(2006) 11 NCDRC CK 0001

In the National Consumer Disputes Redressal Commission

ATUL NANDA APPELLANT

Vs

RESERVE BANK OF INDIA RESPONDENT

Date of Decision : 09-11-2006

Acts Referred:

Citation : 2006 0 NCDRC 5 : 2007 1 CPJ 14

Hon'ble Judges : M.B.SHAH , RAJYALAKSHMI RAO J.

Advocate : ATUL NANDA , RAMEEZA HAKEEM , ANJANEYA MISHRA , AMIT ANAND TIWARI , AMRENDRA SHARAN , S.L.GUPTA , SUMAN TRIPATHY , RAMA ARORA , P.B.AGARWAL , PRAVEENA GAUTAM , PRADEEP DEWAN , RAJIV SAMAIYAR , ROHIT MADAN , S.SUNITA , ARVIND WISHWABANDHU , BISHWAJIT BHATT

Judgement

1. HEARD the learned counsel for the parties. Learned counsel, Mr.Amit S. Chadha, appearing on behalf of O.P. No.86 (J.P. Morgan Chase Bank) submits that O.P. No.86 is not carrying out any retail banking business. He, therefore, submits that there was no necessity of joining O.P. No.86 as a party respondent. Considering the aforesaid submission, application for deleting O.P. No.86 is granted.

2. IT is the contention of the complainant that despite the various Committee Reports, appropriate action is not taken by the Reserve Bank of India (RBI) with regard to recommendation for introduction of policy to curtail Banks" enjoyment of float funds. Relevant part of the same is as under: "Need for introduction of policies to curtail bank"s enjoyment of float: The need for passing the interest benefits to payees on their cheque proceeds once the payee"s bank (and not payees" account) receives credit from the drawee bank is of significant consequence. No passing of such interest benefits to the customers allows the banks to enjoy float and leads to undue enrichment of banks at the cost of their customers. Presently, as per data available (See Appendix C), in one year nearly 13,000 lakh cheques are cleared attributing to a total amount of more than Rs.1,13,37,000 crores. Giving benefit of doubt to banks and considering that for at most 50% of the cheques banks are not enjoying any kind of float, it would

mean that on an average the banking sector enriches itself (at the cost of its customers) to the tune of at least one days interest on at least 56,68,500 crores. On this one-day"s interest, even at a conservative rate of interest of 4% per annum, amounts to more than Rs.621 crores. In fact the empirical study presented in Section 5 indicates that, on an average, the float enjoyed by banks is 4 and 6 days (while they take 11 and 16 days for collecting cheques) for metro and state capital respectively. For other centers it would be anybody"s guess what the float period could be! The totality of huge float being enjoyed by banks is actually an unaccounted credit taken from the depositors without their explicit consent. The vital question here is why are the banks being allowed to enjoy even one-day"s float?"

He further submitted that the vital question, why the Banks are being allowed to enjoy even one day"s float, is required to be answered by RBI. For this purpose, the complainant submits that RBI itself has issued circular dated 1.11.2004 to all the Scheduled Commercial Banks, wherein it is stated as under: "Adequate care also may be taken to ensure that the interests of the small depositors are fully protected. The policy framed in this regard should be integrated with the deposit policy formulated by the bank in line with the IBA"s model deposit policy. The policy should clearly lay down the liability of the banks by way of interest payments due to delays for non-compliance with the standards set by the banks themselves. Compensation by way of interest payment, where necessary, should be made without any claim from the customer."

3. THE complainant submits that this particular part is still not implemented by various Banks. As against this, learned counsel appearing on behalf of the Banks submit that at least 80 Banks have formulated their own policy and are following the same. They have produced a note issued by Indian Banks" Association (IBA) wherein it is contended that the data given by the complainant is incorrect. Prima facie, it appears that even though the Banks have formulated their own policy with regard to float fund, credit is not given to the payee immediately and the interest thereon is also not paid and, hence, the Banks enjoy the said fund without paying any interest. Considering the aforesaid aspect, Central Government and RBI are directed to state on affidavit as to what steps can be taken for minimizing the loss to the consumers because of the floating fund. Further, RBI should state on affidavit whether the Guidelines issued by it are properly implemented by the Banks by framing reasonable policies in conformity with the Guidelines.

4. SOME of the officers of different Banks, who are present in the Court submits that with regard to the local clearance of cheque, as soon as the cheque is presented/deposited for clearance with the Bank, credit is given but the funds are not allowed to be withdrawn till the amount is received by the Bank and, therefore, there is no loss of interest to the customer. Prima facie, it is apparent that this policy followed by some Banks is required to be uniformly adopted by rest of the Banks. Stand over to 5th December 2006 for further directions.

