BEFORE THE HON’BLE DCDRF AT NEW DELHI

ORIGINAL JURISDICTION

C.C. No. \_\_\_\_\_\_\_\_\_\_/2016

**IN THE MATTER OF**

Mr Ganga Dhar Jena … Complainant

Versus

Bank of Baroda … Opposite Party

# PAPER BOOK

# (FOR INDEX PLEASE SEE INSIDE)

THROUGH

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FILED ON: \_\_\_.\_\_\_.2016

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# INDEX

|  |  |  |
| --- | --- | --- |
| **Sl. No.** | PARTICULARS | **PAGE(S)** |
|  | Memo of Parties |  |
|  | List of Dates |  |
|  | Consumer Complaint under Section 11(1) of the Consumer Protection Act, 1986. |  |
|  | **ANNEXURE 1**  True Copy of the letter dated 07.07.2015 issued by the Complainant. |  |
|  | **ANNEXURE 2**  True Copy of the letter dated 26.11.2015 issued by the Complainant. |  |
|  | **ANNEXURE 3**  True copy of the letter dated 23.12.2015 issued by the Complainant. |  |
|  | **ANNEXURE 4**  True Copy of the letter dated 19.04.2016 issued by the Complainant. |  |
|  | **ANNEXURE 5**  True copy of the legal notice dated 27.05.2016 issued by the advocate on behalf of the Complainant |  |
|  | Vakalatnama |  |

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**MEMO OF PARTIES**

**IN THE MATTER OF:**

1. Ganga Dhar Jena

S – 18 Greater Kailash

Part 1, New Delhi 110048

Tel: +9129230835

M: 9958667587

…Complainant

Versus

1. Bank of Baroda,

Through its Chief Manager

Having Head Office at

Suraj Plaza 1, Sayaji Ganj

Baroda - 390005

New Delhi.

…Opposite Party

THROUGH

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**IN THE MATTER OF**

Mr Ganga Dhar Jena … Complainant

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**LIST OF DATES**

|  |  |
| --- | --- |
| **Date** | **Particulars** |
| 23.03.2015 | OP received a letter from the Superintendent of Police (Crime Branch), Bhubaneshwar at its Regional Office located at Greater Kailash Part 1, based on which it froze the SB A/C No. 00960100005877 and FDR accounts of the Complainant. |
| 07.07.2015 | Complainant vide his first letter of request addressed to the Chief Manager of the OP brought to his attention that he was unable to operate his SB A/C No. 00960100005877 and eventually his Fixed Deposit account. |
| July 2015 to November 2015 | Complainant made repeated visits to OP’s said branch, also meeting the Chief Manager personally, which was of no avail to the Complainant. |
| 26.11.2015 | Complainant once again wrote to the Chief Manager, enclosing letter dated July 7, 2015 previously written by him to the OP, beseeching his immediate involvement in the matter so as to have the matter sorted out. Complainant also vide this letter intimated the Chief Manager of OP’s said branch about the *sms alerts* he had received from the OP saying that his SB A/c will become dormant / inactive in absence of any transaction. |
| 23.12.2015 | Pursuant to a tele-con in this regard, mention of which is found in his letter dated Dec 23, 2015, Complainant furnished a copy of his Voter’s ID as proof of identity to set the matter at rest. The Chief Manager agreed that the accounts of the Complainant have been wrongly frozen but the Regional Office, Delhi gave no positive response. |
| 19.04.2016 | Complainant once again wrote to the OP through its Dy. General Manager of its office at Sansad March, New Delhi describing to him his plight and requesting him to relieve him of the same. |
| 27.05.2016 | Complainant resorted to a legal notice upon having all his previous communication only ignored at the instance of the OP. |
| \_\_\_ August 2016 | Hence the instant Complaint. |

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**IN THE MATTER OF**

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**CONSUMER COMPLAINT UNDER SECTION 11 (1) OF THE CONSUMER PROTECTION ACT, 1986**

