

**In the Court of State Commissioner for Persons with Disabilities
National Capital Territory of Delhi
25- D, Mata Sundari Road, Near Guru Nanak Eye Centre, New Delhi-2
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[Vested with powers of Civil Court under the
Rights of Persons with Disabilities Act, 2016]

Case No. 279/1143/2018/05/9576-80

Dated:29/08/2018

In the matter of:

Sh. Gurubax Singh,
RZ-46B, Gali No.7,
Raghu Nagar,
New Delhi-110045.

..... Complainant

Versus

The Chief Manager,
Syndicate Bank, C-23-24,
Community Centre, Near Janak Cinema,
Janak Puri, New Delhi – 110058.

.....Respondent

Date of Hearing: 24.08.2018

Present: Sh. Gurubax Singh, Complainant
Sh. Mukesh Kumar, Manager, Syndicate Bank,
Janak Puri, New Delhi Branch

ORDER

Sh. Gurubax Singh vide his application submitted dated 17.05.2018 submitted that he is 69 years old. His wife Smt. Sunita Kumari aged about 66 years retired from Ministry of Defence, Govt. of India on 30.04.2007 as Senior Storekeeper. She was granted a pension of Rs. 14000/- (approx.) p.m. which she gets through Syndicate Bank, C-23-24, Community Centre, Near Janak Cinema, Janakpuri, New Delhi – 110 058 where she has an SB Account No.90542010091553. His wife is suffering from dementia. She occasionally loses memory. The complainant also enclosed disability certificate in respect of Smt. Sunita Kumari as per which she has 90% disability due to dementia. He alleged that the bank has illegally suspended the operation of the SB

Account of his wife since October, 2016. The bank also took a written statement from him in which he requested that the operation of the said account may temporarily be stopped. The complainant has submitted that there is no one to look after them as their children live separately and do not bear any expenses. He and his wife are fully dependent on each other. The bank has refused to operate the account of his wife without an order from the court or any higher authority regarding guardian of his wife. As the only means of their survival is the pension of his wife, he requested that a direction should be given to the bank to release the pension of his wife and to allow her to operate her bank account.

2. The matter was taken up with the Chief Manger, Syndicate Bank, Janakpuri Branch vide letter dated 31.05.2018 and was advised to take immediate action to make necessary arrangement to enable Smt. Sunita Kumari to withdraw the money from her pension account to meet their expenses. A copy of the letter was also marked to Member Secretary, DLSA, Patiala House, New Delhi with a request to take appropriate action to extend legal assistance to Smt. Sunita Kumari for appointment of guardian/nominated representative under Mental Health Act 1987/Mental Health Care Act, 2017. District Magistrate (West District), GNCTD was also requested to extend necessary assistance to Sh. Gurubax Singh and Smt. Sunita Kumari. Sh. Kundan Singh, Incharge, Legal Aid Wing, DLSA, Patiala House Courts forwarded a request to West District Legal Services Authority, Tis Hazari Courts for necessary action.

3. As there was no response from the bank, a hearing was scheduled on 14.08.2018 which was rescheduled on 24.08.2018. During the hearing on 24.08.2018, the complainant reiterated his written submissions and stated that he is somehow managing his household expenses and as the bank did not allow operation of the bank account, he approached the Hon'ble Court of ADJ-02, Dwarka Courts for guardianship in respect of his wife Smt. Sunita Kumari. Vide order dated 06.07.2018, Hon'ble ADJ, Sh. Vishal Gogne directed his wife

to be present before IHBAS on 16.07.2018 and Director, IHBAS was directed to provide a medical report whether Smt. Sunita Kumari is in fact mentally ill and if she is mentally ill and whether she is capable of taking care of herself and taking rational decisions on the standards of a reasonable person of her age. IHBAS informed the Hon'ble Court that 3 to 4 weeks is required for submitting the medical report and the case has been adjourned to 20.10.2018. Consequently, he and his wife are finding it difficult to manage the household expenses.

