

18.03.2026
SL No.5
Court No.12
(gc)

**FMA 1744 of 2025
CAN 1 of 2025**

**Buddhadeb Mukherjee
Vs.
Union of India & Ors.**

Mr. Kaustav Banerjee,
Ms. Ria Kundu

.....for the Appellant.

Mr. Pradyat Saha

...for the U.O.I.

Mr. Debabrata Das,
Mr. A. Sarkar,
Mr. Pratik Acharjee

...for the R.B.I.

Mr. Sayak Ranjan Ganguly,
Ms. Srijani Ghosh,
Ms. Ankita Jha,
Ms. Kripa Kami

...for the Respondent Nos.7 & 8.

Mr. Vimal Kumar Shahi, Ld. A.G.P.,
Ms. Susmita Chatterjee

...for the State Respondents.

1. The appeal arises out of an order dated September 3, 2025 passed by the learned Single Judge in WPA 7985 of 2025. By the order impugned, the learned Single Judge disposed of the writ petition without considering whether the prayers in the writ petition should be allowed in the facts and circumstances of the given case. The learned Single Judge was misdirected by the fact that police investigation was going on and no further relief was required to be granted in favour of the writ petitioner/appellant before us. The guidelines of the Reserve Bank of India dated July 6, 2017 have not

been considered, especially paragraphs 6 and 8 thereof. The appellant contends that in case of third party breach, when neither the bank nor the holder of the account is responsible for any bank fraud, the holder of the account will have zero liability and the bank must refund the money that was illegally withdrawn from the account.

2. The learned Advocate for the appellant submits that the breach was reported within 3 days to the Axis Bank as also the Police Station, irrespective of the fact that the investigation by the police was pending at the relevant point of time.
3. The learned Judge ought to have considered whether the rules/guidelines of the R.B.I. would be applicable in the instant case.
4. The appellant also approached the ombudsman of the R.B.I. challenging inaction of the bank, but it appears that the writ petitioner/appellant was not heard. The learned Single Judge further failed to take into consideration that the R.B.I's ombudsman had not allowed an opportunity to the petitioner to place his grievances. Instead, the learned Single Judge observed that the appellant was sent an email to attend the hearing, but did not do so. He had lost his chance.

5. The appellant's specific contention is that the appellant was out of India and had not received any email, calling him to appear before the ombudsman.
6. In view of the above observations made by us, we are of the view that the writ petition should be heard afresh.
7. Accordingly, the order impugned is set aside.
8. The matter is remanded to the writ court for *de novo* hearing upon the parties exchanging their affidavits.
9. The Affidavit-in-Opposition shall be filed within two weeks. Affidavit-in-Reply shall be within two weeks thereafter.
10. Liberty to mention for urgent hearing.
11. Accordingly, the appeal and the application are disposed of.
12. Learned Advocates who appeared for the respondents be served with a copy of memorandum of appeal and the application as also the writ petition within 48 hours.
13. The police report is taken on record.
14. There shall be no order as to costs.
15. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)