

Order Sheet

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

Ld. Adjudicating Officer, West Bengal.

Cyber Case No. 03/20201.

Mr. Harish Chopra vs Punjab National Bank & Ors.

Sl. No. and Date of Order	Order and Signature of Officer	Note of action taken on Order
(8) 20/09/2021	<p>The matter is fixed for hearing on today through VC.</p> <p>The Ld. Advocate of the respondents Bank prays for adjournment the case today and allow at least more fifteen days so as to submit reply as per the last order sheet dated 02.09.21. Ld. Advocate of petitioner opposes further time.</p> <p>Prayer of Ld. Advocate for respondent allowed, as a last chance and directed to submit reply as per order sheet 2.9.21. No response from the side of respondent bank, will be interpreted as the bank has nothing more to add to submissions and documents on record. Copies of such reply be also served to Ld. Advocate of the petitioner.</p> <p>The Ld. Advocate of the petitioner has provided the details of actual loss suffered by the petitioner due to such incidents. Taken on record. Ld. Advocate of petitioner would share copy of the same with Ld. Lawyer of the Bank.</p> <p>A copy of such reply can be filed through email-lawofficer.ite-wb@gov.in.</p> <p>Hence, the matter is fixed 05.10.2021 for final hearing and orders. As usual, law officer will please ensure that VC link is sent in advance to all concerned. Inform all concerned accordingly.</p> <p style="text-align: right;"> Adjudicating Officer Govt. of West Bengal </p>	
Dictated by me.		
Adjudicating Officer.		Inform all Concerned.


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Ld.Adjudicating Officer,West Bengal.

Cyber Case No. 03/20201.

Mr. Harish Chopra Vs. Punjab National 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>The Ld.Advocate of the respondents Bank has not appeared despite several intimations and has not even produced any documents in supports of evidence or reason, why the OTP for registering fake or fraudster beneficiaries was sent to +919917453157, while 4 RTGS SMS alerts were sent to registered mobile number of applicant+919830042533 , when transaction got completed.</p> <p>In view of the continued absence of the Ld.Advocate of Respondent Bank, it is clear that respondent Bank seems to have nothing more to add.</p> <p>I am inclined to give them time till 26.10.2021 as last chance for citing reason as to why SMS were not sent to the customer registered mobile number. Moreover Bank's server were mal functioning (not capturing the IP) between 07.11.2015 to 28.12.2015 by their own admission. Incident also happened during this time ie 24.12.2015. In fact Bank noticed the problem with their server only after incident was reported by the petitioner.</p> <p>The Ld.Advocate of the petitioner has submitted a paper showing loss of petitioner, hereby directed to respondent Bank to submits on its comments on the same by 26.10.2021</p> <p>The reply can be filed through email-lawofficer.ite-wb@gov.in</p> <p>Hence, the matter is fixed on 01.11.2021 for hearing and order and 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 style="text-align: center;">  Adjudicating Officer Govt. of West Bengal </p>	Inform all Concerned.

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Ld.Adjudicating Officer, West Bengal.
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Mr. Harish Chopra Vs. Punjab National Bank & Ors.


Sl. No. and Date of Order	Order and Signature of Officer	Note of action taken on Order
<p>(10) 01/11/2021</p> <p>Dictated by me.</p> <p>Adjudicating Officer.</p>	<p>The matter is fixed for hearing on today through VC.</p> <p>The Ld.Advocate of the respondents Bank is praying for adjournment of case today, for filing required information before this Court as per last order dated 07.11.2021.</p> <p>Defense asks for further time and submits no further time would be sought hereafter.</p> <p>The respondents Bank is also advised to submit their reply, on the claims made by the petitioner, which have been duly shared with petitioners Advocate.</p> <p>No submission would be taken as defense has nothing to say about the various claims made by the petitioner.</p> <p>The reply can be filed through email-lawofficer.ite-wb@gov.in</p> <p>Hence, the matter is fixed on 07.12.2021 for hearing and order and 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 style="text-align: center;">  Adjudicating Officer Govt. of West Bengal </p>	<p>Inform all Concerned.</p>

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

Ld. Adjudicating Officer, West Bengal.

Cyber Case No. 03/20201.

