



Government of Chhattisgarh
Electronics & Information Technology Department
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**Office of the Adjudicating officer appointed
Under Section 46 of Information Technology Act 2000**

No. F 4-24/2015/56/E&IT

Raipur, Date 20/05/2016

Case No. 01/2015

In the matter of

1. Tushar Kanta Mohanty, Flat No. 2, Maithili Sharan Gupt Parisar, Tagore Nagar, Raipur complainant

Versus

1. K.M. Acharya, Biplabi Trailokya Sarani, Murgi Ghat BBD Bagh, Kolkata
2. SK Ibrahim, Ajimabad, Balasore, Orrisa 756001
3. Ratan Saha, Ashram para Siliguri, West Bangal -734001
4. Punjab National Bank, O.T. Road, Padhuan Pada, Near Police Line Square, Balasore (Orrissa) 756001
5. The Chief Executive Officer, CGTMSE, 7th Floor, SME development Center, C-11. G-Block, Bandra Kurla Complex Bandra (East) Mumbai 400051

..... Respondents.

Before, Shri O.P. Yadav
Secretary/Adjudicating officer,
Government of Chhattisgarh
Department of Information Technology

ORDER

1. Brief facts of the case as per complainant are as follows :-
(a) The complainant Mr. Tushar Kanta Mohanty is a professional and having his place of residence and business at Raipur.

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- (b) In around January 2014 he received SMS as well as call on his mobile number regarding schemes floated by Government of India's undertaking namely Credit Guarantee Fund Trust for Micro and Small Enterprises (CGTMSE). The caller explained him about various schemes of the trust and also mentioned that Trust provides subsidies for needy and deserving persons also on behalf of Government of India. The caller asked him to visit website of the trust located at www.cgtmse-govt.in for more detailed information.
- (c) The complainant visited said website which is designed with use of many of the Government's symbols/emblems so prima facie it appears that the website is of Government of India.
- (d) The complainant was repeatedly communicated by the persons regarding various schemes of government and since complainant was having his own property at Puri and wanted to develop a Hotel at that place, he gave a thought on visiting the said website.
- (e) As complainant wanted to avail loan of Rs. 1,00,00,000/- which was at very low interest rate, he responded to the said respondents. As various government schemes for financial assistances operate on similar modules there was every reason for complainant to believe on claims made in the website.
- (f) In the later communication the complainant was asked to maintain 30% of the loan amount in his account to prove applicant's worth by Mr. Acharya.
- (g) The complainant maintained Rs. 22,39,000 in his Punjab National Bank account no. 3224000100080536 by borrowing money from various sources on promise of repayment as soon as loan is sanctioned.
- (h) The complainant was then asked to visit Howdah for completion of remaining formalities and verifications, prior to release of loan amount. All the addresses mentioned on said website are genuine government's establishments and hence there was no doubt of suspicion in the mind of complainant.
- (i) The complainant went to Howdah in last week of April, 2014 and met with two unidentified persons, supposedly verification officers, as per communication with Mr. Acharya. These two persons verified documents of the complainant and asked for cheque and ATM cards for further verifications. They also obtained complainants signature on blank cheques. These verification officers told the complainant that Mr. Acharya

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will be depositing 10% margin money, i.e. Rs. 10,00,000/- only in the account of complainant and then these cheques will be utilized to realize the said margin money and hence complainant gave blank cheques signed by him to them.

- (j) These two persons also provided one phone to the complainant and took his phone with them.
- (k) The complainant was asked to stay in Howdah till all verification procedure and margin money transfer process is completed. On 28 April Mr. Acharya messaged the complainant regarding wrong deduction of Rs. 22,36,000/- from complainants PNB account. He told complainant that this money was transferred fraudulently to account of Mr. SK Ibrahim, who according to Mr. Acharya was his assistant. The complainant verified his account and confirmed on 28 April 2014 that Rs. 22,36,000/- was transferred from his account to account of SK Ibrahim.
- (l) The complainant contacted Mr. Acharya, who asked him to contact his assistant, SK Ibrahim and provided with his address also. Mr. Acharya asked complainant to recover money from SK Ibrahim and redeposit the same in complainant's bank account. The complainant along with 3 similar victims, cheated through similar modus operandi, visited SK Ibrahim's home at Ajimabad, Balasore, Orissa.
- (m) SK Ibrahim denied that he knows any Mr. Acharya and owns any money to complainant and threatened him with dire consequences if complainant insists on refund of said amount. Fearing his life since he was in totally unknown territory, complainant returned to Raipur.
- (n) The complainant realized the trap which was laid through hosting false and deceptively similar website to cheat many upcoming entrepreneurs' like him but was unable to decide about future course of action.
- (o) The Complainant came to know that one of the sufferer, Bodhiratna Fulzele had registered his complaint with Nagpur Police on 25 June, 2014 vide FIR No. 249/14.
- (p) The Nagpur Police's investigation is in progress and police have been successful in tracking some of the amount in account of SK Ibrahim with Axis Bank (A/c No. 913020012073598 Balasore Branch Orissa) and some in Punjab National Bank (A/c No. 3039002100009030) Balasore branch

