Item No.10
14.08.2024
Court. No. 9
GB

W.P.A. 10792 of 2024

Kaberi Seth
Vs.
Union of India & Ors.

Mr. Biswajit Hazra,
Mr. Archisman Sain,
Mr. Arif Mohammad Khan,
Mr. Sk. Nadeem Ahmed
...for the Petitioner.

Mr. Pinaki Bhattacharyya,
Mr. Sovan Mukherjee
...for the U.O.I.

Mr. Debasish Saha,
Ms. Sucheta Pal
...for the Bank.

1. Affidavit-of-service filed in Court today, is taken on record.
2. The only issue relevant for decision in this writ petition is whether the State Bank of India had acted arbitrarily and/or with mala fide intention in freezing the savings bank account of the petitioner and whether the order of the internal Ombudsman was justified. On the last occasion, the learned advocate for the State Bank of India was asked to take instructions.
3. It is now submitted before this Court that the bank had to freeze the savings account of the petitioner in order to adjust the interest received in the said account from the fixed deposits, towards payment of the interest on a loan availed of by the petitioner. The

entire activity between the petitioner and the bank took place in the online mode.

4. It is submitted by the bank that Rs.30, 00,000/- had been advanced by the bank to the petitioner as a loan and the said amount was transferred from the petitioner's account by 31 transactions within a period of 10 days. The bank had made an internal enquiry in the matter on the basis of the complaint of the petitioner. The internal Ombudsman of the State Bank of India has prepared a report on March 2, 2023, disposing of the matter and intimating the same to the petitioner.

5. The petitioner had complained before the bank that Rs.29, 98,999/- had been unauthorizedly debited from her account in 31 stretches from November 8, 2022 to November 18, 2022. It was mentioned by the petitioner that she received a call from an unknown person who posed to be an employee of State Bank of India and informed the petitioner that an amount of Rs.8,000/- had been deposited in her credit card. The person also informed the petitioner that the credit card had been deactivated and had asked for the details of the petitioner. The petitioner followed the directions of such unknown person which allegedly led to the debit of the disputed amounts.

6. According to the bank, the transactions could be possible only if the exclusive customer ID for online

banking and the OTP received in the registered mobile number of the petitioner were shared with anyone else. The fraudulent transaction could not be possible unless the petitioner shared the details with others. For registration in the secure App, INB credentials would be required. The App sends OTP to the customer's registered mobile number. The customer received an OTP on her mobile number registered with the bank via SMS. The process could not have been completed without sharing the INB credentials and the OTP received in the handset, the SIM of which was linked to the account.

7. The Ombudsman found it was the responsibility of the customer to safeguard the INB credentials/OTP and the bank could not be held liable if any other person got the INB credentials and the OTP from the petitioner. The customer had already admitted that she had taken certain steps under the influence of an unknown person. The Ombudsman found that there was some negligent activity on the part of the customer/petitioner. Thus, according to the RBI circular, it was found that the petitioner was negligent and the loss was not on account of any irregularity practised by the bank. The Ombudsman opined that if the petitioner had not made the said transactions, then she had shared her INB credentials and the OTP with someone else.

8. Thus, the involvement of the petitioner was not completely ruled out.

9. The internal Ombudsman found justification in the bank’s action of freezing the savings account and the fixed deposits. The Ombudsman recorded that all cooperation would be given to the petitioner from the end of the bank by supplying her the statements and documents pertaining to the transactions, free of cost. The bank was asked to advise the complainant/petitioner to approach the RBI banking Ombudsman with her allegations.

10. Under such circumstances, a mandamus upon the bank to defreeze the account cannot be passed at this stage. The bank is directed to provide the petitioner with the details of the transactions, statements, etc., to enable the petitioner to approach the RBI’s Ombudsman with her allegations. Freezing of the account has been justified on the ground that the interest payable against the loan was being adjusted. Thus, the bank would be required to handover all relevant transactions in respect of the alleged loan taken by the petitioner. The date and time when such amount was transferred to the bank account of the petitioner and the manner in which the entire amount was received as a loan and had been debited from the account shall be provided.

11. All these matters can be substantiated by the bank on the basis of the transactions which took place. The police investigation will continue independently and the investigation shall not be influenced by the findings of the bank's internal Ombudsman. As the petitioner has been pursuing this writ petition before this Court, the delay in approaching the Ombudsman of the RBI, is condoned.
12. Accordingly, the writ petition is disposed of.
13. The parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)