



सत्यमेव जयते

न्यायालय मुख्य आयुक्त विकलांगजन
COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES
विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities
सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment
भारत सरकार / Government of India

Case No. 7734/1102/2017

Dated: 10.08.2017

In the matter of:

Ms. Kajal Sharma
Shop Plot 7, First Floor
Pandav Nagar, Delhi – 110 092
e-mail parul.crawfordschool@gmail.com

... Complainant

Versus

Indraprastha Sehkar Bank Ltd.
(through: the Chief Executive Officer)
Regd & Head Office
A-101, Wazirpur Group Industrial Area
Delhi – 110 052

... Respondent

Date of Hearing : 24.07.2017

Present: Sh. Parul Sharma, on behalf of complainant

Sh. Rajkishan Gupta, Officer on behalf of Respondent

Sh. T.A. Francis, Counsel, Tis hazari Courts, on behalf of Respondent

ORDER

Ms. Kajal Sharma, persons with 100% cerebral palsy filed a complaint dated 06.03.2017 regarding denial to provide banking facilities by Indraprastha Sehkar Bank Ltd., Pandav Nagar Branch, Delhi violating RBI guidelines.

2. The matter was taken up with the Respondent vide this Court's letter dated 06.04.2017 under Section 59 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

3. On perusal of Respondent's letter dated 04.05.2017 and complainant's rejoinder dated 07.05.2017, the hearing in the matter was fixed for 06.07.2017 at 11.00 Hrs.

4. The matter was heard as per schedule on 06.07.2017.

5. During the hearing, the complainant (through her brother Sh. Parul Sharma) reiterated the contents of her original complaint. In reply, the representative of the respondent (i.e. Indraprastha Sehkar Bank Ltd.) did not express their views. So in the interest of justice, a next hearing was scheduled in the matter on 24.07.2017 at 15.00 Hrs.

6. The Counsel of the Respondent during the hearing filed a written Statement on behalf of the Bank which furnishes the followings :

- I. That in this matter an account was opened by one Ms. Kajal Sharma on 24.01.2013, the said Kajal Sharma is a person with disabilities and according to the policy of the Bank to provide special services for persons with disabilities, a bank official specially went alongwith the brother of Ms. Kajal Sharma to their residence and completed all the formalities by taking thumb impression as the proposed account opener could not sign with her hands. The account was accordingly opened and the said account was mostly used for deposit of the pension amount given by State Govt. to the disabled person and withdrawal of the same.
- II. That whenever the disabled account holder wanted to withdraw any amount, her brother would come to the bank and say that his sister wanted to withdraw some amount. The bank would send a bank official alongwith the brother to the residence and get her thumb impression in the presence of the bank official and subsequently the money would be given to the brother who would take it.
- III. That there was no problem and everything was going quite smoothly and there was no problem from the time the account was opened i.e. 24.01.2013 till 04.03.2017. as mentioned earlier the account was mostly operated for withdrawal of the monthly/quarterly pension given by the state govt. to disabled persons.
- IV. That on 9th December 2016 an amount of Rs. 29,000/- was deposited and a further amount of Rs. 26,000/- was deposited on 17.12.2016.
- V. That on 06.02.2017 the account holder's brother came stating therein that his sister Kajal Sharma wants to see the bank to which the bank officials gladly agreed. The account holder and her brother came to bank and made a withdrawal of Rs. 24,000/- on 06.02.2017. There was no issue and the account holder and her brother left the bank.
- VI. That on 04.03.2017 the account holder alongwith her brother visited the bank seeking to withdraw an amount of Rs. 50,000/- form the bank. Since the amount was a little unusual given the operating history of the account the bank official sought the signature of the brother on the withdrawal slip as a witness. The brother of the account holder took serious offence to this request and left the bank alongwith the account holder. The brother of the account holder without the account holder returned to the bank with a police man who made enquiries from the bank officials. The police man was also told that on checking the bank account the amount in the account holder's credit was only Rs. 41,344/-.
- VII. That the bank officials explained that a sum of Rs. 40,000/- can be withdrawn and requested that a new withdrawal slip duly thumb impressed with the brother as a witness be submitted and the withdrawal could be made immediately.
- VIII. That this did not satisfy the brother of the account holder, who demanded that all the rules regulations/guidelines of the RBI be immediately shown to him. The bank agreed to the same but sought some time to which again the brother of the account holder took offence leading to the unfortunate situation where a valued customer and a willing bank got embroiled in a needless controversy.
- IX. That every communication sent to the bank by relevant authorities has been duly replied to by the bank. Infact the concerned branch manager of the bank gave a unconditional written apology dated 25.05.2017 addressed to Ms. Kajal Sharma which was forwarded by the Head Office of the bank to the account holder Ms. Kajal Sharma which was forwarded by the head Office of the bank to the account holder Ms. Kajal Sharma through speed post and to the Reserve Bank of India.

On Merits

- i. That the respondent is a Primary (Urban) Co-operative Bank and is bound to follow the instructions/guidelines of the Reserve Bank of India as applicable to all Primary (Urban) Co-operative Banks. The said circular in respect of the same dated 01.07.2015 is annexed herewith as Annexure-I.