**MOST RESPECTFULLY SHOWETH:**

1. That the instant Complaint has been filed by the Complainant on account of the deficiency of service and unfair and restrictive trade practices adopted by the Opposite Party arising out of the freezing of the SB A/C No. 00960100005877 as well as the Fixed deposit account of the Complainant. The OP acted in the said manner on the basis of a letter received by them from the office of Superintendent of Police (Crime Branch), Bhubaneshwar according to which one Gayadhar Jena s/o Gangadhar Jena, Director of M/s Sarala Realcom Pvt. Ltd. had cheated the investors and there was a case pending against the company. The Complainant has been unnecessarily subjected to grave mental harassment for unnecessary reasons as he is neither a Director nor in anyway involved or connected with the Company and has been working with his present employer for the last 16 years in Delhi. The Complainant being a common man of limited means has suffered at the instance of the OP for the last one and half years despite innumerable letters issued by him to the OP which went completely ignored by the OP. The OP throughout has acted in a completely callous and negligent manner by paying no heed to the innumerable letters issued by the Complainant addressed to them and by failing to complete their obligations. That the acts of the OP shows complete and gross deficiency of service on their part due to which substantial loss has been caused to the Complainant as more particularly set out hereunder.

**PARTIES**

1. That the Complainant is a law abiding citizen of India. He is working as a domestic help with his present employer for the last 16 years.
2. The Opposite Party, Bank of Baroda, is a state-owned banking and financial services company constituted under The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and is involved in the business of banking.

**FACTS**

1. That the Complainant, who is working as a Domestic help with his present employer for the last 16 years, had opened up a SB A/C No. 00960100005877 and Fixed accounts with the OP.
2. On March 23, 2015, the OP received a letter from the Superintendent of Police (Crime Branch), Bhubaneshwar. According to the said letter, one Gayadhar Jena s/o Gangadhar Jena, Director of M/s Sarala Realcom Pvt. Ltd. had cheated the investors and there was a case pending against the company.
3. When the Complainant discovered that he was unable to operate his accounts, he enquired with the OP as to the reasons of his inability. As told to the Complainant, the OP acted on the said letter issued to them by the said Superintendent of Police and froze the SB A/C No. 00960100005877 and Fixed accounts of the complainant without giving him any prior notice / reason for acting in such negligent manner.
4. The Complainant brought the matter to the attention of OP’s Chief Manager at its branch at Greater Kailash Part 1 on July 7, 2015.
   1. True copy of the letter dated 07.07.2015 issued by the Complainant is annexed herewith as **ANNEXURE 1**.
5. The Complainant kept making visits repeatedly between July 2015 to November 2015 at OP’s branch. The Complainant even met the OP’s Chief Manager at said branch, but all this was of no avail to him.
6. To his great surprise and dismay, when the Complainant had received *sms alerts* from the OP saying that in absence of any transaction, complainant’s account will become dormant / inactive, the Complainant wrote a letter dated November 26, 2015 to the OP through its Chief Manager intimating him of his plight.
   1. True copy of the letter dated 26.11.2015 issued by the Complainant is annexed herewith as **ANNEXURE 2**.
7. Pursuant to a tele-con in this regard, mention of which is found in his letter dated Dec 23, 2015, Complainant furnished a copy of his Voter’s ID as proof of identity to set the matter at rest.
   1. True copy of the letter dated 23.12.2015 issued by the Complainant is annexed herewith as **ANNEXURE 3**.
8. Post aforementioned communication, the Chief Manager of the OP agreed that the accounts of the Complainant have been wrongly frozen and took up the matter strongly before OP’s regional office but the Regional Office, Delhi gave no positive response.
9. Thus, complainant once again wrote on April 19, 2016 to the OP through its Dy. General Manager of its regional office at Sansad March, New Delhi describing to him his plight and requesting him to relieve him of the same.
   1. True copy of the letter dated 19.04.2016 issued by the Complainant is annexed herewith as **ANNEXURE 4**.
10. Upon no redressal of his grievances for months, the Complainant resorted to sending a legal notice to the OP on May 27, 2016.
    1. True copy of the legal notice dated 27.05.2016 issued by the advocate on behalf of the Complainant is annexed herewith as **ANNEXURE 5**.
11. It is to be noted that the Complainant, who is a common man of limited means has been suffering gravely both financially as well as mentally because of his inability to operate his said accounts for the last one and a half years. And despite innumerable letters written by him to the OP as well as a legal notice sent by him to the OP, he has obtained no assistance from the OP and his accounts remain frozen till date, constraining the Complainant to move to the Hon’ble forum.
12. That in light of the above facts, the Complainant has approached this Hon’ble Forum for redressal of his grievances, which are continuing on a day to day basis on the following, amongst other Grounds. It is submitted that each of the following Grounds are raised in the alternative and without prejudice to the other:

