

ORDER SHEET**(In respect of cases under I T Act,2000 as amended till date)****Ld.Adjudicating Officer,West Bengal.****Cyber Case No. 02/2023****Petitioner ; Smt,Itikana Sarkar Vs. Respondent: Union Bank of India & Ors .**

Sl. No. and Date of Order	Order and Signature of Officer	Note of action taken on Order
(01) 28/04/2023	<p>Mr. Bodhidipta Mandal, Ld. Advocate.</p> <p>.....for the petitioner/Complainant.</p> <p>The Manager,Union Bank of India.</p> <p>.....for the respondent No.1.</p>	
Dictated by me.	<p>The matter is fixed for physical hearing today at 12 noon.</p> <p>The Ld. Advocate of the petitioner is present .</p> <p>The Manager of Union Bank of India i.e Respondent No.1 has also appeared and submitted a record of Account Log details. This is kept on record. Let copy of the same be served to the petitioner Advocate.</p> <p>No representatives of the Respondent No.2 is present.</p> <p>It is directed to petitioner to submit reply, if any, on the report filed by the Respondent No.1.</p> <p>Let notice be issue to the remaining Respondents in this matter.</p> <p>The reply can be filed through email-lawofficer.ite-wb@gov.in</p>	
Adjudicating Officer.	<p>Hence, the matter is fixed on 24.05.2023 for hearing and order. Such hearing would be held through VC and as law officer will please ensure that VC link is sent in advance to all concerned.</p> <p>Inform all concerned accordingly.</p> <p></p> <p>Adjudicating Officer Govt. of West Bengal</p>	Inform all Concerned.



ORDER SHEET

(In respect of cases under I T Act,2000 as amended till date)

Ld.Adjudicating Officer,West Bengal.

Cyber Case No. 02/2023

Petitioner ; Smt.Itikana Sarkar Vs. Respondent: Union Bank of India & Ors .

Sl. No. and Date of Order	Order and Signature of Officer	Note of action taken on Order
(02) 24/05/2023	<p>Mr. Bodhidipta Mandal, Ld. Advocate.for the petitioner/Complainant.</p> <p>The Manager,Union Bank of India.for the respondent No.1.</p>	
Dictated by me.	<p>The Phonepe Pvt.Ltd.for the respondent No.2.</p> <p>The matter was fixed for hearing through VC today at 03:00 pm.</p> <p>The Ld. Advocate of Petitioner and the Respondent no. 2 was present.</p> <p>No one was present from the side of the Respondent no. 1. The Ld Advocate of petitioner prayed for an adjournment on account of the fact that presently he is out of Kolkata and requests for a date after 1st June.</p> <p>The Ld. Advocate of the petitioner from Phonepe Pvt Ltd., Respondent no. 2 stated that they have not been supplied with the relevant documents. Law Officer to provide all documents taken on record to the Respondent no. 2.</p> <p>The reply, if any, can be filed through email-lawofficer.ite-wb@gov.in</p> <p>Hence, the matter is now fixed on 14.06.2023 for hearing and order. Such hearing would be held through VC and as Law Officer will please ensure that VC link is sent in advance to all concerned.</p> <p>Inform all concerned accordingly.</p>	Inform all Concerned.
Adjudicating Officer.	<p style="text-align: right;"></p> <p style="text-align: right;">Adjudicating Officer Govt. of West Bengal</p>	

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Ld.Adjudicating Officer,West Bengal.

Cyber Case No. 02/2023

Petitioner ; Smt,Itikana Sarkar Vs. Respondent: Union Bank of India & Ors .

