

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11423 of 2015

Surendra Nath Pandey son of Late Mahadeo Pandey resident of village Jhilwania, P.S. Kateya, District Gopalganj.

... ... Petitioner/s

Versus

1. The State Bank Of India having its head quarter at Nariman Point, Mumbai, through its Chairperson.
2. The State Bank of India, Hathua Branch, District Gopalganj through its Branch Manager.
3. The Branch Manager, State Bank of India, Hathua Branch, District Gopalganj.
4. The Reserve Bank of India, Fort, Mumbai null null
5. The Reserve Bank of India, Regional Office, South Gandhi Maida, Patna, through its Regional Manager
6. Indian Railway Catering and Tourism Corporation, 9th Floor, Bank of Baroda Building, 6 Parliament Street, New Dlehi 110001, through its Managing Director
7. The Managing Director, Indian Railway Catering and Tourism Corporation, 9th Floor Bank of Baroda Building 6 Parliament Street, New Dlehi 110001,

... ... Respondent/s

Appearance :

For the Petitioner/s : Mr. Alok Kumar @ Alok Kr Shahi, Advocate
For the Respondent Bank: Mr. Rakesh Kumar Singh, Advocate
For the Respondent IRCTC: M/s R.K.Agrawal,
Sanjeev Kumar, Advocates

CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY
ORAL JUDGMENT
Date : 10-01-2025

1. The petitioner has filed the Writ application
for the following reliefs:

(a) For issaunce of Writ in the nature of mandamus directing the respondents particularly Respondent Nos. 1 to 3 to credit the amount of Rs. 11,28,283/- with interest in the Savings Bank Account of the petitioner



which has been illegally withdrawn from the same without any authorization from the petitioner.”

2. The brief facts culled out of the Writ petition are that the petitioner was maintaining a Savings Bank Account No. 11453719697 in the Hathua Branch, State Bank of India, Gopalganj. The Petitioner visited the Branch for updating his Pass Book and discovered that Rs. 11,28,283/- had been illegally withdrawn from his account and credited to the account of IRCTC on different dates between 30.04.2015 to 22.06.2015. It is submitted by the petitioner that he had not authorized any such transactions and had not given any instruction to the Bank to transfer his money to IRCTC. Thereafter, the petitioner approached the Branch Manager of the Bank and asked him about the unauthorized debits from his account, but the Branch Manager expressed ignorance and helplessness in the matter. Subsequently, the petitioner filed a report before Hathua P.S. Case No. 106 of 2015 reporting the aforesaid fraud. It is further



submitted by the petitioner that he addressed letters to the RBI and the IRCTC regarding the fraud. The IRCTC sent a mail that they had provided the details of the disputed transactions to the Bank. The petitioner also addressed letter to the Chairperson, State Bank of India requesting for refund of the aforesaid amount.

3. The Learned counsel of the petitioner submits that the State Bank of India, has not taken any interest on the complaint made by the petitioner, hence the petitioner was constrained to approach this Court.

4. A counter affidavit was filed by the respondent, State Bank of India. It is averred in the counter affidavit that as per the Annexure-1 of the Writ application, about 295 transactions were made using the debit card of the petitioner over 53 days and the petitioner had also availed the facility of SMS alter on the Mobile number 9934402334 where SMS were sent during the said transactions, The petitioner had also used the ATM card for personal withdrawals apart from the transactions made to IRCTC. It is further submitted



that all the transactions described by the petitioner were not conducted from the Branch or any ATM centre of the State Bank of India. All the transactions were carried out from a personal computer using the debit card, which can only be used by the owner of the debit card, because at the time of booking of tickets on IRCTC website, the following details were requested to be entered:-

- i) Petitioner personal log in and personal password
- ii) ATM card no.
- iii) CVV No. which is mentioned back of the ATM card
- iv) Validity of period of ATM card
- v) At the time of final payment one-time password (OTP) was send by the IRCTC (OTP) to the registered mobile number which was registered with the account of the petitioner, and after entering the same the transaction would be completed.

5. It is further averred in the counter



affidavit that approximately 293 transactions were made in about 53 days, and it is surprising that the petitioner had no knowledge of these transactions. It is further stated that Bank is unable to express any definite opinion because it has no definite knowledge or responsibility regarding the transactions made. Once the Bank had issued the ATM card, it becomes the responsibility of the individual/ petitioner to protect and maintain the secrecy of the ATM card. It is further stated that ATM card has already been blocked and the petitioner has also lodged an FIR bearing Hathua P.S Case No. 106/2015 dated 22.6.2015.

6. The Bank has also provided parawise reply. The respondent Bank has submitted that the prayer made is not maintainable because the respondent has nothing to do with who has purchased the ticket from IRCTC, and there is no involvement of the Bank beyond its usual course of business.