Mr. Harish Chopra Vs. Punjab National Bank & Ors.

Sl. No. and Date of Order	Order and Signature of Officer	Note of action taken on Order
<p>(11) 14/12/2021</p> <p>Dictated by me.</p> <p>Adjudicating Officer.</p>	<p>The matter is fixed for hearing on today through VC.</p> <p>The Ld. Advocate of the petitioner appeared on VC and the Advocate of the respondent Bank has failed to file point wise defense and reply of the claim as promised by him through his earlier mail dt. 07.12.2021 . According to him reason for this delay is client's instructions which he is awaiting.</p> <p>However he makes submissions from the side of the respondents Bank where he claims that such transaction was done with maintaining all banking norms and regulation. However he is unable to give any satisfactory explanation for the Bank's admitted position of their server not working properly during the period of fraudulent activity.</p> <p>As such, the respondent bank hereby directed, as a last chance, to submit a satisfactory reply in support of evidence by 21.12.2021. No submission would be taken as defense has nothing to say about the various claims made by the petitioner.</p> <p>The reply can be filed through email-lawofficer.ite-wb@gov.in .</p> <p>Hence, the matter is fixed on 21.12.2021 for hearing and order and 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 style="text-align: right;">  Adjudicating Officer Govt. of West Bengal </p>	<p>Inform all Concerned.</p>


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Cyber Case No. 03/20201.

Mr. Harish Chopra Vs. Punjab National Bank & Ors.

Sl. No. and Date of Order	Order and Signature of Officer	Note of action taken on Order
<p>(12) 21/12/2021</p> <p>Dictated by me.</p> <p>Adjudicating Officer.</p>	<p>The matter is fixed for hearing on today through VC.</p> <p>The Ld. Advocate of the petitioner appeared on VC and the Advocate of the respondent Bank is also present on VC today.</p> <p>Heard them at length. The Final Order is reserved.</p> <p>Inform all concerned accordingly</p> <div style="text-align: right;">  Adjudication Officer Govt. of West Bengal </div>	<p>Inform all concerned .</p>

ORDER SHEET

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

Ld.Adjudicatin Officer, West Bengal.

Cyber Case No. 03/20201.

Mr. Harish Chopra Vs. Punjab National Bank & Ors.

Sl. No. and Date of Order	Order and Signature of Officer	Note of action taken on Order
(13) 28/12/2021	<p>The grievance of the complainant is that on 23.12.2015 four consecutive RTGS transactions of Rs.5 Lakhs (Rupees Five Lakhs) each, adding up to a cumulative sum of Rs.20 Lakhs (Rupees Twenty Lakhs) was done from the complainants account of respondent bank and for that transaction no OTP was received by the complainant in his registered mobile number+919830042533 and there were intimations regarding the 1st &3rd transactions of RTGS on his Bank Registered Mobile Number only at 3.18 pm &3.49pm respectively on the date of occurrence but remaining two RTGS transactions were not notified in his mobile number.</p> <p>Further it appears from the record produced by the complainant that a FIR was lodged by the complainant to the Bidhan Nagar Cyber Crime Police Station having No. 02/2016,u/s 419,420,120(B) IPC .Subsequently after completion of the investigation, the investigation authority filed a FRT in the month of July,2018.</p> <p>On examination of relevant papers and documents submitted, it is an admitted fact by both the parties, that the said account of the complainant ,was a cash credit bank account in the Oriental Bank of Commerce, Kankurgachi Branch (now known as PNB) and the complainant herein had available net banking facilities of the particular account of the respondents Bank for various online payments due to business purpose etc and also appears from the available annexure submitted by them that the said huge amount of money was unlawfully transacted into the account of four State Bank of India account holders. Police investigation also concurs with the same. However the point of dispute is the reason leading to such fraudulent withdrawl. Did some private information got shared mistakenly or otherwise by the complainant or there was deficiency on the part of the bank which led to such fraudulent transactions.</p> <p>Cont/P-2.</p>	

Further, It is revealed from the available documents submitted by the parties that the letter being No. SBI/332AKP/2016-17, out of four RTGS transactions, two transactions were able to stopped by the respondent bank. And also vide Letter No.CN/0905/Fraud/2019-20 dt.29.01.2020 the respondent Bank made a request to the Brach Manager, State Bank of India, Sultana Road, Bhopal to transfer the said stopped transactions amount of Rs.10,00,000/-only to the complainant s account ,which has been lying in their branch in the under noted account.

