

Government of West Bengal
Information Technology & Electronics Department

Case No.01 of 2012 under IT Act 2000

Shri Rajen Gopi

-Vs-

State Bank of India & Ors.

Reasoned Order

22-06-2018

This hearing is taken up today on the basis of the complaint by Shri Rajen Gopi dated 09.01.2012 alleging that his account was wrongly debited by an amount of Rs.3,39,000/- during a period in which the bank account was blocked. Therefore, he has filed a case for adjudication for recovering the loss under Section 43 of the IT Act 2000. This is in addition to criminal case filed separately.

Ld. Lawyer on behalf of the M/s. Vodafone, State Bank of India and representative on behalf of the petitioner are present. Detailed arguments are made by M/s. Vodafone in which broadly it had been argued that M/s. Vodafone itself did not do any fraud or wrong procedure and as per other norms it is the SBI that is liable to compensate. The question of insurance premium has also been raised.

Ld. Advocate on behalf of SBI argues that the rules regarding compensation are mere guidelines and not mandatory, that no out of the way or fraudulent procedure was adopted by SBI and that, therefore, they cannot be held liable.

Petitioner's representative merely narrates the facts again but is unable to explain how repeatedly SIM Card and accounts were blocked and how the password of the bank account was leaked out.

Considered.

My observation is that guidelines, insurance, and other matters raised by the Ld. advocates, parties do not concern us. The only question is to judge is that whether in the electronic transaction using information technology, there has been some lapse, negligence or dishonest intent that has led to a loss on behalf of the petitioner. In this case, I find that at least two safeguards viz (a) password and (b) OTP are existing of which only one can be explained, that of getting the OTP admittedly through a wrong delivery of SIM Card. However, getting access to the account using the password is possible only by the applicant. I am reasonably convinced that there are no apparent flaws in this whole procedure of Internet Banking that led to loss of money from the petitioner's account one that If some criminals have been obtained the password or the duplicate SIM Card using criminal methodologies, it is for the criminal court and the police to take necessary action

In view of the above, I hereby hold that neither SBI nor Vodafone dishonestly hacked into the petitioner's data base or did something in contravention of the IT Act and so none can be asked to compensate the petitioner under the IT Act. A case is already pending in the criminal court. Whether any penalties should be imposed on the agent for handing over the duplicate SIM Card to the wrong person is a matter that can be looked by the Ld. Court. The matter is, therefore, closed without award of any compensation.

Inform all accordingly.


Additional Chief Secretary


Dictated & Corrected by me


Additional Chief Secretary