

IN THE COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES
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(Under the Persons with Disabilities (Equal Opportunities,
Protection of Right and Full Participation) Act, 1995)

Kind Attn:
E-4 Ms. Manisha
Choudhary,
D. G. M.

(8 Pages)

Case No. 2791/2003

5.09.2005

In the matter of:-

Mr. V.P. Singhania
President
National Federation of the Blind (Ghaziabad Unit)
D-51, Sec. IX, Vijay Nagar, Ghaziabad (U.P.)

— 3909

Complainant

Versus

Banking Division
(Through the Secretary)
Ministry of Finance
Govt. of India
Jeevan Deep Building
Parliament Street, New Delhi

— 3910

Respondent No.1

Indian Banks' Association
(Through its Vice President (Operations))
World Trade Centre, 6th Floor
Centre 1 Bldg., World Trade Centre Complex
Cafe Parade
Mumbai - 400 005

— 3911

Respondent No.2

Reserve Bank of India
(Through its Chief General Manager (Banking Operations))
Department of Banking Operations and Development
Central Office, Centre 1,
Cafe Parade, Colaba
Mumbai - 400 005

— 3912

Respondent No.3

ORDER

Date of hearings

Present

- | | |
|-----------|--|
| 21.1.2004 | Sh. A. Thomas, Under Secretary, MOF, Banking Division and the complainant. |
| 14.5.2004 | Sh. V.P. Grover, Sr. Research Officer, MOF, Banking Division and the complainant |
| 22.2.2005 | <ol style="list-style-type: none">1. Sh. V. Ramchandran, Vice President (IBA),2. Sh. Subrata Das, Dy. General Manager (RBI),3. Sh. Ram Kanwar, Section Officer, MOF, Banking Division4. Smt. Prem Mittal, Section Officer MOF, Banking Division5. Sh. Hem Bhartiya, Assistant, MOF, Banking Division |

6. Sh. M.K.Rastogi, Chairperson, All India Confederation of the Blind
7. Sh. Subhash Vashishta (Advocate)
8. Sh. V.P.Singhania, Complainant

23.8.2005

1. Sh. V.Ramchandran, Vice President (IBA),
2. Sh. Subrata Das, Dy. General Manager (RBI),
3. Sh. Ram Kanwar, Section Officer MOF, Banking Division
4. Sh. V.P.Singhania, Complainant

Sh. V.P.Singhania, a person with visual impairment filed a complaint dated 18.8.2003 in the Court of Chief Commissioner for Persons with Disabilities. He is the President of National Federation of the Blind (Ghaziabad Unit) and is working as an Officer in a Nationalised Bank. He submitted that visually challenged individuals, especially those, who can not sign, are not at all provided chequebooks by any bank. Lender financial institutions demand post-dated cheques signed by the borrowers in advance. This way they are not allowed to avail housing or other loan facilities. He suggested that Bank should provide chequebooks to their blind account holders after verification/certification of Left Hand Thumb Impression (LHTI)/Right Hand Thumb Impression (RHTI) of such customers on each cheque leaf. All the cheque leaves may be crossed in favour of lending Institution. He therefore, requested to take up the matter with the respondent no.1 and 3.

2. Office of the Chief Commissioner for Persons with Disabilities registered the complaint under Section 59 of the Persons with Disabilities Act 1955, hereinafter referred to as the Act and served notice to respondent No.1 to show cause dated 9.9.2003 to submit his/her version of the case.

3. As there was no response, personal hearing was held on 21.01.2004. Ministry of Finance, Banking Division in the mean time informed that it did not receive the notice, which was provided. On 21.1.2004, the representative of respondent No.1 stated that Ministry of Finance needed to consult Reserve Bank of India and sought more time. He was advised to submit reply within one month and the complainant to submit rejoinder within two weeks thereafter.

4. Respondent No.1 vide letter No.3/2/2004-SCT(B) dated nil March 2004 received on 12th march 2004 informed that the matter had been examined in consultation with the Indian Banks' Association. It was stated that Banks on case-to-case basis, extend Cheque Book facility to visually impaired account-holders. They are also cautioned against misuse of Cheques by

unscrupulous persons. The use of thumb impression is restricted for cash payments across the counter. The mechanism of electronic clearing arrangements (ECS Debit) could be used to collect the Equated Monthly Instalments by the lenders. The account holder could give a mandate to his banker to honour claims received from the lending institutions representing the EMI. In view of the foregoing, the Banking Division was of the view that it was not advisable to issue directions to the banks to issue compulsorily Cheque Books to visually impaired persons as a matter of routine. The complainant vide his rejoinder dated 17th March 2004 submitted that thumb impression of customer is verified by the Bank Officer on a cheque leaf, there was therefore no chance of any fraud at all. It seemed that this was not made clear to RBI or IBA. He requested to call Banking Division, Reserve Bank of India and Indian Bank Association.

