the date of receipt of a copy of this order. It is made clear that this Court has not made any observation with regard to the merits of the case and the authority concerned is directed to consider the case of the petitioner on his own merits without being influenced by any observation made by this Court.

8. With the above direction, the present writ petition stands disposed of.

**(A. Abhishek Reddy, J)**

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