

Constitutional Writ
Present : The Hon'ble Mr Justice Jayanta Kumar Biswas
Judgment on : May 3, 2010
W.P.No.1277(W) of 2005
Somnath Bhattacharya
-vs-
Reserve Bank of India & Ors.

Point:

Scope of writ: Whether writ is maintainable against a private body-
Constitution of India Art. 226

Facts

The Manager, Recovery Department, Credit Card Section, Standard Chartered Bank in respect of unjustified claims with the three (3) Credit Cards bearing numbers –
4129 – 0380 – 8394 – 8354
4129 – 0473 – 8004 – 6747
5513 - 7883 – 8074 – 8304 and demanding for a payment for a sum of Rs.1,14,494.33 in the statement dated 22nd September, 2004 illegally arbitrarily, whimsically

Held:

The second respondent demanded payment in exercise of its pure private law contractual right. Questioning the action of the second respondent the petitioner is not entitled to the public law remedy under art.226. His remedy, if any, is before the civil court or the forum mentioned in the related agreements.

Para-5

Nonefor the petitioner

Mr. Amitava Mitra

Mr. Paritosh Sinha

Ms. Dolon Das Guptafor the second respondent

The Court : The petitioner in this art.226 petition dated January 20, 2005 is seeking the following principal relief:

“A writ in the nature of Mandamus do issue commanding the Respondents to rescind, recall and/or withdraw the impugned illegal, arbitrary actions of the Respondent No.2 in respect of unjustified claims with the three (3) Credit Cards bearing

numbers –

4129 – 0380 – 8394 – 8354

4129 – 0473 – 8004 – 6747

5513 - 7883 – 8074 – 8304 and demanding for a payment for a sum of Rs.1,14,494.33

in the statement dated 22nd September, 2004 illegally arbitrarily, whimsically and the

Respondent No.2 be restrained not to demand the said amount or any portion thereof till

this writ petition is finally disposed of and further commanding the Respondent No.2 to

consider the prayer made by the petitioner in accordance with law forthwith.”

2) The three respondents in the case are: (1) Reserve Bank of India, (2) The Manager, Recovery Department, Credit Card Section, Standard Chartered Bank and (3) Union of India.

3) The second respondent has filed an opposition contending that the petition seeking a mandamus against it, a private body, is not maintainable. It has stated that the Reserve Bank of India and the Union of India have been impleaded as parties only for maintaining the petition against it. No reply has been filed. It is evident that the first and third respondents are unnecessary parties. No relief has been sought against them.

4) The uncontroverted position is that the second respondent is a private body, as

such not amenable to the writ jurisdiction of this court. The second respondent called upon the petitioner to pay dues according to statement showing use of the credit cards. The thing has nothing to do with any public law right, duty or obligation of any party.

5) The second respondent demanded payment in exercise of its pure private law contractual right. I am, therefore, of the view that questioning the action of the second respondent the petitioner is not entitled to the public law remedy under art.226. His remedy, if any, is before the civil court or the forum mentioned in the related agreements.

For these reasons, the petition is dismissed. No costs. Certified xerox.

(Jayanta Kumar Biswas, J)