7. A counter affidavit was also filed on behalf of respondent Nos. 6 and 7 (IRCTC). It is averred



in the counter affidavit that the ticket booking processes requires the user to register itself with I.R.C.T.C. For registration a user name, a unique mobile number and an address are required. During registration an OTP i.e. verification code is sent to the mobile number mentioned in the registration form, however, address is not verified. Moreover, at the time of registration, bank details are not required and for the booking tickets after logging in with the user I.D, the user fills up the journey details in the form provided. After completion of the form, the system asks for the payment from the Bank, then authenticates for the bank details and provides clearance for booking the tickets. The Card number used for booking is not stored in I.R.C.T.C's Database. Hence, I.R.C.T.C is not aware of the card number through which the user makes the payment, while booking the e-ticket. It is further averred in the counter affidavit that as soon as the respondent (I.R.C.T.C) received the complaint from the petitioner having saving Bank account 11453719697 regarding the



unauthorized withdrawal of Rs. 11,28,283/- for booking e-ticket through IRCTC for 292 transactions, they thoroughly checked the details of all the transactions and sent the details to Bank through mail on 27th June, 2015. It is further contended that after receiving the complaint, all the associated IDs were deactivated. It is also contended that by the time they received the complaint, all the transactions and their respective dates of journey had already expired. The e-tickets mentioned in the application were booked using SBI- Debit Card bearing ATM Card No. 6220180294500007736, as confirmed by the concerned department of State Bank of India. Users are responsible for handling their debit cards for online transactions carefully. It is the issue between user and his card issuing bank. Therefore, IRCTC is nowhere involved in the transaction process.

8. A detailed reply to the counter affidavit was filed contending that when it has come to the knowledge of the petitioner that the fraudulent transaction was made in the respondent bank, the then



Branch Manager, Hathua, Mr. Naveen Prakash was posted in Madhubani district. After lodging F.I.R. Hathua P.S. case No. 106/15 dated 22.06.15, the cyber cell investigated the matter and identified one culprit Rahul Jha, who operated the IRCTC login user ID and ticketing through IRCTC, who also hail/belongs from Madubani District. It is a coincidence that creates a strong suspicion of involvement of the Bank Manger in connivance with Rahul Jha, who has been in custody since 16.09.2016, suggesting that entire fraud about transaction was carried out in connivance with the then Bank Manger. The then Bank Manger passed on the account information because he had the knowledge that the bank account was not operated by the petitioner for a long time. After retirement of the petitioner, the retiral benefit amount was transferred into this account and the petitioner had kept the amount for marriage of his two daughters and a son is near future, so that the petitioner never use the money and kept it for marriage purpose. It is also averred in the reply to counter affidavit that the



then Branch Manager, SBI, Hathua Branch, had already destroyed, deleted or altered the information residing in a computer resource thereby diminishing its value or utility or affecting injuriously. The Bank officials/ Bank shall be liable to pay damages by way of compensation not exceeding one crore rupees to the person, so affected as per section 43 of the information technology, Act 2008. It is very much clear and can be detected from the print out of the petitioner's account profile that a wrong entry was made by the bank recording Madhubani District in place of Gopalganj District, which is not given by the petitioner. Furthermore, the petitioner had never kept a landline phone nor provided a landline number to the S.B.I. Branch, Hathua. However, the landline number was mentioned in the account profile of petitioner which also creates further suspicion on the part of the then branch manager who alleged to have manipulated the account's profile of the petitioner since the account was very old and there was a long gap between the transaction by the petitioner.



The bank officials managed to destroy the identity, misuse the account profile and fraudulently conducted illegal transactions by disclosing the secrecy of the petitioner account.

9. Again, a counter affidavit was filed on behalf of the Bank. It is submitted in the counter affidavit that the Writ application is not maintainable, because an alternative remedy is available under the Information Act, 2000; Section 43-A deals with compensation for the failure to protect the data. It is further submitted that under section 46 (1), the Central Government issued a Notification No. GSR 240 (E) dated 25.3.2003, wherein the Secretary of the Department of Information Technology of each state appoint an adjudicating authority, for the purpose of the information Technology Act, 2000. In view of section 57 of the Act, there is a provision for an Appellate Tribunal, and anyone can approach the Tribunal against the order of adjudicating authority, for which the Government of India issued a notification dated



14.7.2017. It is further stated that against the order Appellate Tribunal, there is provision of Appeal before the High Court under section 62 of the Act.

10. Heard the Learned counsel for the petitioner as well as the respondents and perused the record.

11. The Learned counsel for the respondent Bank placed reliance on paragraph no. 18 of a judgment of the Hon'ble Apex Court reported in **AIR 1976 Supreme Court 386 (D.L.F. Housing Construction (P) Ltd. v. Delhi Municipal Corporation and others)** in which their Lordships have held as follows:

“18. In our opinion, in a case where the basic facts are disputed, and complicated questions of law and fact depending on evidence are involved the Writ court is not the proper forum for seeking relief. The right course of the High Court to follow was to dismiss the



Writ petition on this preliminary ground, without entering upon the merits of the case. In the absence of firm and adequate factual foundation, it was hazardous to embark upon a determination of the points involved. On this short ground while setting aside the findings of the High Court, we would dismiss both the Writ petition and the appeal with costs. The appellants may if so advised, seek their remedy by a regular suit. “

12. This Court is of the considered view that disputed and complicated questions of law and fact, depending on evidence cannot be decided in Writ Court. It is a matter of fact, which has to be decided by the original jurisdiction, not by the High Court.

13. The petitioner is at liberty to move / chose appropriate forum for the redressal of his grievance.

14. In result, the Writ petition is dismissed.



15. Interlocutory Application(s), if any,
shall stand disposed of.

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.02.2025
Transmission Date	