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and also managed to freeze said amount. PNB account has credit balance of Rs. 22,65,000/-.

- (q) Party no's 1, 2 & 3 colluded and registered a domain name www.cgtmse-govt.in which is deceptively similar to government's website www.cgtmse.in. There after they copied contents from www.cgtmse.in and hosted it on their own website and thereby cheated many persons.
 - (r) The news article about arrest of fraudster by Delhi Police has also appeared in news papers on 19 January 2015 which itself speaks about the gravity of fraud.
 - (s) The Maharashtra adjudicator has also passed interim relief order dated 3 December 2014 and final order dated 15 January 2015 in matter filed by Bodhiratna Fulzele (Complaint no. 46/2014 dated 11 August 2014) which has provided relief to the victim where similar fraud has occurred with him.
 - (t) Complainent Mr. Tushar Kanta Mohanty has also made complaint to the Raipur Police FIR No, 0699 has been registered by Police Station Civil Lines, Raipur on 16.11.2015 under IPC section 420 and different section of Information Technology Act 2000 against accused Sudipto Chatterjee alias K.M. Acharya and Shekh Ibrahim.
 - (u) Complainent is claiming damages rupees 24,00,000/- which includes fraudulently transferred amount Rs. 22,36,000/-, complaint filling fee Rs. 51,000/- and Legal charges Rs. 1,13,000/-.
2. Respondent No.1 Mr. K.M. Acharya was not present in the hearing.
 3. Respondent No.2 Mr. SK Ibrahim was not present in the hearing. A registered notice was sent to him by Speed Post, delivery was attempted but it was not claimed by him.
 4. Respondent No.3 Mr. Ratan Saha was not present in the hearing.
 5. Respondent No.4 Punjab National Bank was present in the hearing on 12.05.2016. Mr. SK Mishra, Senior Manager Branch office, Balasore appeared with the relevant records. He presented transation details of bank account of complainant Mr. Tushar Kanta Mohanty and that of respondent No.2 SK Ibrahim. He verified the transfer of Rs. 22.36 lakh from the bank account of Mr. Tushar Kanta Mohanty (account no. 3224000100080536, PNB, Grand Road Puri) to the account of Mr. SK Ibrahim (Account No. 3039002100009030, PNB, Balasore). He also submitted verified copies of

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transaction details of account of Mr. Tushar Kanta Mohanty and SK Ibrahim.

6. Respondent No.5 CGTMSE was present in the hearing. Mr. V. Shravan Kumar, Deputy General Manager, CGTMSE along with Mr. Vijay Shankar Tiwari, Advocate appeared. In their written and oral arguments respondent no.5 has made following points :-
- (a) Credit Guarantee Fund Trust for Micro and Small Enterprises (CGTMSE) was jointly set up by the Ministry of MSME, Government of India and small Industries Development Bank of India (SIDBI) in the year April 2000 to strengthen credit delivery system and facilitate flow of credit to the Micro and Small Enterprises (MSE) sector. CGTMSE has its registered office and principal place of business at 1002-1003, Naman center, 10th floor, plot no. C-31, G-Block, Bandra-Kurla complex, Bandra (East), Mumbai-400051.
 - (b) CGTMSE provides gurantee cover to eligible Banks and institutions (Member Lending Institutions). CGTMSE dose not have any public dealing as it deals only with the eligible lenders. CGTMSE is maintaining its official website www.cgtmse.in which can also be accessed through www.cgtsi.org.in, www.cgtmse.com, www.cgtmse.org.in and www.cgtmse.co.in. The website is primarily meant for use by MLIs. The website contain information about CGTMSE, its role, functions, schemes operated by it, eligibility for membership by scheduled commercial banks and specified Regional Rural Banks, NSIC, NEDFI, SIDBI, some SFCs which have submitted an undertaking to the Trust for the purpose. It also contains details about the fee and procedure for settlement of claims and circulars meant for the above category of banks/ Fls.
 - (c) As it appears from the information provided in the preceding paragraph, CGTMSE in only an agency to provide insurance coverage to the MLIs, who have executed undertaking in favour of CGTMSE, against loans provided by them to MSEs as per CGTMSE scheme. It dose not deal with public and does not provide any loan assistance.
 - (d) As regards the complaint dated January 21, 2015 made by the complainant to the Adjudicating Officer, the complainant has himself stated that all throughout he has been dealing with the alleged representatives of the said alleged fraudulent website and there is no allegation either against CGTMSE or any of its employee having provided him any misleading

