

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

WEDNESDAY, THE 06TH DAY OF JANUARY 2021/16TH POUSHA, 1942

WP(C).No.22108 OF 2020(K)

PETITIONER:

SUJITH PRASAD,
AGED 53 YEARS,
S/O SIVARAMA PILLAI, 'SARAS',
FLAT NO.208, KSHB,
CHINNAKADA P.O., KOLLAM TALUK,
KOLLAM DISTRICT-691 001.

BY ADVS.
SRI.C.R.JAYAKUMAR
SRI.NOBEL RAJU

RESPONDENTS:

- 1 THE RESERVE BANK OF INDIA,
BRANCH OFFICE, P.B NO 6507,
NANDAVANAM, PALAYAM,
THIRUVANANTHAPURAM, KERALA-695 033.
- 2 THE BRANCH MANAGER,
ICICI BANK LTD, VAIDYA COMMERCIAL ARCADE,
RESIDENCY ROAD, CHINNAKADA P.O.,
KOLLAM-691 001.
- 3 THE DIRECTOR,
TRANS UNION CIBIL LIMITED,
ONE INDIA BULLS CENTER, TOWER 2A,
19TH FLOOR, SENAPATI BAPAT MARG,
ELPHINSTONE ROADS, MUMBAI-400 013.

R3 BY ADV. SRI.C.AJITH KUMAR
SRI. MILLU DANDAPANI FOR R1 (B/O)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 06.01.2021, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

[CR]

J U D G M E N T

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Dated this the 6th day of January, 2021

The petitioner, who is a practising Lawyer, seeks to direct the 2nd respondent-Branch Manager, ICICI Bank Limited to recall the petitioner's entries in the CIBIL report of the petitioner and to direct the 2nd respondent to delete the adverse entries.

2. The petitioner states that he had availed a personal loan of ₹3 lakhs from the 2nd respondent. The loan was sanctioned on 16.12.2006. The petitioner repaid the entire loan. The 2nd respondent, however, issued a notice on 12.08.2016 demanding the petitioner to pay ₹42,895/-. The petitioner remitted the said amount as demanded by the 2nd

respondent on 30.08.2016.

3. The 2nd respondent sanctioned to the petitioner an amount of ₹37,337/-, on 16.07.2007. The petitioner repaid the said amount also. Yet the 2nd respondent demanded an additional amount of ₹11,000/-, as per Ext.P3. The petitioner remitted the said amount also as evidenced by Ext.P4.

4. The petitioner wanted to avail a vehicle loan from another bank. The Manager was satisfied with the eligibility of the petitioner for availing loan. The Manager, however, did not sanction the loan pointing out that there are some adverse entries in the CIBIL report in respect of the petitioner.

5. The petitioner would state that the repayment of the loans availed by the petitioner from the 2nd respondent, may not have been made with the desired promptitude. However, the petitioner had remitted all the amounts demanded by the 2nd respondent which were alleged to be due, in the loan accounts of the petitioner. However, in spite of remittance of all the dues, the 2nd respondent made adverse reports on the basis of which the 3rd respondent entered adverse entries in

their records. The action of the 2nd respondent in not communicating true state of affairs in respect of the petitioner's loan accounts has caused untold hardship to the petitioner. The 2nd respondent is therefore liable to be directed to delete adverse entries in the CIBIL report of the petitioner, contended the learned counsel for the petitioner.

6. The 2nd respondent-Bank did not enter appearance. The 3rd respondent-Company, however, filed a statement. The 3rd respondent stated that it is a Credit Information Company certified by the Reserve Bank of India. When information/data is submitted by a member-Bank or financial institution, the 3rd respondent enters the same in their records. The 3rd respondent is only a repository of information. The 3rd respondent is not bound to ascertain the correctness or otherwise of the information submitted to them, by financial institution.

7. On receipt of notice of the writ petition, the 3rd respondent sent Exts.R3(a) and R3(b) mails to the 2nd respondent requiring to confirm whether the information

provided by them in respect of the petitioner is correct or requires any correction. The 2nd respondent so far has not responded to the mails sent by the 3rd respondent. Unless the 2nd respondent reports any change in records maintained by them, the 3rd respondent will not be in a position to make any corrections.

8. I have heard the learned counsel for the petitioner and learned Standing Counsel appearing for the 1st respondent and the learned Standing Counsel appearing for the 3rd respondent.

9. It is the credit report of the 3rd respondent by which the petitioner is aggrieved. Financial Institutions try to mitigate the risk of lending to borrowers by making a credit analysis on individuals and institutions applying for new credit facilities or loan. The analysis is normally based on a review of Capacity, Capital, Conditions, Character and Collaterals, called “the Five Cs” of credit. Financial Institutions in India rely on credit scores given by Credit Information Companies formed under the Credit Information Companies (Regulation) Act, 2005.

