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(2004) 02 NCDRC CK 0046

In the National Consumer Disputes Redressal Commission

ABDUL MATEEN — APPELLANT

Vs

KHADI GRAMODHYOG COMMISSION — RESPONDENT

Date of Decision : 04-02-2004

Acts Referred:

Citation : 2004 2 CPC 74 : 2004 2 CPJ 370

Hon'ble Judges : M.A.A.Khan , Ratan Prakash J.

Advocate : Shamsuddin Ansari , R.K.Sharma

Judgement

1. ALL these complaints involve identical facts, these were, therefore, heard together, as suggested by the learned Counsel for the parties on discussion with them, they are being disposed of by this common order. The main order shall be placed on the record of Complaint Case No. 31/2002 and a copy thereof on each of other complaints.

2. RELEVANT facts are these: In order to implement the national programme for handmade paper the Khadi and Village Industry Commission, Bombay (the Commission) was pleased to sanction certain amounts of loan to such persons who were actively engaged in handmade paper industry. By its order dated 30.9.1995, addressed to the National Project Co-ordinator Kumarappa National HMP Institute, Sanganer, Jaipur (Raj.), the Commission sanctioned the loan applied for by different enterpreneurs in the industry and diected disbursement of the sanctioned loan to them as per details given in the sanction order. The present complainants were amongst such persons who applied for sanction of the loan to them to promote their handmade paper industry at Sawaimadhopur. Each of them had been sanctioned a loan of Rs. 9.98 lakhs each but it was further directed that a sum of Rs. 6,48,000/- each shall be released to them. The maximum loan which could have been released to the complainants was upto the amount of Rs. 9.98 lakhs each. After having sanctioned the lonas aforesaid in the manner stated above the Commission and its agents, located at Jaipur required the complainats to furnish certain documents so that the sanctioned loans may be disbursed to them. Although the complainants have alleged that they had

complied with the required formalities but the loans/part of the loan sanctioned to them was not released by the Commission/their agent at Jaipur despite repeated requests. Therefore, alleging deficiency in service on the part of the opposite parties, the complainants filed the present complaints.

Apart from raising certain preliminary objections relating to relationship of consumer and provider of service between the parties, jurisdiction of this Commission to entertain such complaints and non-implementing of necessary parties the main contention of the opposite party in the reply filed by them was that although the complainants had submitted their project reports whereupon loans, as specified above had been sanctioned to them individually and separately but since they did not submit the originals of certain documents, which were required to be submitted by them in order to enable the opposite parties to disburse loan to them, the sanctioned loans could not be released in their favour.

3. THE contention of the complainant against the plea taken by the opposite parties in their written reply was that the loans had duly been sanctioned by the opposite parties to them and that they had submitted all the documents, as required by them, in original but even then the sanctioned loan was not disbursed to them. At the time of hearing these complaints we looked into documents submitted by them with the help of the learned Counsel. It is not in dispute that the opposite parties had duly sanctioned the subsequent amount of loans to the complainants. It is also not in dispute that such loan was to be disbursed to them as per policy of the Commission. That being the factual position. There existed the relationship of consumer and provider of services for consideration between the complainants on the one hand and the opposite parties on the other. Therefore, this Commission had jurisdiction to hear the present complaints.

4. NOW the sole dispute between the parties, as was confesed by them before us, whereas the complainant submitted that they had submitted all the documents, as required by the opposite parties from them to be submitted in originals, case of the opposite parties is that the complainants had not submitted the security bond and indemnity bond as mentioned at serial Nos. 1 and 4 in their communication dated 26.12.2000 Ex. 18. In order to resolve the controversy between the parties a reference may be made to the communication sent by the opposite parties to their disbursing agent. Exs. 17 and 18 run as under: "xxx xxx xxx xxx" A combined reading of the above communications makes it quite clear that all the documents as were required by the opposite parties to enable them to disburse the sanctioned loan to the complainants, had actually been delivered by the complainant to them and the Jaipur office of the Commission had forwarded such original documents on 27.3.2000 alongwith other papers to the Commission at Bombay. Even after having received such documents the opposite parties had not disbursed the sanctioned loan to the complainants and that makes deficiency in service on their part.

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5. THE letter dated 15.2.2002 by Commission''s office at Bombay to the Director of Khadi Commission at Jaiur simply states that the documents (which were sent by the Jaipur office to the Bombay office) were not traceable in their record. This document does not exonerate the opposite parties of their liability for having rendered deficient services by them to the complainants.

6. IN the result, all the three complaints are allowed with cost at Rs. 2,500/- to each of the complainants. The opposite parties are directed to disburse the sanctioned loan to them within a period of two months from today failing which the sanctioned loan shall carry interest @ 9% p.a. till disbursement. Complaints allowed with costs.

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