5. Second personal hearing was scheduled on 14.5.2004 during which respondent no.1 informed that the matter had been taken up with the Reserve Bank of India (RBI) for examining the proposal for using cheque books to visually impaired person for specific purpose where amount of instalments is known. As soon as their views became available, the decision would be conveyed. The complainant, appreciating the initiative being taken by the Ministry of Finance, submitted that the cheque book facility should also be allowed for any other specific purpose such as payment of electricity bill to be made to the concerned agency, the charges to be paid to the housing societies where the amount of payment is not known in advance. In such cases, he suggested that at the time of issuing the cheque book, the concerned bank should write the name of the payee and verify the thumb impression of the visually impaired account holder who cannot sign.

6. Respondent no.1 vide letter No.3/2/2004-SCT (B) dated 25.6.2004 informed that IBA, in consultation with RBI, had issued certain guidelines to the Member Banks vide letter No.OPR/JSM/17-04/203 dated 15.4.2004. As per the letter, RBI had examined the issue and was of the view that legally speaking, the cheque book facility / operation of ATM / locker cannot be denied to blind persons / persons with low vision as they are legally competent to contract. Further, it would be safe and legally valid if such cheque book facility / operation of locker was allowed under the signature of a duly authorized person / person having notarised power of attorney. The operation of ATM by blind person / persons with low vision would also be safe and

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legally valid [with the change of technology. In view of the above RBI was of the view that the banks could issue post-dated cheques after verification / certification of the LHTI /RHTI of the blind persons so that they could avail of loans from financial institutions."

7. Vide letter dated 4.8.2004 of this court, respondent No.1 was advised to take up with RBI for issuing instructions to Banks to issue cheque books and allow ATM/locker facility to blind/low vision persons. Vide letter No.3/2/2004-SCT(B) dated 27.6.2004, respondent no.1 forwarded a copy of letter dated 14.8.2004 of RBI which stated that the matter was being further examined in consultation with IBA with a view to find a legally sound and operationally feasible solution. RBI mentioned about the advice of IBA that where payment is not known in advance, the scope of misuse/fraudulent use of the cheques cannot be ruled out as the blind persons would not be able to independently fill the details on the cheque forms. As a probable solution, the blind persons may have to come to the bank with the electricity bill or such other bills and seek the assistance of the concerned bank official in filling the amount of the cheque since the concerned bank official would be one of the persons who would be witnessing/identifying the thumb impression of the blind persons. IBA further mentioned that they did not find any other workable proposition and have sought the views of the Office of the Chief Commissioner for Persons with Disabilities on the above proposal.

8. As the matter was pending since August, 2003 and considering the problems faced by visually challenged persons, a meeting of the representatives of Ministry of Finance, RBI, IBA, National Confederation of the Blind and All India Confederation of the Blind was called in the office of Chief Commissioner for Persons with Disabilities on 22.2.2005. After detailed deliberations, the following suggestions were made unanimously for examination by IBA in consultation with RBI :

- i. The persons with blindness and low vision should be allowed to open individual accounts and be issued account payee cheques only.
- ii. At the time of issuing of cheque book, signature or the thumb impression, as the case may be, of the accountholder should be attested by the bank officials to avoid matching of signatures at the time of making payments to third parties.

- iii. IBA will examine the feasibility of printing appropriate warning on the cheques such as "Care – Cheque for Visually Impaired" to alert the bank officials.
- iv. The account holder should give an undertaking to the bank to the effect that the cheque book be issued to him/her at his/her own risk at the time of issuing
- v. IBA will examine the concerns relating to allotment of locker and its operation by visually impaired persons in consultation with RBI. The fact that the individual himself/herself has to go to the bank to operate the locker and hence it would not involve much of the security problems, should be kept in view.
- vi. IBA will also examine the question of providing ATM facilities to visually impaired persons and explore the possibility of adopting latest banking technology for their benefit.

A report on the above issues was to be submitted by IBA by 31st March 2005. IBA was also advised to address the issues relating to the eligibility conditions of scribes, extra time in examination etc. raised in the representation dated 12th September 2004 of the All India Confederation of the Blind, a copy of which was handed over to Sh. Ramchandran. IBA was also advised to intimate the outcome to this Court and All India Confederation of the Blind.