information. CGTMSE has no role in the entire transaction and has been made a respondent by the complainant only to cover his own complacency and negligence.

- (e) It is submitted that CGTMSE has taken due care to protect its data on the website and its security has not been breached and fire walls are intact. But CGTMSE has no control over third party who may use information available on the website. CGTMSE has been continuously running a scroll on its website cautioning public at large about the existence of such similar named websites. Moreover, CGTMSE has taken steps in educating the public at large on the functions of CGTMSE and access route to its official website as also cautioning existence of such website by issuing advertisement throughout India both in Hindi, English and other regional languages on October 09, 2014 and December 13, 2014. This goes to show that CGTMSE has taken proper care in disseminating information and educating public in general.
 - (f) As per news-paper reports which appeared on January 19, 2015, it is understood that the Delhi Police have arrested a person who had set up fake web-sites including the web-sites www.cgtmpse-govt.in, www.cgtmpse-gov.in and www.pmay-gov.in. All these web-sites are now not available on the internet.
 - (g) In the light of submission as above, it is submitted there is no case for any complaint against CGTMSE in the matter either on facts or in law including provisions of IT Act, 2000.
7. Chhattisgarh Police is also investigating this case. During hearing they informed that FIR no. 0699/15 has been registered in the Civil Line Police Station, Raipur on 16-11-2015, against accused Sudipto Chatterji alias K.M. Acharya and Shekh Ibrahim. Case is under investigation by Raipur Police.
8. My Analysis of the documents/arguments presented by various parties is as under :-
- (a) Complainant is a victim of phishing attack. The complainant has been made to believe that he is interacting with the official website and representative of respondent no.5. Complainant himself provided the signed blank cheque into the hands of respondent No.1, however

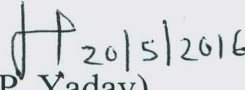
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complainant's amount of Rs 22,36,000/- was transferred from the complainant's account to the account of respondent no.2.

- (b) On Examination of Transaction details of bank accounts of complainant and respondent no.-2, as furnished by respondent no.-4 (Punjab National Bank) it is clear that amount of 4 cheques (No. 411190,411191,411192 & 411193) of Rs. 5,59,000/- each i.e. total amount Rs. 22,36,000/-was transferred from the account no. 3224000100080536 (PNB Puri) of complainant to the account No. 3039002100009030 (PNB Balasore) of respondent no.2, on 28-04-2014.

These 4 cheques were given by the complainant to the respondent No.1 for availing loan while falsely believing that respondent No.2 is the representative of respondent No.5 (CGTMSE).

- (c) From the above it is quite clear that respondent No.-2 has no claim over the amount Rs. 22,36,000/- which was fraudulently transferred into his account from the complainant's account.
- (d) Therefore it shall be in the fitness of the things to transfer back the amount of Rs. 22,36,000/- from the bank account no. 3039002100009030 of SK Ibrahim (respondentno.2) held with Punjab National Bank, Balasore to the Bank account no. 3224000100080536 of Mr. Tushar Kanta Mohanty (Complainant) held with Punjab National Bank, Grand Road, Puri.
- (e) If the respondent no.4 feels necessary to obtain concurrence from the Nagpur/Raipur Police so as not to hamper their investigation, respondent no.4 may obtain the concurrence from the Police accordingly by providing them a copy of this order.
- (f) Issue instruction to respondent no.4 accordingly.
- (g) No fault on the part of respondent no.4 & No.5.
- (h) Compliance of this order may be reported to this office within 15 days.


(O.P. Yadav)
(Adjudicating Officer)

Secretary
Information Technology Department
Govt. of Chhattisgarh