**GROUNDS**

1. BECAUSE it is evident from the narration of facts as well as the Grounds set out above, that the Complainant has been making repeated visits and writing letters both to the Chief Manager of the Greater Kailash Branch as well as the Dy. General Manager of the Sansad Marg Regional Office but the OP has not taken a single step towards paying any heed to said letters written by the complainant, let alone settling the matter once and for all. The loss caused to the Complainant is not compensable in terms of money alone. It is submitted that the Complainant is entitled to seek directions from this Hon’ble Commission directing the OP to commit to the immediate resolution of the Said Accounts, and allow use of the Said Accounts to the Complainant immediately. It is submitted that the instant relief regarding seeking directions to the OP to immediately allow the Complainant to use and seek other benefits of the said Accounts, is a relief which ought to be granted to the Complainant, over and above the relief of compensation for the gross deficiency in service and unfair trade practices as employed by the OP, and which relief is explained in the grounds below.
2. BECAUSE, it is further relevant to note that the OP have employed unfair and restrictive trade practices and their conduct amounts to a deficiency in service given as it has without any consultation with the Complainant and without any understandable reason, displayed inordinate carelessness by having kept the saving bank accounts and fixed accounts of the Complaining with the OP. The Complainant has continuously writing to the OP through its Chief Manager but the OP has neither taken any step to resolve the grievances nor has it responded to the repeated queries/reminders raised by the Complainant, both oral as well as written.
3. BECAUSE the OP has employed unfair and restrictive trade practices and its conduct amounts to a deficiency in service as the above facts bring out that the OP has kept frozen the said Accounts that the Complainant has with the OP despite all assistance that the OP required /could have required from the Complainant such as, *inter alia*, furnishing, the copy of the voter’s ID card as proof of identity within no time.
4. BECAUSE the OP has employed unfair and restrictive trade practices and its conduct amounts to a deficiency in service as has caused monetary loss as well as grave mental agony and harassment by disallowing the Complainant of use and enjoyment of the said accounts for the last one and a half year.
5. BECAUSE the OP has employed unfair and restrictive trade practices and its conduct amounts to a deficiency in service as it has throughout not informed the Complainant regarding any update with respect of the resolution of the instant matter and nor has it responded appropriately to the repeated queries/reminders raised by the Complainant, both oral as well as written.
6. BECAUSE of all other grounds as evident from the narration of facts set out hereinabove.
7. BECAUSE of any other ground that may be raised with the permission of this Hon’ble Forum.

**CAUSE OF ACTION**

1. That the cause of action to institute the present complaint arose on the failure on part of the OP to allow the Complainant use and enjoyment of the said accounts by far. Since the accounts that the Complainant has with the OP have not been unfrozen till date, as such, the cause of action continues to arise on a day-to-day basis.

**JURISDICTION**

1. It is respectfully submitted that this Hon’ble Forum has the necessary jurisdiction to try the instant Complaint under S. 11 (1) of the Consumer Protection Act, 1986 inasmuch as the value of the goods and services does not exceed Rs. 20,00,000 (Rupees Twenty Lakh), and the relief claimed by the Complainant is not over Rs. 20,00,000 (Rupees Twenty Lakh).

**PRAYER**

Therefore, in light of the submissions hereinabove, the Complainant prays that this Hon’ble Forum may be pleased to –

1. Direct the OP to immediately take the necessary action to reverse its instruction towards freezing of the Complainant’s said bank account.
2. Direct the OP to furnish an unconditional apology for the obvious dereliction of duties by its organisation that has both financially prejudiced and mentally harassed the Complainant for over a year now.
3. Direct the OP to grant compensation to the Complainant to the tune of Rs. 50,000/- (Rupees Fifty Thousand only) for the monetary loss and mental agony caused by OP’s callously indifferent and unprofessional conduct.
4. Grant exemplary costs, including costs of litigation, in favour of the Complainants and against the OP;
5. Grant any other appropriate relief as this Hon’ble Commission may deem fit in the circumstances of this case, in the interest of justice.

**AND FOR THIS ACT OF KINDNESS THE COMPLAINANTS AS IN DUTY BOUND SHALL EVER PRAY.**

THROUGH

**ANIRUDH WADHWA, VIPUL KUMAR & ABHINANDAN BANERJEE**

**Wadhwa Law Chambers**

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