Sl. No. and Date of Order	Order and Signature of Officer	Note of action taken on Order
(03) 14/06/2023 Dictated by me. Adjudicating Officer.	<p>Mr. Bodhidipta Mandal, Ld. Advocate.</p> <p>.....for the petitioner/Complainant.</p> <p>The Manager,Union Bank of India.</p> <p>.....for the respondent No.1.</p> <p>The Phonepe Pvt.Ltd.</p> <p>.....for the respondent No.2.</p> <p>The matter is fixed for hearing through VC today at 3 pm .</p> <p>The Ld. Advocate of the petitioner is present .</p> <p>Representative of the respondent No.1 is absent.</p> <p>Representative of the respondent No.2 is present</p> <p>The Ld. Advocate of the petitioner has submitted a written argument in support of his claim through e-mail. This is kept on record. Let this be shared with respondents.</p> <p>Having consideration to the submission ,the respondent No.1 is hereby directed to provide a reply on the written argument filed by the petitioner, positively within the next date of hearing ,failing which matter will be heard Ex-Party.</p> <p>Respondent No.2 is directed to also submit a reply on the point concerning phonepe only alongwith documents, if any before the next date of hearing.</p> <p>The reply can be filed through email-lawofficer.ite-wb@gov.in</p>	Inform all Concerned

Hence, the matter is fixed on 28.06.2023 for hearing and order. Such hearing would be held through VC and as law officer will please ensure that VC link is sent in advance to all concerned.

Inform all concerned accordingly.



**Adjudicating Officer
Govt. of West Bengal**

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Sl. No. and Date of Order	Order and Signature of Officer	Note of action taken on Order
<p>(04) 28/06/2023</p> <p>Dictated by me.</p> <p>Adjudicating Officer.</p>	<p>Mr. Bodhidipta Mandal, Ld. Advocate.for the petitioner/Complainant.</p> <p>The Manager,Union Bank of India.for the respondent No.1.</p> <p>The Phonepe Pvt.Ltd.for the respondent No.2.</p> <p>The matter was fixed for hearing through VC today rescheduled at 1:15 P M which was purposed to be done at 12:45 PM.</p> <p>The Ld. Advocate of the petitioner is present . Representative of the respondent No.1 is absent. Representative of the respondent No.2 is present</p> <p>The respondent No.1 is hereby again directed to provide a reply on the written argument filed by the petitioner, positively within the next date of hearing ,failing which matter will be heard Ex-Party.</p> <p>The Respondent No.2 is again directed to submit a reply on the point concerning phonepe only alongwith documents, if any before the next date of hearing.</p> <p>The reply can be filed through email-lawofficer.ite-wb@gov.in</p> <p>Hence, the matter is fixed on 11.07.2023 for hearing and order. Such hearing would be held through VC and law officer will please ensure that VC link is sent in advance to all concerned.</p> <p>Inform all concerned accordingly.</p>	Inform all Concerned



Adjudicating Officer
Govt. of West Bengal

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(In respect of cases under I T Act,2000 as amended till date)

Ld.Adjudicating Officer,West Bengal.

Cyber Case No. 02/2023

Petitioner ; Smt,Itikana Sarkar Vs. Respondent: Union Bank of India & Ors .

Sl. No. and Date of Order	Order and Signature of Officer	Note of action taken on Order
<p>(05) 11/07/2023 Dictated by me. Adjudicating Officer.</p>	<p>Mr. Bodhidipta Mandal, Ld. Advocate.for the petitioner/Complainant. The Manager,Union Bank of India.for the respondent No.1. The Phonepe Pvt.Ltd.for the respondent No.2. The Google India Digital Services Pvt. Ltd.for the respondent No.3. The matter was fixed for hearing through VC today rescheduled at 3:15 P M The Ld. Advocate of the petitioner is present . No representatives of the respondents are present . As per earlier Order the Respondent No.2 has submitted a reply through mail on 28.06.2023 . This is kept on record. The Advocate of the petitioner has to file an additional explanation (covering legal points too),outlining why his petitioner's loss is due to 'failure to protect data' by the respondents ,which has remedial action U/S 43(a) of IT Act,2000 and under the jurisdiction of Ld. Adjudicating Officer, Govt. of West Bengal . This is also kept on record. However, before passing any final order ,I am inclined to give additional opportunity especially to respondents No.1 & No.3 as last chance to make written submission by 25th July 2023, as they have failed to appear in spite of several notices.</p>	Inform all Concerned Cont.P/2.