4. Sh. Mukesh Kumar, Branch Manager, Syndicate Bank, Janak Puri Branch submitted as under:-

"1. That Smt. Sunita Kumari is a pensioner of our Branch and getting monthly pension in her a/c no.-90542010091553 and has been paid pension upto July 18.

2. That Mr. Gurubax Singh along with his son, Pradeep Verma, informed the Bank through a letter dt. 27.09.2016 about the insane mental status of Smt Sunita Kumari and she being not in proper state of affairs to withdraw the money properly. On this information the Bank put Caution in the account. Copy of letter enclosed for ready reference.

3. That Sh Gurubax Singh requested the Bank vide his letter dt 27.02.2017 to write a letter to RML Hospital to review the mental status of Smt. Sunita Kumari and the Bank wrote a letter to RML Hospital on 14.03.2017 for the same purpose. Copy of the letter enclosed for ready reference.

4. That on 27.06.2017, the competent medical authorities at RML Hospital issues the Disability Certificate diagnosing her as a patient of Dementia with 90% effect. Copy enclosed.

5. That no fresh diagnosis has been done after 27.06.2017 proving any latest position of mental status of Smt Sunita Kumari.

6. That under the provisions of the India Contract Act, 1872, contracts with persons of unsound mind are void. When a banker comes to know of his customer lunacy, all operations in the account are suspended until the receipt of an order of a Court of Law or definite proof of customer's sanity in the form of Medical Certificate issued by the competent medical authority acceptable to the Bank."

5. As the matter for guardianship in respect of Smt. Sunita Kumari is already before the Hon'ble Court of ADJ, Dwarka Courts, the complainant is advised to request the Hon'ble Court for an expeditious disposal particularly when PGIMER, Dr. Ram Manohar Lohia Hospital, New Delhi has already issued disability certificate of 90% disability due to dementia in respect of Smt. Sunita Kumari.

6. For contingencies of this nature, the concerned authorities in the banking sector namely Reserve Bank of India (RBI), Indian Banks' Association (IBA) and the concerned Department of the Bank should provide for appropriate provision in the relevant rules, with adequate safeguards, to enable the Branch Manager to allow operation of the bank accounts of such persons for a limited period of time till appointment of legal guardian which is a lengthy process so that the immediate family members or any other person/organisation can withdraw the money for maintenance of a pensioner with mental illness.

7. Considering the age of the couple in this case and their precarious condition, a copy of this order is being sent to the **Centralised Pension Processing Cell of Syndicate Bank** with a view to find some immediate solution to the problem so that Smt. Sunita Kumari or her husband is able to withdraw some money to be spent for day-to-day expenses. If considered necessary, the District Social Welfare Officer or some NGO can occasionally monitor to ensure that Smt. Sunita Kumari's day-to-day needs are being taken care of.

8. A copy of this order is also being forwarded to Governor, Reserve Bank of India and Chairman, Indian Banks' Association for examining the matter and framing/amending the relevant rules/provisions to take care of the contingencies arising due to acquiring disability by the account holders, as discussed in para 6 above. Action/decision taken in the matter may be intimated to this Court.

9. The matter is disposed off.

10. Given under my hand and the seal of the Court this 29th day of August, 2018.

(T.D. Dhariyal)
State Commissioner for Persons with Disabilities

Copy to:-

1. Centralised Pension Processing Cell, Manipal, Dakshina Kannada Udupi, Karnataka - 576104. (Email : synddcppc@syndicatebank.co.in)
2. The Governor, Reserve Bank of India, Central Office Building 19th Floor, Shahid Bhagat Singh Road Mumbai-400001.(Email : governor@rbi.org.in)
3. The Chairman, Indian Banks' Association, World Trade Centre, 6th Floor Centre 1 Building World Trade Centre Complex, Cuff Parade, Mumbai, Maharashtra, 400005 (Email : mail@iba.org.in).