(1999) 10 NCDRC CK 0013

In the National Consumer Disputes Redressal Commission

Aggarwal Agencies APPELLANT

Vs

PLATINUM AGENCIES (P) LTD. RESPONDENT

Date of Decision : 22-10-1999

Acts Referred:

Citation : 2001 2 CPJ 25

Hon'ble Judges : A.N.Divecha , R.L.Sudhir J.

Final Decision : Complaint rejected

Judgement

1. THE applicant/ complainant has filed this complaint against the respondents under Section 10(b) read with Section 31 ind Section 37 of the Monopolies and Restrictive Trade Practices Act, 1969 (the MRTP Act for brief) to seek redressal of his grievances arising from the alleged indulgence in the monopolistic trade practices as defined in Section 2(i) of the MRTP Act by the respondents.

2. THE respondents are a Company engaged in the business of production, bottling and distribution of soft drink products of Coca Cola India Limited. THE respondents have been carrying out the supply and distribution of products through a network of about 300 sole selling agents/distributors duly appointed by them in different areas. THE applicant/ complainant was appointed a sole selling agent/ distributor in the area of Adarsh Nagar/Azadpur, New Delhi in 1994 for sale and distribution of the products of the respondents. As per agreed terms, the sole selling agents/distributors are required to make the supply and distribution of the said products to the retailers at the same price at which they receive these goods from the respondents without charging any profit or any other charges from the customers. For undertaking this work, the sole selling agents/ distributors are paid commission remuneration @ 10% on the bill value of the products supplied. On 1.7.1999, the respondents terminated the distribution arrangements with the applicant/ complainant as well as other distributors and switched over to making supplies directly to the retailers in all the areas. Aggrieved by this decision, the applicant/complainant has preferred this complaint to the Commission. The applicant/complainant has tried to clothe

his contention with monopolistic trade practices by alleging that the termination of about 300 sole selling agents/distributors has led to the erosion and distortion of competition and also to unreasonable increase in the profits of the respondents. These allegations appear to be too shallow and without any basis. In the earlier system of distribution also the sole selling agents/ distributors played no part in determining the prices. They were mandated to charge the price fixed by the producers. Hence, it cannot be said that the change over to the new system, has by itself, resulted in the distortion of competition or raising of prices at an unreasonable level. Similarly, the allegation of unreasonable increase in the profits of the respondents is a mere conjecture. For all kinds of distribution and marketing arrangements, whether direct or through distributors, a cost has to be incurred by the producers. In the earlier system, commission @ 10% was payable to the distributors and in the new system some expenditure has to be incurred on the substitute of the earlier system. In sum, none of these allegations fall within the ambit of the Monopolistic Trade Practices as defined in Section 2(i) of the MRTP Act.

The learned Advocate appearing on behalf of the applicant/complainant invited our attention to Regulation 29 of the Monopolies and Restrictive Trade Practices Commission Regulations, 1991 and prayed for initiating action under the said Regulation. We wonder how these Regulations which are procedural in nature can be made to override the substantive law which does not favour the case of the applicant/ complainant.

3. WHAT really seems to be hurting the applicant/complainant is the loss of commission resulting from the cancellation of distribution arrangements. Marketing and distribution of products is the sole prerogative of the producers themselves. Whether distribution is to be done through a network of dealers and distributors or directly is for the producers to decide. It is not open to the Commission to direct or advise the respondents on the method of distribution of their goods. In the light of the above discussion, we find no merit or substance in the allegations levelled in the complaint application nor is this a fit case to be referred to the Director General (Investigation and Registration), for investigation under Regulation 29 of the Monopolies and Restrictive Trade Practices Commission Regulations, 1991. It, therefore, deserves to be and is hereby summarily rejected. The interim relief application made under Section 12A of the MRTP Act would also stand rejected. Complaint rejected.