The Ld. Advocate of the respondent Bank has submitted a “Written Notes On Argument” along with a letter Vide No.PNB/NMT/Legal/Case No.03/2021-22 dt.23.12.2021 in support of an Argument, in which they argued that the mobile number+919830042533 has been registered as RNM in the account and all SMS alerts and OTPs of addition of beneficiaries and approval of transactions have been originated on the RNM only and not in any other number from the bank. The RMN has never been changed in the system as per their records. The said respondent Bank argued further that in this matter working of server was not any cause of security lapse, the technical problems was temporarily only, regarding capture of IP address for the time being. This technicality is no way connected with the originating massages to the registered RNM of the customer and lastly claims that there might be compromised in security of USER ID /Net Banking Sign in Password/Net banking Transactions Password and security of the mobile phone of the customer, which caused such transactions by fraudster.

The respondent bank, in their submissions,also claims that such transactions were done with maintaining all Banking norms and regulations but unable to give any satisfactory explanation or evidence, why the OTP for registering fake or fraudster beneficiaries was send to the number +919917453157,while 4 RTGS SMS alert were sent to customer’s registered mobile number +919830042533,when transactions got completed . All 4 beneficiaries were registered by sending OTP on +919917453157 and not through registered mobile number +919830042533 of the petitioner, as per police final report.

On other hand ,the Bank investigation officer also indicates issue with the newly installed server of the Bank, which was not capturing customers IP address during the relevant time (i.e from 07.11.2015 to 28.12.2015) by their own admission and it was an operational fault in the system of respondent bank during said relevant time. It appears from Bank's letter that such fault was corrected after this incident was reported by the complainant.

There is clear inconsistency in the 'facts' presented by the respondent bank; They have given different 'facts' at different places in the available documents produced by them. Sometimes they say that "IP logs of actual IP address from 07.11.2015 to 28.12.2015 are not available due to mal-functioning of system" and again in the written notes of arguments that the technical problems was temporarily only, regarding capture of IP address for the time being and this technicality is no way connected with the originating messages to the registered RNM of the customer.

It is clear from the police investigation final report that the Bank failed to provide online banking IP details due to fault in their system and the OTPs were delivered to the mobile number +919917455157 for those transactions and it has concluded FIR to be true, hence ruling out any kind of ill motive on the part of complainant.

In view of the observation, it is clear that the respondent bank's security system was not fully functional on the date of the incident. Although Bank claims that this admitted fault is in no way connected with registration of beneficiary through mobile number +919917455157, yet they are unable to provide any data or possible explanation that as to why +919917455157 was used for registration of beneficiaries and not the registered mobile number of the petitioner. Based on all the materials submitted and arguments made , in my considered view, there is clear deficiency in the security system of the Bank and it can be inferred that Bank has failed to protect the sensitive personal data of the complainant by negligence in implementing and maintaining reasonable security practices and violated the provision U/S 43(a) Information Technology Act 2000,thereby causes wrongfully loss or wrongfully gain to the third parties .

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Hence, the respondent Bank is liable within the meaning U/S 43(a) IT Act, 2000 as they did not have require security system in place at the time of fraudulent transaction of Rs. 20,00,000/- (twenty lakhs)only of the complaint.

Adjudicating
Officer.

The Matter is disposed off with the direction upon Punjab National Bank that "No interest will count over 20 lacks by the respondent Bank on said cash credit loan account of the complainant, will effect from this date of order and the money that has been collected till the date as a interest from the said account of the complainant ,will be returned to the complainant's account by the respondent bank forthwith after calculation of the interest till the date". A penalty of Rs forty thousand shall also be payable by the Bank to the petitioner. Also Rs 10 Lakh which are held at SBI be returned to OBC Bank (now PNB Bank) .

The proceeding is thus disposed of.
Inform all concerned accordingly.

Inform all
Concerned.


Adjudicating Officer
Govt. of West Bengal