

TO BE ISSUED IN ENGLISH & HINDI
CENTRAL INFORMATION COMMISSION
Appeal No.CIC/WB/A/2008/01535 dated 18.8.2008
Right to Information Act 2005 – Section 19

Appellant - Ms. Chandra Kanta Lokhande

Respondent - Supreme Court of India (SCI)

Date of hearing: 28.1.2010

Decision announced: 29.1.2010

Facts:

By an application of 29.1.07 Ms. Chandra Kanta Lokhande of Junnardeo, Distt. Chhindwara, M.P. applied to the CPIO, SCI seeking information on 13 questions concerning an advertisement issued by M/s N. C. Banerjee & Co., Chartered Accountants, Sanchyani Savings & Investment (India) Ltd. directing depositors to apply along with original documents before 31.7.04 to get their deposits refunded to them. Upon this, Ms. Chandra Kanta Lokhande received a response dated 12.3.07 from CPIO Shri Ashok Kumar, Supreme Court of India, as follows:

“as regards points (1) to (5): you are not a party before this Court in C.A. No. 5168/2004 which is pending and will be listed on 15.3.2007. In pursuance of this Hon’ble Court’s orders dated 6.2.2004, the Registry had forwarded the documents of the concerned persons to M/s N. C. Banerjee & Co., CA, Commerce House, 2 Ganesh Chandra Avenue, 1st Floor, Room No. 9, Kolkata-700 013 vide letter dated 13.8.2004. You may, if so advised, contact M/s N. C. Banerjee & Co. for the purpose.

As regards points No. (6) : No information is available in the Registry. The matter is sub-judice and you may, if so advised, contact M/s N. C. Banerjee & Co. for the purpose. Further, a copy of your letter has been forwarded to M/s N. C. Banerjee & Co. for such action as may deem proper.”

Ms. Lokhande then moved an appeal before the First Appellate Authority, SCI on 18.4.07 upon which, by an order of 18.6.07 her appeal was dismissed, as follows:

“A perusal of the above facts show that the appellant had sought for information regarding release of deposits made to S.S.I.L. Co. District Chhindwara. Evidently, the Hon’ble Supreme Court had directed N. C. Banerjee & Co. to ensure the repayment of the deposits. As per the CPIO the entire records have been issued to the N. C. Banerjee & Co. No information was held by the CPIO. Necessarily the CPIO was justified in informing the appellant that he was not holding the information as sought and also for forwarding the application to N. C. Banerjee & Co. who was holding the records. The above findings of the CPIO is legally sustainable and is not liable to be interfered with.”

She has then approached this Commission with the following prayer in second appeal:

“Release of fund from Sanchayani Savings & Investment India Ltd.”

The appeal was heard with arrangements for videoconference with Chhindwara on 28.1.10. The following are present:

Respondents at CIC Chambers, New Delhi.
Shri Raj Pal Arora, Addl. Registrar / SCI
Sh. Devadatt, Kamat, Advocate for SCI

Although arrangement had been made to hear the appeal through videoconference at NIC Studio, Chhindwara and appellant Ms. Chandra Kanta Lokhande had been informed by Notice dated 18.1.09 regarding the hearing, she has opted not to be present. Shri Devadatt, Learned Counsel for respondents invited our attention to the decision of this Commission in appeal No. **CIC/WB/A/2007/01152** of 4.8.09 –**Chandra Kanta Lokhande vs. Supreme Court of India**. The original application in that case was identical with the present and has been quoted in detail in the above appeal.

In the Interim Decision Notice in that case the Commission has already ruled that *“we have found that there is a third party in this case which is M/s N.C. Banerjee & Co., Chartered Accountant. We have, therefore, come to the following decision:*

“Before taking any final decision in this matter, it will, therefore, be necessary to hear the third party. The hearing is, therefore, **adjourned to be heard by video conferencing connected with both Chhindwara and Kolkata on 8.7.2009 at 4.30 p.m.** The Registrar of the Supreme Court having been duly represented need not appear in the next hearing.”

Learned Counsel, therefore, submitted that the Registry of the Supreme Court of India is not concerned with this case.

DISCUSSION

We agree that Supreme Court of India is no longer concerned with this case, since it concerns, as per the prayer of appellant Ms. Chandra Kanta Lokhande before us, the release of funds from the Sanchayani Savings & Investment (India) Ltd. in her favour and is between M/s N.C. Banerjee & Co. and herself. In this matter we have come to the following decision on the conclusion of decision in File No. **CIC/WB/A/2007/01152** announced on 4.8.09:

“In this case, there is a disagreement between appellant Ms. Lokhande and the representatives of Chartered Accountants M/s N. C. Banerjee & Co. as to the information held on the quantum of the deposit. The Chartered Accountants, however, agreed that they have a copy of the receipt of Rs. 1,00,035/- but also the written acknowledgement by Ms. Lokhande that she has deposited only Rs. 50,000/-. The key issue is, therefore, as to what amount stands credited to Ms Lokhande to enable the Hon’ble Supreme Court to take a decision with regard to her deposit. Shri A. Pal will, therefore, enquire into the reasons for this discrepancy in information and send us a report within fifteen working days of the receipt of this decision notice so as to enable us to finalize the decision notice in this matter.”

