

(2014) 01 NCDRC CK 0044

In the National Consumer Disputes Redressal Commission

Agricultural Insurance Co. Of India Ltd.

APPELLANT

Vs

GOVIND SINGH

RESPONDENT

Date of Decision : 06-01-2014

Acts Referred:

Citation : 2014 0 NCDRC 20

Hon'ble Judges : V.B.GUPTA , Rekha Gupta J.

Advocate : SANJIV SHARMA

Judgement

1. HEARD .

2. ALONGWITH present revision petition, petitioner/ Opposite Party No.3 has filed an application seeking condonation of delay of 21 days. For the reasons mentioned in the application, the delay is condoned.

3. RESPONDENT No.1/Complainant had filed a Consumer Complaint before the District Consumer Disputes Redressal, Sawai Madhopur, Rajsthan (for short, "District Forum ") alleging deficiency on the ground that he had taken an agricultural loan in the year 2006 and got the insurance for his entire agricultural land from the opposite parties, including petitioner. However, the crop of Mustard and Wheat which had been grown on the agricultural land were completely destroyed due to hailstorm for which Tehsildar has got an inspection done through Patwari of the area concerned. Respondent No.1 requested the O.Ps to pay the insurance amount which was not paid. Hence, alleging deficiency on the part of the opposite parties, respondent no.1 filed a Consumer Complaint.

4. BEFORE the District Forum, opposite parties no.1 and 2 were duly served but did not appear nor did they file any reply. Hence, they were proceeded ex parte. It was petitioner alone who contested the complaint denying any deficiency on its part.

5. DISTRICT Forum, vide order dated 9.9.2009 allowed the complaint of the respondent no.1 and awarded him a sum of Rs.11,000/- for the crop of wheat and Rs.4,000/- towards compensation and Rs.1,000/- for the cost of litigation.

6. PETITIONER filed an appeal before the State Consumer Disputes Rederssal Commission, Jaipur (Rajasthan) (for short, "State Commission ")which was dismissed, vide impugned order dated 1.12.2011. Aggrieved by the order of the State Commission, petitioner has filed the present revision petition.

7. NOTICE of this petition was issued to respondent no.1. Initially, Mr. S.C. Gupta, Advocate on behalf of respondent no.1 appeared and sought time to file his Vakalatnama but the same was not filed. Thereafter, on 15.5.2013 none appeared on behalf of the respondent no.1, as such he was proceeded exparte on that date.

8. IT has been contended by the learned counsel for the petitioner that the State Commission in exercise of its jurisdiction has acted illegally and committed material irregularity. On one hand in its impugned order it observe that; ""Seven appeals no. 1428/2009 to 1434/2009 have been decided vide order dated 10.5.2010 by the State Commission on similar facts as in the present appeal. In the present appeal, whatever order has been passed by the District Forum, looking into the present facts, we do not find any ground to differ from the order of the State Commission. Since the order of the District Forum has been passed on the basis of the facts, the rightful relief has been granted to the complainant by rightful application of mind. Therefore, we do not find any ground to interfere. The appeal of the appellant is dismissed. The amount deposited by the appellant alongwith the earned profit be adjusted into the amount which is to be paid to the complainant. One month time is given for making the remaining compliance ""

On the other hand, it has wrongly dismissed the appeal of the petitioner. As per State Commission 's own reasoning as quoted above, the appeal of the petitioner ought to have been allowed. We fully agree with the submissions made by the learned counsel, that the State Commission has acted illegally and has committed grave material irregularity in passing the impugned order. Moreover, there is a total non -application of mind on the part of the State Commission while deciding the appeal of the petitioner.

9. A bare perusal of the impugned order quoted above, clearly shows that no reason whatsoever has been given by the State Commission while deciding the appeal of the petitioner. The State Commission has even not taken the trouble of mentioning the facts as well as contentions raised by the learned counsel for the parties.

