

GAHC010116252022



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

Case No. : WP(C)/4226/2022

GAUTAM KUMAR BHATTACHARJYA
SON OF SRI MUKHESWAR BHATTACHARJYA, RESIDENT OF 505 (C), 5TH
FLOOR, BINA ENCLAVE, SURVEY, GUWAHATI- 28, KAMRUP(M), ASSAM.

VERSUS

THE STATE BANK OF INDIA AND 2 ORS
REGISTERED OFFICE AT STATE BANK BHAVAN, MADAME CAMA ROAD,
NARIMAN POINT, MUMBAI- 400021, REPRESENTED BY ITS CHAIRMAN/
MANAGING DIRECTOR AT TURNER MORRISON BUILDING, G.N. VAIDYA
MARG, FORT, MUMBAI- 400023.

2:SBI CARDS AND PAYMENTS SERVICES PVT. LTD.

REGD. OFFICE- UNIT NO. 401 AND 402
4TH FLOOR
AGARWAL MILLENIUM TOWER
E
1
2
3
NETAJI SUBHAS PLACE
WAZIRPUR
NEW DELHI- 110034. REPRESENTED BY SRI NARESH ARORA
(AUTHORISED SIGNATORY).

3:M/S TRANS UNION CIBIL LTD
(FORMERLY - CREDIT INFORMATION BUREAU (INDIA) LIMITED
ONE INDIABULLS CENTRE
TOWER 2A
19TH FLOOR
SENAPATI BAPAT MARG

ELPHINSTONE ROAD
MUMBAI- 400013
REPRESENTED BY ITS CHAIRMAN/ PRESIDENT/ CHIEF EXECUTIVE
OFFICER

Advocate for the Petitioner : MR. B K BHATTACHARJEE, A TALUKDAR, MR G G
GOGOI, MR. P BOIRAGI, MS. P SAHA

Advocate for the Respondent : MR. K K DEY (r-1), MR V K BAROOAH (r-1)

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

24.02.2026

Heard Shri G. G. Gogoi, learned counsel for the petitioner. Also heard Shri K. K. Dey, learned counsel for the respondent no. 1-SBI. Though the respondent nos. 2 & 3 have been served, they have chosen not to contest this proceeding.

2. The instant writ petition has been filed with the following prayer:

“It is therefore humbly prayed that Your Lordships may be pleased to consider the facts and circumstances of the case, admit this application and issue a Rule calling upon the Respondents to show cause as to why an appropriate Writ, order or direction shall not be issued setting aside and quash the false claim (Annexure - D series) of the Respondents for the amount purportedly accrued due to availing credit facilities under the SBT cards and Payment Services Ltd. further directing the Respondents to consider the case of the petitioner for a home loan or as to why such further order or orders shall not be passed as to this Hon'ble court may deem fit and proper.

AND

Pending disposal of the Rule Your Lordships may graciously be pleased to direct the Respondents to consider the case of the petitioner for a home loan.

AND

Pass such other order or orders as to this court may deem fit and proper. And for this act of kindness the petitioner as in duty bound shall ever pray.”

3. As per the facts projected, the petitioner was issued a Credit Card, the

facility of which he had availed during the period 2006-08. It is averred that the last transaction was made on 07.06.2008 when the petitioner had made a payment of Rs.36,000/-. It is the case of the petitioner that thereafter there was no use of the Credit Card. However, after a period of almost a decade, the respondent no. 2 had raised a claim of Rs.68,310.65 on the ground of allegedly availing the Credit Card facility. The stand of the petitioner is that there being no use of Credit Card, such demand was unlawful.

4. Shri Gogoi, the learned counsel for the petitioner has submitted that on 24.02.2018, the subject matter was taken up in a pre-litigation in which however the respondent nos. 2 & 3 could not succeed. Thereafter, an arbitration proceeding was initiated at Delhi which resulted in an *ex-parte* Award dated 01.06.2018 against the petitioner. The said Award was put to challenge by the petitioner by filing an application under Section 34 of the ***Arbitration and Conciliation Act, 1996*** before the District Judge, Kamrup (M) and vide judgment and order dated 07.09.2019, the Award has been set aside. The existing grievance of the petitioner is with regard to the action of the respondents in denying him a home loan. It is the apprehension of the petitioner that taking the past background and on account of inadequate CIBIL score, such loan has been declined.

5. Shri Dey, the learned counsel for the SBI has however submitted that with regard to the demand of Rs.68,310.65, the same was made by the respondent nos. 2 & 3 and not by his client. He has fairly informed that the SBI has certain shares in the respondent nos. 2 & 3 but the said respondent nos. 2 & 3 are separate companies and take independent decision.

6. Shri Dey, the learned counsel has however submitted that a direction may be granted for due consideration of the application of the petitioner for home

loan. He has also submitted that on the factual aspect culminating in the setting aside of the Award vide order dated 07.09.2019, there is no dispute.

7. Though the relief claimed in this petition has two segments, this Court is of the view that so far as the demand of Rs.68,310.65 is concerned, the said dispute has attained finality vide the judgment dated 07.09.2019 whereby the Arbitration Award was set aside. There is nothing on record to show that there was any further appeal by the respondents. In that view of the matter, this Court is of the view that there should not be any impediment in consideration of the application for grant of home loan to the petitioner.

8. Accordingly, this writ petition is allowed by directing the respondent no. 1- State Bank of India to duly consider the application of the petitioner for grant of home loan and while doing so, the State Bank is not to be influenced by any means with the aspect of the demand made by the respondent nos. 2 & 3 which has been set aside by a competent Court.

9. Writ petition accordingly stands allowed in the manner indicated above.

10. No order as to cost.

JUDGE

Comparing Assistant