Subsequent to that we have received a letter of 17.8.09 from M/s N. C. Banerjee submitting as follows:

“In the Decision of your honour under reply your honour required through Special Officer to enquire into the reason of the discrepancy of the information and send a reply to your honour

within 15 working days of the receipt of the Decision Notice given to finalize the decision notice of this matter.

Hence we send the copy of our letter dated 3.8.2009 for kind consideration of your honour

Hope this reply will be considered our due compliance of the notice of your honour in the matter of the appeal petition of Ms. Lokhande.

Based on the above submission we would pray to your honour to finalize the matter as may be deemed fit and proper by your honour.”

The letter of 3.8.09 referred to by M/s N. C. Banerjee & Co. concludes as follows:

“Considering the above facts and circumstances, the Special Officer prays to your honour to kindly be gracious to pass the following order/ orders:-

To stay the proceedings of all the applications filed under Right to Information Act in terms of the order dated 4.4.2007 of the Hon’ble Apex Court. (Copy of order dated 4.4.2007 already sent to your honour through letter/ fax dated 15.6.2009, 27.7.2009).”

We have, therefore, verified the FAX dated 15.6.09 and 27.7.09. The FAX of 27.7.09 simply forwards the letter of 15.6.09 in which M/s N. C. Banerjee & Co. have submitted as below:

“Before taking any final decision in this matter, it will, therefore, be necessary to hear the third party. The hearing is, therefore, adjourned to be heard by video conferencing connected with both Chhindwara and Kolkata on 8.7.2009 at 4.30 p.m. The Registrar of the Supreme Court having been duly represented need not appear in the next hearing.”

We have already examined the record of proceedings of the Supreme Court of India in **Civil Appeal No. 5168 of 2000 – Sanchayani Savings & Investment (India) Ltd. & Ors. vs. State of West Bengal**. In this case we find against the 17th status report matter the following :

“We are informed that orders are being passed under the consumer Protection Act directing payment of amounts to the complainants claiming sums from the company. Earlier when action ahs being taken by the Special Officer appointed by this Court, this Court by

Order dated 23rd September, 2003 ordered that such orders issued by any Forum or Court shall remain stayed.

It is now brought to our notice that despite that Awards are being made by the consumer Forum and sought to be executed. Having regard to the fact that the matter is under consideration of this Court, we stay all proceedings before any of the Foras / commission under the Consumer Protection Act¹ relatable to the Company and the matters presently being considered by this Court.”

Subsequently at the conclusion of this Decision the Hon’ble Supreme Court has held as follows:

“We further pass an order in continuation of our order dated 28.4.2003 that no Court shall hereafter pass any order or decree in respect of matters which form subject matter of the proceeding before this Court and any such order or decree passed in any proceeding till today shall not be given effect to or executed. This order will however, not prevent the Joint Civil Judge Sr. Division, Nagpur from passing appropriate orders on the application filed by the Special Officer for setting aside the ex-parte decree.”

DECISION NOTICE

It is clear not only from the decision of the Supreme Court above cited, but also from the RTI Act 2005 itself that the prayer in second appeal in this case of appellant Ms. Chandra Kanta Lokhande is outside the jurisdiction of this Commission, which cannot direct release of funds to a petitioner. Our decision in this matter is simply to reconcile the discrepancy on the information held as to what amount stands credited to Ms. Lokhande to enable the Supreme Court to take a decision in this regard. In this matter, Supreme Court decision has only excluded the jurisdiction of the Consumer Court, which is, of course, otherwise empowered to rule on the amount payable to the individual. This is not a matter that might concern this Commission. The only issue that then remains is that Chartered Accountant M/s N. C. Banerjee & Co. (I) Ltd. reconcile information on the account held and inform appellant Ms. Lokhande of the final balance with a

¹ Underlined by us for attention

copy to this Commission. This exercise may be completed within fifteen days of the date of receipt of this Decision Notice.

Reserved in the hearing, this Decision is announced on this twenty-ninth day of January 2010. Notice of this decision be given free of cost to the parties.

(Wajahat Habibullah)
Chief Information Commissioner
29.1.2010

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges, prescribed under the Act, to the CPIO of this Commission.

(Pankaj Shreyaskar)
Joint Registrar
29.1.2010