

(1999) 12 NCDRC CK 0047

In the National Consumer Disputes Redressal Commission

ADHISHASI ABHIYANTA, sharda Nagar Khand

APPELLANT

Vs

Gaya Prasad

RESPONDENT

Date of Decision : 14-12-1999

Acts Referred:

Citation : 2000 1 CPJ 395

Hon'ble Judges : K.C.Bhargava , D.D.Bahuguna J.

Final Decision : Appeal allowed

Judgement

1. THIS is an appeal against the judgment and order dated 1.3.1995 passed by District Consumer Forum, Hardoi in Complaint Case No. 1467/1993.

2. THE facts of the case stated in brief are that the complainant has his plot No. 272 adjacent to Minor (Canal). This plot is irrigated from Minor Canal. According to the complainant in the year 1992-93 the complainant did not draw any water from the Minor by committing theft. THE Pathrol of the Canal Department wanted certain illegal gratification which was not being given by the complainant and other persons of the village. Hence they were threatened that they will be forcibly roped in for theft without drawing water from the Minor. When the persons of the village did not accede to the request of the Pathrol, a false case of theft was planted against the complainant and a sum of Rs. 800/- was imposed as penalty. This fact was disclosed to the complainant when the Amin came to realise the amount. According to the complainant he did not receive any intimation from the Canal Department of having committed this alleged theft. He has claimed a sum of Rs. 2,000/- as compensation. The opposite party alleged that the complainant is not a consumer and denied the allegations levelled against the department.

The learned District Forum, after considering the facts of the case, came to the conclusion that the case has been forcibly planted against the complainant and hence it directed the opposite party for not realising the sum of Rs. 800/- and awarded Rs. 500/- as compensation.

3. AGGRIEVED against this order, the opposite party in the complaint case, has come in appeal and has challenged the correctness of the order passed by the District Forum. We have heard the learned Counsel for the parties and have perused the relevant papers.

4. LEARNED Counsel for the appellant has argued that the complainant is not a consumer. Hence District Forum has no jurisdiction to try this case. The facts of the present case reveals that the grievance of the complainant is against imposition of Rs. 800/- on the grounds of alleged theft of water which has been wrongly planted by the Pathrol for drawing water from the Minor Canal. The fact shows that the complainant cannot be said to be a consumer because the allegations of theft have been levelled against him. This case can only be tried by a proper authority and not before the District Forum. There was no defect or deficiency in the service. Hence the complainant cannot be said to be a consumer. The complainant is not covered by the definition of the word "consumer" as defined in the Consumer Protection Act. It is immaterial whether the complainant has committed theft of the water or not because the District Forum could not have gone into this controversy at all. Thus the judgment and order of the learned District Forum are liable to be set aside. Order The appeal is allowed. The judgment and order of the learned District Forum are set aside and the complaint is dismissed. Let copy of this order be made available to the parties as per rules. Appeal allowed.