

(2006) 07 CAL CK 0033
In the Calcutta High Court
Case No : Writ Petition No. 803 of 2006

Ganesh Agarwal

APPELLANT

Vs

Office of the Banking Ombudsman and Others

RESPONDENT

Date of Decision : 04-07-2006

Acts Referred:

Citation : (2006) 3 CALLT 661

Hon'ble Judges : Soumitra Pal, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Soumitra Pal, J.—In the writ petition the petitioner has challenged the intimation dated 9th June, 2006 passed by the Assistant General Manager in the office of the Banking Ombudsman, Kolkata, the respondent No. 3 whereby the complaint filed by the petitioner against the Citibank respondent No. 4, examined under the provisions of the Banking Ombudsman Scheme, 2006 was treated to be closed on the ground that no deficiency in the service of the bank could be established.

2. Learned advocate appearing on behalf of the petitioner submitted that since a complaint was lodged against the respondent No. 4, it was incumbent upon the respondent No. 3 to comply with the principles of natural justice by giving an opportunity of hearing to the petitioner. Since it was not done the order passed cannot be sustained.

3. Heard learned advocate appearing for the petitioner. In spite of service none appears for the respondents.

4. Before considering the matter it is appropriate to set out the relevant portion of the order impugned which is as under:

Office of the Banking Ombudsman

Reserve Bank of India Building (9th Floor)

15, Netaji Subhas Road, Kolkata - 700 001

Ref. BO (Kol.) No. 2005-06 June 09. 2006 Sri Ganesh Kr. Agarwal

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Dear Sir,

Your complaint against Citi Bank (Case No. 1195/05-06)

Please refer to your letter No. nil dated received on March 20, 2006.

The matter has been examined, in consultation with the bank, under the provisions of the Banking Ombudsman Scheme 2006 and it has been observed that?

No deficiency in the service of the bank has been established.

A copy of the bank's letter dated May 22, 2006 is enclosed. Accordingly, with the approval of the Hon'ble Banking Ombudsman, the matter has been treated as dealt with and closed. No further correspondence on the subject will be entertained.

Yours faithfully

Sd/-

(Manish Kr. Verma)

Asstt. General Manager.

Copy to Citi Bank, 41 Chowringhee Road, Kolkata-700071. Bank for information and necessary action.

5. An ombudsman is an official who investigates into the complaints of the citizens against tile companies or administration. In the instant case, the petitioner filed a complaint which was examined by the respondent No. 3 in consultation with the respondent No. 4 and since no deficiency in the service of the bank could be established, the matter was "closed" with the approval of the banking ombudsman. It appears from the order impugned and as correctly pointed out by the learned advocate for the petitioner, that it was passed without giving an opportunity of hearing to the petitioner. In my view, since there was a complaint, the petitioner should have been heard. Instead, the respondent No. 3 had examined the matter in consultation with the bank and came to a finding that "no deficiency in the service of the bank has been established." However, the order impugned does not reveal how deficiency of service could not be established since it is cryptic, non-speaking and devoid of any reason which is against the basic tenets of fair play and natural justice. Justice demands not only the right to be heard but also to be informed of the reasons since it may affect the rights of a citizen. Since the respondent No. 3 was supposed to act judiciously, his purported action in disposing of the complaint in consultation with

the bank cannot be supported and is deprecated. The action of the Banking Ombudsman, who has been given the task of investigating a complaint, in giving his approval to the said decision, is an example of total non-application of mind and, therefore, the intimation that "no further correspondence on the subject will be entertained" is arbitrary and harsh.

6. Hence, the order passed by the respondent No. 3 cannot be sustained and is, therefore, set aside and quashed. The respondent No. 3 is directed to re-examine the complaint after giving an opportunity of hearing to the petitioner.

The writ petition is, thus, allowed. No order as to costs.

All parties shall act on a signed xerox copy of this dictated order on the usual undertaking.