- ii. The relevant instruction/guideline relating to the instant case as extracted from the Master-Circular UBD.BPD.(PCB). MC. No. 13/13.01.000/2014-15 dated 01.07.2014 relating to Maintenance of Deposit Accounts-Primary(Urban) Co-operative banks is annexed herewith as Annexure-II.
- iii. That a perusal of the same reveals that in the instant case though the customer states that she can come to the bank but cannot sign but can affix her thumb impression, the relevant guidelines applicable would be as mentioned in 5.8.1(i), 5.8.2(i) and 5.8.3. the same are reproduced here in below for ready reference:
- 5.8.1 in order to facilitate old/sick/incapacitated bank customers to operate their bank accounts, procedure as laid down in paragraph 5.8.2 below may be followed. The cases of sick/old /incapacitated account holders fall into the following categories:
- (i) an account holder who is too ill to sign a cheque/cannot be physically present in the bank to withdraw money from his bank account but can put his /her thumb impression on the cheque/withdrawal form, and
- 5.8.2 the banks may follow the procedure as under:
- (i) wherever thumb or toe impression of the sick/old/incapacitated account holder is obtained, it should be identified by two independent witnesses known to the bank, one of whom should be a responsible bank official.
- 5.8.3 in such cases, the customer may be asked to indicate to the bank as to who would withdraw the amount from the bank on the basis of cheque/withdrawal form as obtained above and that person should be identified by two independent witnesses. The person who would be actually drawing the money from the bank should be asked to furnish his signature to the bank.
- iv. That the respondent bank is a small urban co-operative bank, and operating from a tenanted premises on the ground floor. There are two steps leading up to the bank and a wooden ramp has now been provided for convenient access to wheel chair bound customers.
- v. That the respondent bank has no objection to issuing a cheque book to the complainant subject to applicable guidelines of the Reserve Bank as mentioned above. It may be mentioned here that cheques issued through thumb impressions to third party would come for clearance by way of scanned copy through the cheque Truncation System and it would not be possible to verify the thumb impression. The very precautions for operating cheques issued through thumb impression would be rendered meaningless.
- vi. That the concerned manager of the respondent bank Mr. Govind Swaroop Gupta also gave an unconditional apology dated 25.05.2017 with the hope that the matter would be put to rest and a constructive approach would be adopted by both parties so that the customer can make best use of the banking services within the rules.
- vii. That the prayer of the complainant and how it has been met:

Prayer i) That the complainant wants an apology in person and in writing from the Bank Manager Mr. Govind Swaroop Gupta.

Bank response The respondent bank had already given a written apology of Sh. Govind Swaroop Gupta dated 25.05.2017.

Prayer ii) That the complainant wants that the bank issue written guidelines that the bank would never stop the complainant for withdrawing her money according to her wish and availability of funds by giving thumb impression on withdrawal slip from her savings account.

Bank response Withdrawal of money by giving thumb impression on withdrawal slip from the complainant's savings account cannot be stopped by the bank subject of course to the proviso as mentioned in the guidelines of the Reserve Bank of India referred to above.

Prayer iii) The bank shall issue the complainant ATM card, cheque book, internet banking and other banking facilities.

Bank response The respondent bank states that as regards issuance of ATM Card and cheque book there is no difficulty subject to the conditions mentioned above. As regards internet banking there is no internet banking facility with the respondent bank. There is no problem in updating or printing the passbook.

PRAYER:

In view of the above submission it is humbly prayed that the represent complaint be withdrawn as satisfied alongwith such other directions as this Hon'ble Court may deem fit and appropriate in the facts and circumstances of the case.

7. The Respondent specifically submitted during the hearing that they will positively issue cheque book to complainant, ensure the provision of Ramp at the Bank entrance and ensure dignified reception at Bank of the customers with disabilities, will take steps to sensitize their staff towards persons with disabilities. A copy of guidelines of RBI provided to the Respondent for necessary adherence while dealing with persons with disabilities.

8. The fact that the Reserve Bank of India (RBI) vide Master Circular No. DBOD No. Leg.BC.21/09/07.006/2015-16 dated 01.07.2015 has advised to all Scheduled Commercial Banks (Excluding RRBs) that Banks should ensure that all the banking facilities such as **cheque book facilities including third party cheques, ATM facility, Net banking facility, locker facility, retail loans, credit cards etc.**, are invariably offered to the persons with disabilities including visually challenged without any discrimination., was specifically apprised to the respondent for their future compliance.

9. As RBI vide their afore mentioned circular has also advised to All Scheduled Commercial Banks (Excluding RRBs) to take necessary steps to provide all existing, ATMs /future ATMs with ramps so that wheel chair users/persons with disabilities can easily access them and also make arrangements in such a way that the height of the ATM does not create an impediment in its use by a wheelchair user. Banks may also take appropriate steps including providing ramps at the entrance of the bank branches so that the persons with disabilities / wheel chair users can enter the bank branches and conduct business without much difficulty. Further Banks should make all new ATMs installed from July 1, 2014 as talking ATMs with Braille keypads. Banks should lay down a road map for converting all existing ATMs as talking ATMs with Braille keypads and the same may be reviewed from time to time by the Customer Service Committee of the Board. In addition, magnifying glasses should also be provide in all bank branches for the use of persons with low vision, wherever they require for carrying out banking transactions with ease. The branches should display at a prominent place notice about the availability of magnifying glasses and other facilities available for persons with disabilities. This all is also apprised to the respondent for their adherence to the said provisions.

10. The respondent is hereby directed through this order to provide all the banking facilities to complainant, Ms. Kajal Sharma and also to issue necessary instructions to all the branches of the Bank for following the RBI guidelines in the letter and spirit. A copy of the instructions so issued alongwith compliances made in the matter be sent to this Court within 45 days from the date of receipt of this order. It is further directed to ensure that persons with disabilities be not deprived of their legitimate rights.

11. The case is accordingly disposed off.

Yours faithfully,



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner for
Persons with Disabilities