GAHC010005782026

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# THE GAUHATI HIGH COURT
## (HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

**Case No. : WP(C)/258/2026**

RAKESH BISWAS
RO HAVILDAR, B BLOCK 136, NEAR 222 ABOD UNIT, SATGAON, SONAPUR SUB DISTRICT, KAMRUP M, 781027, PERMANENT R/O-AMBARPUR,NORTH 24 PARGANAS, MURIGHATA, WEST BENGAL 743251

VERSUS

RESERVE BANK OF INDIA (RBI)
18TH 22ND FLOOR, CENTRAL OFFICE BUILDING, SHAHID BHAGAT SINGH ROAD, FORT, MUMBAI 400001,INDIA

2:THE OMBUDSMAN
RBI CENTRALISED RECEIPT AND PROCESSING CENTRE CRPC
RESERVE BANK OF INDIA
4TH FLOOR
SECTOR 17
CHANDIGARH 160017
INDIA

3:SBI CARDS AND PAYMENT SERVICES LTD
DLF INFINITY TOWERS
TOWER C
12TH FLOOR
BLOCK 2
BUILDING 3
DLF CYBER CITY
GURGAON 122002
HARYANA
INDIA

4:ICICI BANK LIMITED
ICICI BANK TOWER

NEAR CHAKLI CIRCLE
OLD PADRA ROAD
VADODARA 390007
GUJARAT
INDI

**Advocate for the Petitioner** : , MS U DUARAH,MS. S NEWAR,MS M HAZARIKA

**Advocate for the Respondent** : ,

**BEFORE**
**HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

**ORDER**

**21.01.2026**

Heard Ms. M Hazarika, learned Senior Counsel, assisted by Ms. S. Newar, learned counsel for the petitioner.

The petitioner before this Court is an employee in the Indian Army and is currently posted in Narengi Cantonment, Kamrup(M). The petitioner is aggrieved that in spite of the complaints being lodged before the banks as well as appropriate authorities regarding a fraudulent transactions affecting his credit cards, the bank authorities are going to initiate coercive recovery including unauthorized auto-sweep deductions. The petitioner has 2 (two) credit cards, one SBI bearing No.4726428689017034 and one ICICI credit card bearing No.4035621674320001 respectively.

Both these cards were used by a fraudster unauthorisedly in the *Flipkart* website for carry out an unauthorised transactions to an amount of Rs.1,94,516/- (Rupees One Lakh Ninety-Four Thousand Five Hundred Sixteen Only). The petitioner filed complaints before the respondent Banks and subsequently, being aggrieved, he has also approached the Banking authorities as per the RBI guidelines. However, the complaint filed by the petitioner was rejected on the ground that there was no deficiency in service on the part of the Bank, and that the fraudulent activity occurred due to contributory negligence on the part of the petitioner also. Learned Senior counsel for the petitioner submits that the RBI had issued guidelines on Customer Protection- Limiting Liability of Customers in Unauthorized Electronic Banking Transactions by the Circular dated 06.07.2017, where in the Clause-VI of the said circular there is a zero liability of the customer in the cases of third party breach where the deficiency lies neither with the bank nor with the customer but lies elsewhere in the system. Learned Senior Counsel, therefore, submits that this order of the banking ombudsman is contrary to the RBI Circular, and in view of the fact that the ombudsman accepted there was fraudulent activity, relating to misuse of the credit cards, the petitioner is liable to be given the zero liability benefit as per the RBI Circular. Notwithstanding that the bank authorities have started deducting the amount shown to be credited, in respect of the credit cards, from the accounts maintained by the petitioner.

Under such circumstances, the learned Senior Counsel for the petitioner submits that adequate interim protection be granted, and the impugned order of the ombudsman dated 15.12.2025 and 17.12.2025 be interfered with, and suitable directions be also issued to the bank, absolving the petitioner from any liability for the fraudulent transactions carried out unauthorisedly in the credit cards allotted to the petitioner.

Having heard counsel for parties, issue Notice, returnable by 4 (four) weeks.

Mr. M. Sharma, learned Standing Counsel, ICICI, appears for the respondent no.4. Therefore, notices in respect of the respondent no.4 are waived. Extra copies be furnished to Mr. M Sharma within a period of 3 (three) working days from today.

Learned counsel for the petitioner shall take steps for service of notice on the respondents no.1, 2 & 3 by registered post with A/D. *Dasti* is also permitted, provided it is routed through the Registry of the High Court.

Let this matter be listed again 25.02.2026.

Till the next returnable date, no deductions shall be made in respect of the credit cards liability from the salary account of the writ petitioner, which is maintained in the SBI, West Bengal as well as from the ICICI Bank account of the petitioner.

**JUDGE**

**Comparing Assistant**