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This is the last chance for all the parties to make and to file written submission ,if any.

The reply can be filed through email-lawofficer.ite-wb@gov.in

Hence, the matter is fixed on 25.07.2023 for hearing and order. Such hearing would be held through VC and as law officer will please ensure that VC link is sent in advance to all concerned.

Inform all concerned accordingly.

Adjudicating Officer
Govt. of West Bengal

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ORDER SHEET**(In respect of cases under I T Act,2000 as amended till date)****Ld.Adjudicating Officer,West Bengal.****Cyber Case No. 02/2023****Petitioner ; Smt,Itikana Sarkar Vs. Respondent: Union Bank of India & Ors .**

Sl. No. and Date of Order	Order and Signature of Officer	Note of action taken on Order
(06) 25/07/2023 Dictated by me.	<p>Mr. Bodhidipta Mandal, Ld. Advocate.for the petitioner/Complainant.</p> <p>The Manager,Union Bank of India.for the respondent No.1.</p> <p>The Phonepe Pvt.Ltd.for the respondent No.2.</p> <p>The Google India Digital Services Pvt. Ltd.for the respondent No.3.</p> <p>The matter was fixed for hearing through VC today scheduled at 3:15 P M. The Ld. Advocate of the petitioner sent a reply through e-mail on 24.07.2023 including a point "for the registration of U-Mobile application the Bank mandatorily sends a PIN (4 digit) through SMS to the registered mobile number of account holder but no such PIN has been send" .This is kept on records. Let this copy be shared with the respondents.</p> <p>The representatives respondent No.3 appeared today ,as they are also a added party in the instant petition file by the Complainant and prays for time to file a written objection . Prayer allowed.</p> <p>The representatives of the Bank i.e Respondent.1 physically attended and also prays for allowed time to furnish point wise reply before next date of hearing, prayer allowed . These are also to be share with the petitioner.</p>	
Adjudicating Officer.		Inform all Concerned
		Cont/P-2.

: 2 :

This is the last chance for all the parties to make and to file written submission ,if any, by 07.08.2023.

The reply can be filed through email-lawofficer.ite-wb@gov.in

Hence, the matter is fixed on 10.08.2023 for passing order. Such hearing would be held through VC and as law officer will please ensure that VC link is sent in advance to all concerned.

Inform all concerned accordingly.



Adjudicating Officer
Govt. of West Bengal

ORDER SHEET**(In respect of cases under I T Act,2000 as amended till date)****Ld.Adjudicating Officer,West Bengal.****Cyber Case No. 02/2023****Petitioner ; Smt,Itikana Sarkar Vs. Respondent: Union Bank of India & Ors .**

Sl. No. and Date of Order	Order and Signature of Officer	Note of action taken on Order
(07) 10/08/2023	<p>Mr. Bodhidipta Mandal, Ld. Advocate.for the petitioner/Complainant.</p> <p>The Manager,Union Bank of India.for the respondent No.1.</p> <p>The Phonepe Pvt.Ltd.for the respondent No.2.</p> <p>The Google India Digital Servicesfor the respondent No.3.</p> <p>The matter was fixed for hearing through VC today rescheduled at 3 pm. All the parties who were served notice were present in the said VC .As per earlier Order , Respondent No.1 & Respondent No.3 (in the instant petition) have submitted their replies through mail . This is being kept on record. Herd all of them at length. Order Reserved.</p>	
(08) 25/08/23	<p>In a nutshell, the complainant No.1 is the Savings A/C holder in Union Bank of India, Santoshpur Survey Park Branch and the Complainant No.2 maintains a Bank account with UCO Bank at Jadavpur Branch . Both complainants use the services of “Google India Digital Services Pvt. Ltd.”(Google pay) connected with Mobile No.8777572277 (Reliance Jio Infocomm Ltd.) as well as registered mobile number of the bank accounts. The Complainant No.2 being minor, her bank account was also linked with the said Mobile number, which was subsequently changed to 8585044439 . The Complainant No.1 was unable to update her bank’s passbook as she was completely bed ridden</p>	Inform all Concerned