9. Vide letter No.OPR/17-04/007 dated 5th April 2005 IBA informed that they were referring the matter to their Standing Committee of Senior Bankers' for consideration. Vide letter dated 17.5.2005, IBA communicated the following decisions of its Legal and Operational Committee, a Standing Committee chaired by Chairman and Managing Director, Vijaya Bank :

* The Committee discussed the above suggestions in detail and were of the view that with a view to protect the interest of the visually impaired account holders, currently banks have a system of insisting on the visually impaired (blind) customers to come personally to the bank with an escort and withdraw cash from their account. The withdrawal forms/cheques are filled by the escorts and the signature / thumb impression of the visually impaired customer are attested by the bank official and the amount withdrawn are also informed to such customers so that he / she is aware of the amount actually withdrawn from the account. The Committee felt that issuing cheque

books to the visually impaired account holders is fraught with risk as there was scope for misuse/fraudulent withdrawal of money from such account holders account due to their impairment of vision. It was therefore, decided that with a view to protect the interest of such customers, as well as the bank, no change be recommended in the existing system of providing services to the visually impaired persons as stated above. In respect of the suggestion to provide account payee cheques to visually impaired customers for payment of predetermined EMIs for retail loan such as housing loan, consumer loans, etc., the individual bank may take appropriate view in the matter. As regards providing ATM facilities to such class of customers, considering their disabilities and the possibility of unauthorized use of ATM cards of fraudulent withdrawal from the account, the committee felt that providing ATM facility to such customer was not a feasible proposition unless technological advancements are made for providing ATM facility in a secured manner to a visually impaired person.

As regards providing Locker facility to visually impaired customers, the Committee was of the view that banks may open joint account with such customers with appropriate terms and conditions so as to protect the interest of the visually impaired customers as well as the banks.

Concluding the discussion on the issue, the Chairman stated an account holder should be held equally responsible when fraudulent withdrawal from his account takes place allegedly signed by the account holder's next kin or relatives etc. copying his signature as the account holder has not taken adequate care/safe custody of the cheques issued to him by the bank."

10. As this court, was not inclined to go along the above recommendations/decisions of IBA, another hearing was scheduled for 28th July 2005, which had to be adjourned twice due to heavy rain in Mumbai and was finally held on 23rd August 2005. During the hearing Sh. V.Ramachandran, Vice President (Operations) Indian Banks' Association stated that the views and the decisions of the Standing Committee of IBA to consider the issues involved had already been communicated vide letter No.BDL&O/200 dated 17.6.2005. He had nothing to add. He, however, stated that this court may take a view after hearing the views of Reserve Bank of India and Ministry of Finance (Banking Division).

11. Sh. Ram Kanwar, Section Officer the representative of the Ministry of Finance, Banking Division, said that RBI being the regulatory authority for the banking industry, its decision will have to be followed by all concerned

12. Sh. V.P.Singhania, the complainant stated that availability of a notarized power of attorney or a duly authorized person to such visually impaired persons whose spouse also happens to be blind and has minor children or a blind person who is single, is difficult. Therefore, issue of crossed cheque book for specific purpose like payment of loan, utility bills etc. should not be denied. Crossed blank cheques with the undertaking of the visually impaired account holder that the cheque book be issued to him/her at his/her own risk should not be a problem. He further stated that operation of ATM and the Locker should also be allowed to visually impaired persons.

13. During the hearing on 22.2.2006 various issues as mentioned in para 8 were discussed in detail and suggestions were made for examination and consideration with a view to find a positive solution to the problems being faced by visually impaired persons in availing banking facilities.

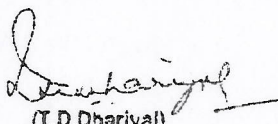
14. Upon considering the written and oral submissions of IBA, RBI, Ministry of Finance (Banking Division) and the complainant, this court is of the firm opinion that visually impaired persons can not be denied the facility of cheque book, locker and ATM on the possibility of risk in operating/using the said facility, as the element of risk is involved in case of other customers as well. Some banks have allowed almost every banking facility to the visually impaired customers. If one bank can allow the facility to such customers, other banks can also do so. This court, therefore, advises Ministry of Finance, Banking Division and RBI to issue appropriate instructions to the following effect for implementation by all the banks within 45 days of receipt of this order :

- a) Visually impaired persons be allowed to open an account with cheque book facility (cheques to be crossed at the time of issue) with an undertaking by the account holder that the cheque book be issued at his/her own risk. On the request of the account holder, the bank should

issue the cheques in the name of the specified payee to make periodic payments for the retail loans, utility bills etc. At the time of issuing of cheque books, thumb impression of the account holder should be duly affixed and authenticated by the bank official

- b) For cash withdrawals, the visually impaired person should personally present himself/herself before the bank official who will facilitate filling up the cheque / withdrawal slips.
- c) The facility of operating the Lockers be also allowed to the visually impaired account holders without insisting on the joint account, as this may not be possible for those who are single or whose spouse is also visually impaired and children are minor.
- d) ATM facility be also allowed on demand to the visually impaired customers as available to other customers. Banks should procure talking ATMs whenever they install new ones. Such an ATM machine has already been installed by some bank in Pune/Mumbai.
- e) Banks should also ensure that the ATMs, are accessible to other categories of persons with disabilities such as the wheel chair users.

15. As regards the qualification of the scribes, IBA has informed that the issue should be resolved by the Ministry of Finance which will be referred to them.


(T.D. Dhariyal)
Dy. Chief Commissioner
for persons with disabilities