10. FURTHER , as per copy of order dated 10.5.2010, passed by the State Commission in Appeals No. 1428 to 1434 of 2009 (reference of which is there in the impugned order), the complaints filed before the District Forum were partly accepted. The present petitioner was an appellant before the State Commission in those cases who had filed the above noted appeals. Admittedly, the State Commission had allowed all those appeals and had set aside the order dated 14.09.2009, passed by the District Forum and had dismissed the complaints filed

by the complainants. We are really surprised as to how and on what basis the State Commission had dismissed the appeal of the petitioner in the present case, relying upon its own order dated 10.5.2010 passed in (Appeals No. 1428 to 1434 of 2009). This clearly shows that there is total non -application of mind on the part of the State Commission.

11. WE may further point out that this non -application of mind on the part of the State Commission is due to the fact that this State Commission, as a matter of practice never give any reasons while disposing the appeals filed before it.

12. WE shall be failing in our duty, if we do not mention that, earlier also inspite of specific directions given by this Commission to the State Commission, Rajasthan, it has been willfully ignoring all our directions. In regard, we quote a decision of this Commission, Jaipur Vidut Vitran Nigam Ltd. Vs. Prakartik Society, RP No.3951 of 2012, decided on 4.4.2013, wherein we observed; 3. Being aggrieved by order of the District Forum, petitioner preferred (Appeal No.110 of 2011) under Section 15 of the Consumer Protection Act, 1986 (short "Act ") before Rajasthan State Consumer Disputes Redressal Commission,Jaipur (short, ""State Commission ""). State Commission dismissed the appeal at the admission stage itself, vide order dated 13.5.2011 without giving any reason. It is further stated that, petitioner filed (Revision Petition No.2772 of 2011) before this Commission and challenged order dated 13.5.2011. This Commission vide order dated 24.5.2012, allowed the revision and remanded back the appeal to the State Commission, for deciding the same after giving due reasons. 4. After remand, State Commission again dismissed petitioner 's appeal, vide order dated 16.7.2012, without giving any reason. As such, impugned order is liable to be set aside. 5. Counsel for respondent does not dispute these facts. 6. It is an admitted fact that earlier State Commission dismissed (Appeal No.110 of 2011) vide order dated 13.5.2011 and observed;

""Keeping in view all the facts and circumstances of the case, there is no error in the order dated 16.12.2010 passed in complaint No.119 of 2007 by District Consumer Disputes Redressal Forum, Savai Madhopur. The order of the District Forum is based on facts in which there is no need for interfere and the appeal of the appellant being without any force is liable to be dismissed. Therefore, the appeal of the appellant is dismissed and the orders of the District Consumer Disputes Forum, Savai Madhopur dated 16.12.2010 passed in complaint No.119/2007 are confirmed "".

7. Against order dated 13.5.2011, petitioner preferred(Revision Petition No.2772 of 2011) before this Commission and the same was allowed vide order dated 24.5.2012.This Commission held ; ""After perusal of the impugned order, we find that appeal has been dismissed by the State Commission by making general observations that there is no error in the order of the District Forum. Passing of a non -speaking order is against the principle of natural justice. Hence, we are incline to allow this appeal and to remand the matter at the admission stage itself. We, therefore, allow this petition. Impugned order is set aside and matter

is remanded to the State Commission with directions to consider the same on merits and to decide the same after giving due reasons. State Commission shall make endeavor to dispose of the appeal preferably, within a period of six months from the date of receipt of the order. Revision petition stands disposed of accordingly. Parties are directed to appear before the State Commission on 16.7.2012 "" . 8. After remand, State Commission again without giving any reason, dismissed petitioner 's appeal, vide impugned order dated 16.7.2012. Translated copy of the order states ; ""The present matter has been remand back from Hon 'ble National Consumer Disputes Redressal Commission vide order dated 24.5.2012.