<p>Dictated by me.</p> <p>Adjudicating Officer.</p>	<p>::2::</p> <p>due to some serious illness and when she updated her passbook on 29.06.2022, she noticed that multiple transactions had taken place from her account and total unauthorized transactions amounted Rs.2,19,225/- but the complaint did not receive any SMS or E-mail on her e-mail address for such unauthorized transactions. Instead, a deduction of Rs.17.70 rupees is reflecting on the passbook as SMS charges. Furthermore, during the same period Rs.40,628/- was also deducted from the account of Complainant No.2 but no SMS was ever received by the complainants on the aforesaid registered mobile number.</p> <p>During the hearing the Ld. Advocate of the petitioner raised an objection against the SMS/OTP log submitted by Bank on 28.04.2023 ,which did not reflected any 4 digit PIN being sent to the Complainant,which is mandatory for successful registration of U-Mobile application. in reply Bank (Res. No.1) denied all the allegations made by the Complainant and stated that the SMS Log consists of SMS alerts only; no confidential number is available in the SMS Log because such a number could be accessible to any person handling the records of the bank .This policy itself is a security measure ,and this information is encrypted in pursuance to the RBI Guideline.</p> <p>Further, the Bank (Res.No1)argued that the customer has not lost any amount from the bank due to fraudulent transaction through U-Mobile because the IMPS transactions done through such an app were reversed on 16.05.2022.Therefore, it is not true that such transactions have happened through the M-Mobile app (IMPS) .On the other hand, the SMS Log detail are system generated documents and categorically show that SMS was sent by the Bank after each and every withdrawal from the savings account for the said disputed transactions.</p>	
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Cont.P/3.

The respondent No.4 was directed to file a reply on this matter, In a reply they submitted that the disputed transactions ,as mentioned in the complaint ,had not been initiated through 'Phonepe'. Admittedly, the complainant is a user of 'Google Pay', so the said transactions have not been siphoned due to 'Phonepe'.

During this proceeding ,the Res.No.3 (Google Pay) has also denied each and every allegations made against them by the complainant and they also argues that all the transactions have been done through IMPS mode, which is not supported by 'Google Pay'. Thus, they could never have been transferred through this app, and the app itself does not, at any stage, handle the money involved. The money is transferred directly from payer's bank to the payee's account (Remitter Bank to Beneficiary Bank) .The' Google Pay' application only provides a digital payments platform that enables users to make and receive payments through UPI facilities. For this, they always encourage users to set a 'Google PIN' to access the app, and all the transactions on the App require authorization by the user by entering their UPI PIN. Moreover, Res No.3 is not even authorized to store a customer's payment sensitive data.

However, during hearing and considering the material on record, I find that "Union Bank of India" (i,e respondent No.1) sent every transaction details to the complainant's registered mobile number through SMS/OTP alerts. it is clear that the bank has followed the standard operating procedure by implementing and maintaining reasonable security practices, and there were no lapses played from the side of the respondent bank in respect of failure to protect the sensitive personal data .No violation of the provision U/S 43(a) of IT Act,2000 (as amended till date),can be made out against respondent bank.

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Penalties, compensation and adjudication are provided under Chapter IX of IT Act,2000 and these are limited to commission/omissions under this chapter only as described in detail under sections 43,43A,44,45 of IT ACT,2000 (as amended till date).

Not sufficient evidence was placed on record to show that the action/inaction of either of respondents No.1 ,2 &3 attracts sections 43, 43A, 44, 45 of IT. Hence no relief can be provided to the complainant under Chapter IX of IT Act, 2000 (as amended till date).

Accordingly the petition is dismissed without any order as to costs.

Inform all concerned accordingly.


Adjudicating Officer
Govt. of West Bengal