10. The 3rd respondent is a Credit Information Company functioning in accordance with the provisions of the Credit Information Companies (Regulation) Act, 2005. The 3rd respondent gives credit scores in respect of the customers of Credit Institutions. A credit score is a numerical expression based on an analysis of the credit history of an individual. A credit score in effect represents the creditworthiness of an individual. Credit scores are used by Credit Institutions like banks and other financial entities to evaluate the potential risk passed by lending money to consumers and to mitigate loans due to bad debt. By the very nature of credit score, it has positive or negative impact on the financial credibility of an individual.

11. It is taking into account the said fact that the Parliament has enacted Credit Information Companies (Regulation) Act, 2005.

12. Section 21(3) of the Act, 2005 reads as follows:-

“21. Alteration of credit information files and credit reports—(1) Any person, who applies for grant or sanction of credit facility, from any credit institution,

may request to such institution to furnish him a copy of the credit information obtained by such institution from the credit information company.

(2) Every credit institution shall, on receipt of request under sub-section (1), furnish to the person referred to in that sub-section a copy of the credit information subject to payment of such charges, as may be specified by regulations, by the Reserve Bank in this regard.

(3) If a credit information company or specified user or credit institution in possession or control of the credit information, has not updated the information maintained by it, a borrower or client may request all or any of them to update the information; whether by making an appropriate correction, or addition or otherwise, and on such request the credit information company or the specified user or the credit institution, as the case may be, shall take appropriate steps to update the credit information within thirty days after being requested to do so:

Provided that the credit information company and the specified user shall make the correction, deletion or addition in the credit information only after such correction, deletion or addition has been certified as correct by the concerned credit institution:

Provided further that no such correction, deletion or addition shall be made in the credit information if any dispute relating to such correction, deletion or addition is pending before any arbitrator or tribunal or court and in cases where such dispute is pending, the entries in the books of the concerned credit institution shall be taken into account for the purpose of credit information.”

In view of the first proviso to Section 21(3), a Credit Information Company can make a correction, deletion or

addition of the credit information, after such correction, deletion or addition has been certified as credit by the concerned credit institution. The 2nd proviso would indicate that the right over a credit information is solely that of the concerned bank or financial institution.

13. In view of the fact that credit score given by the credit information companies like the 3rd respondent can have serious adverse civil consequences on individuals, the 3rd respondent is bound to ascertain the true state of affairs with its member-Banks/financial institutions, whenever any anomaly is pointed out by individuals. Updation of credit information is a statutory right of a borrower or client of a Credit Institution, in view of Section 21(3) of the Act, 2005.

14. The statement filed by the 3rd respondent would show that as soon as the 3rd respondent received information about the grievance of the petitioner, the 3rd respondent promptly addressed the 2nd respondent to confirm on the complete account details of the accounts of the petitioner. The 3rd respondent required the 2nd respondent-Bank that in

case of any incorrect information, the correct information shall be provided to the 3rd respondent. However, the 2nd respondent has not responded to Exts.R3(a) and R3(b) communications made by the 3rd respondent.

15. Since the failure of the 2nd respondent to act on Exts.R3(a) and R3(b) has grave consequences on the financial credibility and creditworthiness of the petitioner and since updation of credit information is a statutory right conferred on the petitioner under Section 21(3) of the Credit Information Companies (Regulation) Act, 2005, this Court finds that relief should be granted to the petitioner, in this writ petition.

16. In such circumstances, the 2nd respondent is directed to respond to Ext.R3(a) mail dated 01.11.2020 and Ext.R3(b) mail dated 08.12.2020 of the 3rd respondent seeking confirmation on the complete account details in respect of the petitioner, within a period of two weeks. The 3rd respondent, on receipt of such information, should make changes in the credit report in respect of the petitioner if found warranted on

the basis of information provided by the 2nd respondent,
without further delay.

Writ petition is disposed of as above.

Sd/-
N. NAGARESH, JUDGE

aks/07.01.2021

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1	THE TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE 2ND RESPONDENT DATED 12.8.2016 VIDE REF NO PL/1608/0604932.
EXHIBIT P2	THE TRUE COPY OF THE REMITTANCE SLIP DATED 30.8.2016 FOR AN AMOUNT OF RS.42,895/-
EXHIBIT P3	THE TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE 2ND RESPONDENT DATED 11.8.2016 VIDES REF.NO.PL/1608/ 0604930.
EXHIBIT P4	THE TRUE COPY OF THE REMITTANCE SLIP DATED 30.8.2016 FOR AN AMOUNT OF RS.11,000/-
EXHIBIT P5	TRUE COPY OF THE PASS BOOK ISSUED BY THE ORIENTAL BACK OF COMMERCE TO THE PETITIONER VIDES ACCOUNT NO 13942011003271

RESPONDENTS' EXHIBITS:

EXHIBIT R3 (A)	TRUE COPY OT THE E-MAIL DATED 02/11/2020 SENT BY 3RD RESPONDENT TO THE OFFICIALS CONCERNED OF THE 2ND RESPONDENT.
EXHIBIT R3 (B)	TRUE COPY OF THE E-MAIL DATED 08/12/2020 SENT BY 3RD RESPONDENT TO THE OFFICIALS CONCERNED OF THE 2ND RESPONDENT.