IN DELHI STATE CONSUMER DISPUTES REDRESSAL COMMISSION

Date of Institution: 25.10.2012
Date of hearing: 14.05.2024
Date of Decision: 08.10.2024

COMPLAINT CASE NO.- 387/2012

IN THE MATTER OF

GENERAL SECURITY & INFORMATION SERVICES (P) LTD.
HAVING REGISTERED OFFICE AT :
ABINASH CH. BANERJEE LANE (EAST)
KOLKATA – 700010.

(Through: Ms. Shailendra Prasad Sahay, Advocate)
…Complainant

VERSUS

1. PUNJAB NATIONAL BANK,
(A GOVT. OF INDIA ENTERPRISE),
ANDHERI EAST BRANCH, NEAR PUMP HOUSE, MUMBAI

2. PUNJAB NATIONAL BANK
(A GOVERNMENT OF INDIA ENTERPRISE)
HEAD OFFICE :
7, BHIKALJI CAMA PLACE
AFRICE AVENUE
NEW DELHI – 110066.

(Through: Mr. Ajay Shankar, Advocate)
…Opposite Parties

CORAM:

HON'BLE JUSTICE SANGITA DHINGRA SEHGAL (PRESIDENT)
HON'BLE MR. J.P. AGARWAL, MEMBER (GENERAL)

Present: Ms. Shrabani Chakrabarty & Mr. Rakesh Mishra, Counsel for the Complainant.
Mr.Ajay Shankar, Counsel for the OP.

PER: HON'BLE JUSTICE SANGITA DHINGRA SEHGAL, (PRESIDENT)

JUDGMENT

1. The present complaint has been filed by the Complainant before this Commission alleging deficiency of service and unfair trade practice by the Opposite Party and has prayed to direct the OP to make payment of the following to the Complainant:

a) "Principal of amount Rs. 18,00,000/- together with interest accrued till date and future interest which may accrue till making payment.
b) Rs. 40,73,000/- collectively towards the security deposit and performance guarantee.
c) Rs. 7,00,000/- towards loss of business with Western Zonal Railway.
d) Rs. 5,00,000/- for causing defamation in the business arena; and
e) Any other relief as this Hon'ble Commission may deem fit and proper."

2. Brief facts necessary for the adjudication of the case are that the Complainant is a private limited company carrying out miscellaneous contractual jobs with different Govt./Semi-Govt.Organizations,

including Indian Railways in particular and the Opposite Party is a Government Bank having its Head Office in Delhi. The Opposite Party, Punjab National Bank, in complete dereliction of its duty and without any supportive document allowed one Mr. Deepak Fitter to open and operate a personal account in the name of *GENERAL SECURITY & INFORMATION SERVICES* at its Andheri (East) Branch, Mumbai which is the name of establishment under the sole proprietorship of Mr. Joydev Chandra Sinha, the Director of the Complainant Company. Two demand drafts/pay orders issued by one M/s. Krunal Enterprises in favour of Complainant Company i.e. *General Security & Information Services Pvt. Ltd*. vide No. 010922 dated 4.10.2010 for Rs.6,00,000/- and pay order No.002219 dated 14.10.2010 for Rs. 12,00,000/- total being Rs.18,00,000/- were deposited and duly credited in that forged account of Deepak Fitter opened in the name of *GENERAL SECURITY & INFORMATION SERVICES* in connivance with the Opposite Party. On 25.4.2021 M/s Krunal Enterprises asked the Opposite Party to return back the money deposited vide DD meant for *General Security & Information Services P. Ltd*. which got encashed in the forged account of Deepak Fitter opened in the name of *GENERAL SECURITY & INFORMATION SERVICES* in connivance with the Opposite Party. Due to this gross deficiency in service on the part of Opposite Party by opening Account No.4364002100007715 of Deepak Fitter in the name of *GENERAL SECURITY & INFORMATION SERVICES* without any supportive document and en-cashing two Demand Drafts in that forged account with beneficiary name *General Security & Information Services Pvt. Ltd*., the Complainant-Company has suffered huge monetary loss in the form of termination of lucrative contract of Security Deposit amounting Rs.20,36,500/- and Performance Guarantee amounting to Rs.20,36,500/-. M/s Krunal Enterprise lodged an FIR and the Complainant company had to return them Rs.18,00,000/-. The Complainant sent legal notice to the Opposite Party on 4.4.2011 to return sum of Rs. 18,00,000/- credited to some other account. The Complainant requested the Opposite Party several times to provide the documents submitted by Deepak Fitter as proprietor of *M/s General Security & Information Services* to open his account in the name of M/s *GENERAL SECURITY & INFORMATION SERVICES* but they turned deaf ears. The Complainant filed application under RTI Act on 10.02.2017 but CPIO of Opposite Party No.2 turned down this application as third party information. Thereafter FA was filed and in order dated 03.05.2017 it was informed that the account was opened based on PAN Card and Passport of Shri Deepak Fitter and on undertaking declaring that he is the sole proprietor of *M/s General Security & Information Services* but the Opposite Party did not furnish copy of alleged undertaking of Deepak Fitter to the Complainant. On appeal before the CIC by the Complainant, the CIC directed the Opposite Party vide order dated 20.09.2018 to provide a copy of undertaking furnished by Shri Deepak Fitter declaring that he is sole proprietor of *M/s General Security & Information Services* but the Opposite Party did not comply with the said order of CIC.

