

ORDER SHEET**(In respect of cases under I T Act,2000 as amended till date)****Ld.Adjudicating Officer,West Bengal.****Cyber Case No. 02/20201.****Panamanna Easwaran Ramachandran Vs. ICICI Bank & Ors.**

Sl. No. and Date of Order	Order and Signature of Officer	Note of action taken on Order
(9) 07/10/2021	<p>The matter is fixed for hearing on today through VC.</p> <p>Heard both sides.</p> <p>I examined relevant papers and documents submitted by both the parties, it reveals that the dispute transaction had done through online mode wherein customer visits the merchant website and executed such transactions. The respondent bank claims OTP is not required for such types of transaction, requires only Debit Card Number, Card Verification Value (CVV) and expiry date and ATM Pin, these details are mandatory for effecting the said transactions. As per their record, the said disputed transaction had been effected with a Second Factor authentication of ATM Pin and also claims that ATM is purely personal and privy to the customer and would not be known to anybody, unless compromised otherwise and the bank does not incur any financial liability arising out of the misuse thereof by unauthorized persons.</p> <p>However, it is a common knowledge that presently OTP for the debit card beyond a certain amount is in practice by Bank.</p> <p>The respondent Bank to produce the guidelines in force at the time of the incident, from which it could be seen that the OTP was not required for such type of transaction and the policy of the OTP beyond a certain amount was brought in at a later date. Bank may indicate the date from which new policy (generating OTP for transactions beyond certain limit) has been put in place.</p> <p>As such, it is directed to respondent Bank to relevant documents by 26.10.2021 and no response from the side of respondent bank, will be viewed as if they have nothing more to add to already submitted documents .</p>	

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Dictated by me. Adjudicating Officer.	<p>: 2 :</p> <p>The reply can be filed through email-lawofficer.ite-wb@gov.in Hence, the matter is fixed on 01.11.2021 for hearing and order. Also such hearing would be held through VC and as usually law officer will please ensure that VC link is sent in advance to all concerned. Inform all concerned accordingly.</p>  <p>Adjudicating Officer Govt. of West Bengal</p>	Inform all Concerned.
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Cyber Case No. 02/20201.

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Sl. No. and Date of Order	Order and Signature of Officer	Note of action taken on Order
(10) 01/11/2021	<p>The matter is fixed for hearing on today through VC.</p> <p>None of the parties are present.</p> <p>The petitioner's Advocate prays for shifting the date & time of the hearing by e-mail.</p> <p>The respondent bank is advised to submit relevant documents in support of the evidence on and before 08.11.2021.</p> <p>The reply can be filed through email-lawofficer.ite-wb@gov.in</p> <p>Hence, the matter is fixed on 08.11.2021 at 05:00 pm for hearing and order. Also such hearing would be held through VC and as usually law officer will please ensure that VC link is sent in advance to all concerned.</p> <p>Inform all concerned accordingly.</p>	
Dictated by me. Adjudicating Officer.	 <p>Adjudicating Officer Govt. of West Bengal</p>	Inform all Concerned.

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Sl. No. and Date of Order	Order and Signature of Officer	Note of action taken on Order
(11) 16/11/2021	<p>The matter is fixed for hearing on today through VC.</p> <p>No representative of the petitioner has appeared on VC. The respondent bank ask for seven days time to submit relevant documents in support of the evidence .prayer granted.</p> <p>The such documents can be filed through email-lawofficer.ite-wb@gov.in</p> <p>Hence, the matter is fixed on 23.11.2021 at 05:00 pm for hearing and order. Also such hearing would be held through VC and as usually law officer will please ensure that VC link is sent in advance to all concerned.</p> <p>Inform all concerned accordingly.</p>  <p>Adjudicating Officer Govt. of West Bengal</p>	
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Sl. No. and Date of Order	Order and Signature of Officer	Note of action taken on Order
(12) 23/11/2021	<p>The matter is fixed for hearing on today through VC.</p> <p>The Advocate of the petitioner has appeared on VC. The respondent bank could not connect himself through the link which have been provided from our end.</p> <p>Till the date, the respondent Bank even not able to produce any guideline relating to the time of occurrence as per earlier order.</p> <p>As such it is directed to respondent Bank to produce said guideline in support of evidence within next date positively.</p> <p>Hence, the matter is fixed on 14.12.2021 for hearing and order. Also such hearing would be held through VC and as usually law officer will please ensure that VC link is sent in advance to all concerned.</p> <p>Inform all concerned accordingly.</p>  <p>Adjudicating Officer Govt. of West Bengal</p>	
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Sl. No. and Date of Order	Order and Signature of Officer	Note of action taken on Order
(13) 14/12/2021 Dictated by me. Adjudicating Officer.	<p>The matter is fixed for hearing on today through VC.</p> <p>The Advocate of the petitioner has appeared on VC and prays for seven days time to make further submission, as he received the copy of guideline today just before hearing, submitted by the respondent bank.</p> <p>The Ld.Advocate of respondent bank is also appeared on VC and submitted a guideline in support of evidence, which is taken on record.</p> <p>From the said guideline , it is not clear that since when the ICICI Bank started the process of sending the OTP .</p> <p>The respondent bank is advised to submit proper documents or statements from the bank indicating the date from which OTP was made mandatory by the ICICI Bank for such type of transactions.</p> <p>Hence, the matter is fixed on 21.12.2021 for hearing and order. Also such hearing would be held through VC and as usually law officer will please ensure that VC link is sent in advance to all concerned.</p> <p>Inform all concerned accordingly.</p>  <p>Adjudicating Officer Govt. of West Bengal</p>	Inform all Concerned.