Looking and the facts circumstances. We find in error in the judgment/Abroad passed by District Forum Sub by Madhopur in Case No.199 of 2007 passed on 16.12.2010. As the Abroad passed by the District Forum has been passed by deeply looking into the matter. We have it should be find that there is no point in interference. Abroad and hence, the present appeal against by dated 16.12.2010 passed in Case No.199 of 2007. Sd/ - Sd/ - (Sunita Ranka) (Ashok Parihar) Member, Chairman State Commission Consumer State Commission Disputes, Jaipur Consumer Disputes, Jaipur 9. Bare perusal of impugned order shows that, no reason whatsoever has been given by the State Commission. Hon 'ble Supreme Court in, HVPNL Vs. Mahavir (2004) 10 SCC 86 observed ; ""4. At the admission stage, we passed an order on 21.7.2000 as follows : ""In a number of cases coming up in appeal in this Court, we find that the State Consumer Disputes Redressal Commission, Haryana at Chandigarh is passing a standard order in the following terms : "We have heard the Law Officer of HVPNL, appellant and have also perused the impugned order. We do not find any legal infirmity in the details and well -reasoned order passed by District Forum, Kaithal. Accordingly, we uphold the impugned order and dismiss the appeal. " We may point out that while dealing with a first appeal, this is not the way to dispose of the matter. The appellant forum is bound to refer to the pleadings of the case, the submissions of the counsel, necessary points for consideration, discuss the evidence and dispose of the matter by giving valid reasons. It is very easy to dispose of any appeal in this fashion and the higher courts would not know whether learned State Commission had applied its mind to the case. We hope that such orders will not be passed by the State Consumer Disputes Redressal Commission, Haryana at Chandigarh in future. A copy of this order may be communicated to the Commission.

Issue notice for remand of the matter to the State Commission for disposal afresh in accordance with law. Status quo, as of today, shall be maintained by the parties. 5. The State Commission of Haryana did not give any reason for dismissing the first appeal. That order was confirmed by the National Commission. Inasmuch as there was no discussion by the State Commission in the first appeal and for the reasons given by us in the order which we have passed on 21.7.2000, the orders of the National Commission and the State Commission are set aside and the matter is remanded to the State Commission

to dispose of the case in accordance with law and in the light of the order passed by us on 21.7.2000 after giving notice to the parties. "" 10. Again, in Canadian 4 Ur Immigration Ser and Anr. Vs. Lakhwinder Singh, Special Leave to Appeal (Civil) No. (s) 8811/2009, decided on 21.2.2011, Hon "ble Apex Court held ; ""A bare perusal of the impugned order of the National Commission shows that no reasons have been recorded therein. It is well settled that even an order of affirmance must contain reasons, even though in brief, vide Divisional Forest Officer VS. Madhusudan Rao, JT 2008 (2) SC 253, vide para 19. In the result, this appeal is allowed. The impugned order of the National Commission is set aside and the matter is remanded back to the National Commission to decide the matter afresh in accordance with law after hearing the parties concerned and by giving reasons. ""

11. In the present case, the State Commission inspite of specific directions given by this Commission, did not give any reason while deciding the appeal. In view of the dictum of Hon "ble Supreme Court in HVPNL Vs. Mahavir and Canadian 4 Ur Immigration Ser (supra) we have no option but to allow the present revision petition. Accordingly, impugned order passed by the State Commission is set aside and matter is again remanded back to the State Commission, with specific directions that it should consider the matter afresh, in accordance with law after hearing the parties concerned and by giving appropriate reasons. 12. State Commission shall make an endeavour to dispose of the appeal, preferably within six months from the date of receipt of this order. 13. Present revision stands disposed of accordingly. ""

13. BEFORE parting with, we must express our deep anguish at the manner in which the State Commission has been disposing the appeals in a mechanical manner without giving any reasons whatsoever, inspite of mandate given by the Hon "ble Apex Court, that while deciding the appeals, the Appellate Forum must give specific reasons.

14. ACCORDINGLY , we set aside the impugned order passed by the State Commission and remand the matter back to it with specific directions that it should consider the matter afresh in accordance with the provisions of law and keeping in view the above observations made by this Commission, by giving appropriate reasons. The State Commission shall make an endeavour to dispose of the appeal, preferably within six months from the date of receipt of this order.

15. PRESENT revision petition stands disposed of accordingly.

16. PETITIONER is directed to appear before the State Commission on 12.2.2014. Dasti.