3. The Complainant has submitted that the Opposite Party being a nationalized bank is duty bound to maintain high accountability and transparency which they failed to do. Due to this gross deficiency in

service on the part of the Opposite Party, the Complainant has preferred the present Complaint before this Commission with a prayer to award adequate compensation.

4. The Opposite Parties have filed their written statement and have stated therein that the present complaint is false, frivolous & misconceived and the Complainant has suppressed the true facts from this Commission. It is submitted that the Opposite Party has opened the account of *M/s Gen Security & Information Services* after due diligence and compliance of the norms. Hence the Opposite Parties are not liable for any act and have not committed any deficiency in service. Secondly it is submitted that the Complainant has issued a Receipt dated 4.10.2010 wherein Mr. Deepak Fitter is shown as Director/Authorized Signatory of the Company and it appears he has committed the fraud and has thus defrauded the company. It is further submitted by the Opposite Party that the pay orders were issued in favour of "*GENERAL SECURITY & INFORMATION SERVICES (PVT) LTD. A/C 4364002100007715* and account No. *of M/s GENERAL SECURITY & INFORMATION SERVICES* is also *4364002100007715*. Hence, no deficiency in service has been done by the Opposite Parties. The pay orders were deposited in the account of *M/s GENERAL SECURITY & INFORMATION SERVICES A/c No. 4364002100007715* a proprietorship concern of Mr. Deepak Natwarlal Fitter with assurance that the name of the drawee is wrongly typed as *M/s GENERAL SECURITY & INFORMATION SERVICES.* But account no. is correct and the same is issued in favour of *M/S GENERAL SECURITY & INFORMATION SERVICES PVT. LTD.* Thirdly, it is submitted that

Mr. Deepak Natwarlal Fitter is having one more account with the Opposite Party in the name of *M/s Maruti Facilities Management and Refrigeration Services* since 25.03.2003 and having satisfactory relation, the Opposite Party accepted in good faith the contention of Mr. Deepak Fitter and processed the pay orders. Lastly, it is submitted that it is an admitted fact of the Complainant that Mr. Deepak Lal Fitter is Complainat's person who has cheated the Complainant. Hence the present complaint is liable to be dismissed.

5. Both parties have filed their evidence by way of affidavit in order to prove the averments on record.

6. We have perused the material available on record and heard the counsels for both the parties.

7. The ***main question*** for consideration is ***whether the Opposite Party was deficient in providing its services by allowing one Mr. Deepak Fitter to open and operate a personal account in the name of 'General Security & Information Service Pvt Ltd' without proper scrutiny and supportive documents.***

8. At the outset, it is to be noted that the present Complaint involves allegations pertaining to deficiency in service as against the Opposite Party No.1-bank. In this regard, section 2(1)(o) of the Consumer Protection Act, 1986, provides as under:

> (o)*"service" means service of any description which is made available to potential users and includes, but not limited to, the provision of facilities in connection with banking, financing insurance, transport, processing, supply of electrical or other energy, board or lodging or both, housing construction, entertainment, amusement or*

the purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service;"

9. A perusal of the aforesaid section makes it clear that the definition of service as provided under the Consumer Protection Act, 1986 includes services in connection with banking. We further deem it appropriate to remark that wherever any deficiency is alleged, it is apposite to take note of the term "deficiency" and its constituents, as defined under section 2(1)(g) of the Consumer Protection Act, 1986, reproduced hereunder for ready reference:

"deficiency" means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service"

10. A perusal of the aforesaid definition makes it clear that deficiency means any shortcoming or inadequacy in the manner of performance which is required to be maintained in relation to any service. Adverting to the facts of the instant case, it is evident from the facts of the case that the Opposite Party No.1-Bank opened an Account No. 4364002100007715 of one Mr. Deepak Fitter in the name of 'General Security & Information Service', based on PAN Card and Passport of one Deepak Fitter and on undertaking declaring that he is the sole proprietor of *M/s General Security & Information Services*.