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Ld. Adjudicating Officer, West Bengal.

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Sl. No. and Date of Order	Order and Signature of Officer	Note of action taken on Order
(14) 21/12/2021 Dictated by me. Adjudicating Officer.	<p>The matter is fixed for hearing on today through VC. The Ld. Advocate of the petitioner appeared on VC .The Ld. Advocate of the respondent Bank also attended through VC. He has forwarded two separate mails of ICICI Bank addressed to him. Wherein the First mail , said ICICI Bank declares that the OTP became mandatory since September,2019 only and the use of OTP was introduced by Bank since September,2019. In the Second mail, the ICICI Bank has clearly mentioned that they have strictly followed all the rules, regulations as per the circular as laid down by the RBI on the date of incident 3.8.18. This email communication is taken on record. Heard both parties at length.</p> <p>I examined relevant papers and documents submitted by both the parties. The applicant had availed of a debit card facility linked to his account . On 03.08.2018 the applicant received a massage on his registered mobile number stating that a debit transaction has occurred of a sum of Rs.1,99,007/- and said amount has been debited from his account and the disputed transaction had been made through online mode wherein customer visits the merchant website, by purchasing an item through online transaction from CARAT LANE TRADING PVT LTD (a subsidiary of Titan/Tanishq) using complainant's debit card details.</p> <p>The respondent bank claims OTP was not required for such types of transaction on 03.08.2018. As per RBI guidelines requires only confidential information such as Debit Card Number, Card Verification Value (CVV), expiry date and ATM Pin, These details were mandatory for effecting the said transactions.</p>	Inform all Concerned.

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As per their record, the said disputed transaction had been effected by ATM Pin with a second level authentication process for online transactions done through merchant website. The card holder is primarily responsible for the security of his/her ATM pin and the bank does not incur any financial liability arising out of the misuse thereof by an unauthorized persons.

RBI circular of 2009, submitted by Bank states Second level authentication is to be done through some information which is not available/printed on the card. It is clear that ATM pin is not printed on the debit card which is created by user and is supposed to be in personal possession of customer.

Sometimes referred to as multi-factor authentication or two-factor authentication, verification via OTP is an additional security layer to minimize the risk of digital frauds while using internet banking or other electronic payment method, as per RBI Rule. But this has been put in place by Bank since September 2019 only.

Moreover, it is clear from the log details submitted by the respondents ICICI Bank, that bank had sent SMS alerts at the Customers registered mobile number during the relevant time.

However, it is the fact that the ATM PIN is purely personal and privy to the customer and would not be known to anybody, unless compromised. After scrutiny and examination all papers submitted by the parties, it is safe to presume that the respondent Bank cannot be held responsible for causing wrongful loss or wrongful gain to the petitioner and not finding any negligence in implementing and maintaining reasonable security practices (as advised by RBI from time to time) and hence cannot be said to be guilty of failure to protect the sensitive personal data within the meaning U/S 43(a) Information Technology Act 2008.

Hence, the complainant has failed to establish his claim. The proceeding is thus disposed of.

Inform all concerned accordingly.


Adjudicating Officer
Govt. of West Bengal