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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 4781 OF 2024

Mr.kamal Kanaiyalal Makhija ...Petitioner
Versus
The Banking Ombudsman ...Respondent

Mr. Harish Pandya, Adv. Naomi, i/b Adv. Pankaj Bafna c/o Bafna Law Associates, for Petitioner.

Mr. Prasad Shenoy, a/w Aditi Phatak, Paricheha Zaiwalla, Vijay Salukhe, Megha More i/b BLAC Co, for Respondent No. 1 and 3.

Mr. Kushal Boolchandani i/b Trilegal, for Respondent No. 2.

Mr. Prashant Kamble, AGP for State.

CORAM : M.S. Sonak &
Advait M. Sethna, JJ.

DATED : 17 October 2025

P.C.:-

1. Heard learned counsel for the parties.

2. The petitioner has challenged the order dated 15th January 2021, made by the Banking Ombudsman dismissing the petitioner's complaint. Before the impugned order was made, the petitioner was not heard by the Ombudsman. Mr. Pandya, learned counsel for the petitioner points out that even the order was not communicated and it is only through RTI that the petitioner could obtain the copy of the order.

3. Learned counsel for the RBI state that the order was sent by email but learned counsel for the RBI is not able to vouch for any hearing given by the Ombudsman before the order was made.

4. Prima facie, it appears that the petitioner had made a serious complaint about an amount of Rs. 2 Crore (Rupees Two Crores) being siphoned of from his bank account maintained with Respondent No. 2-Bank. This complaint could not have been disposed of in a summary manner without even minimum compliance with principle of natural justice or fair play.

5. On the above short ground, we set aside the impugned order dated 15th January 2021 and restore the petitioner's complaint to the Ombudsman. The Ombudsman must hear the petitioner and Respondent No. 2 - bank and dispose of the compliant in accordance with law.

6. In this case, one of the petitioner's main grievance was non compliance with the directives contained in the RBI circular dated 6th July 2017.

7. Accordingly, we had even directed the State to place on record the chargesheet/cyber report. Learned counsel for the State reports no instructions as to whether the directions contained in our order of 13th February 2025 was complied with. These directions were given considering the order made by a coordinate Bench of this Court in the case of ***Jayprakash Kulkarni vs. Banking Ombudsman and others***[1]

[1]. 2024 SCC Online Bom 1666

8. Now that we are setting aside the Ombudsman order and restoring the petitioner's complaint before the Ombudsman, we direct the State to file before the Ombudsman a copy of chargesheet/cyber report within a maximum period of four weeks from today.

9. Further, we request the Ombudsman to consider the decision of this Court *inter alia* in the case of ***Jayprakash Kulkarani (supra)*** and see whether in terms of the RBI circular and the decision of this Court in ***Jayprakash Kulkarani (supra),*** any relief can be granted to the petitioner. The bank must also adopt a sensitive approach towards such matters. If, the amounts are being allegedly siphoned of from the account holders, then, the banks must see whether any further measure needs to be taken to prevent such incidents. The attitude of simply denying everything and then claiming that the Ombudsman has no jurisdiction to investigate into the disputed facts is not proper. The bank must also cooperate with the Ombudsman because ultimately, such incidents, tend to shake the faith of the common persons in our banking institutions.

10. Even the Ombudsman, should, approach this matter from this perspective instead of a simple dispute between two parties.

11. With the above observations and directions we dispose of this petition.

12. We request the ombudsman decide the matter as expeditiously as possible and in any event within four months from the date of production of an authenticated copy of this order.

(Advait M. Sethna, J) **(M.S. Sonak, J.)**