Subsequently, the Opposite Party-Bank, acting on the representation made by the said Mr. Deepak Fitter that '*General Security & Information Service Pvt Ltd'* was his proprietorship concern and only the term *"Pvt Ltd"* was inadvertently omitted from the correct name of the aforesaid concern i.e. '*General Security & Information Service Pvt Ltd'*, added the name in the name and style of "*General Security & Information Service"* as a beneficiary to the aforesaid account. Thereafter, two demand drafts /pay orders issued by one M/s. Krunal Enterprises in favour of Complainant-Company i.e. *General Security & Information Services Pvt. Ltd*. vide No. 010922 dated 04.10.2010 for Rs.6,00,000/- and pay-order No.002219 dated 14.10.2010 for Rs. 12,00,000/- total being Rs.18,00,000/- were deposited and duly credited in account with the beneficiary name *'General Security & Information Services'*, which caused the Complainant huge monetary losses.

11. At this juncture, it is pertinent to mention that a bare perusal of the record divulges that admittedly, it is not disputed by either party that the account as opened by Deepak Fitter was a forged account. A perusal of the record further divulges that criminal cases were filed against the accused Deepak Fitter and he was arrested by the police. Therefore, there is not even a scintilla of doubt that the account opened by the Opposite Party in the name and style of name 'General Security & Information Services' was a forged account.

12. It is worthwhile to mention that in order to carve out any deficiency on the part of the Opposite Party, it is crucial to analyze the conduct of the Opposite Party in the backdrop of the factual matrix of the present case.

Here, it is to be noted that the Opposite Party being a nationalized bank was duty bound to maintain high accountability and transparency before opening a personal account of any individual, which it failed to do. It is to be noted further that as per the standard operating procedure followed by banks, customer authentication and detailed document/ customer verification through KYC or other modes is mandatory. Any bank or financial institution is required by law to ensure proper documentation and authentication before opening an account. However, the Opposite Party-bank has failed to produce the copy of the account opening form/KYC form etc or any other material to show that the account was opened after verifying the credentials of Deepak Fitter. It is abysmally surprising to note that the aforesaid account without proper supportive documents proving the sole proprietorship of the said Deepak Fitter. No cogent material has been placed on record to rebut the contention of the Complainant that the Opposite Party-bank relied solely on the PAN Card and Passport of Mr. Deepak Fitter to open the account or to show that the bank verified the details of Deepak Fitter before opening the said account. Moreover, the Opposite Party has miserably failed to produce any document of Mr. Deepak Fitter establishing his sole proprietorship for M/s General Security & Information Service, on the basis of which it opened the said bank account.

13. Therefore, in view of the aforesaid discussion, we opine that the Opposite Party No.1-bank was deficient in service in so much so that it failed to verify the details furnished for opening the bank account and negligently opened a forged account. In our view, the Complainant has

suffered monetary loss owing to the negligence of the Opposite Party-Bank and therefore***, we direct the Opposite Parties No.1 & 2 i.e. Punjab national Bank to :***

A. *pay a sum of Rs. 5,00,000/- as compensation for mental agony and harassment caused to the Complainant*

B. *The litigation cost to the extent of Rs. 50,000/-.*

14. The Opposite Parties are further directed to comply with the directions as contained in para 13 within 2 months from the date of the present judgment i.e. on or before 08.12.2024, failing which the entire amount shall be payable alongwith interest @ 9% from the date of the judgment till the actual realization of the amount.
15. The judgment be uploaded forthwith on the website of the commission for the perusal of the parties.
16. File be consigned to record room along with a copy of this Judgment.

(JUSTICE SANGITA DHINGRA SEHGAL)
PRESIDENT

(J.P. AGRAWAL)
MEMBER (GENERAL)

Pronounced On:
08.10.2024

L.R.-G.P.K