

(2015) 06 NCDRC CK 0042

In the National Consumer Disputes Redressal Commission

Ajmer Vidyut Vitran Nigam Ltd. (Avvnl) And Ors.

APPELLANT

Vs

Chitransh Flour Mills

RESPONDENT

Date of Decision : 29-06-2015

Acts Referred:

Citation : (2015) 06 NCDRC CK 0042

Hon'ble Judges : K.S.CHAUDHARI J.

Final Decision : Petition Allowed

Judgement

1. THIS revision petition has been filed by the petitioner against the impugned order dated 27.07.2010 passed by the Rajasthan State Consumer Disputes Redressal Commission (for short "the State Commission") in Appeal No. 1346/2010, "Ajmer Vidyut Vitran Nigam Ltd. versus Chitransh Flour Mills" by which while dismissing the appeal, order of District Forum allowing the complaint was upheld.

2. BRIEF facts of the case are that the complainant - respondent obtained 10 HP connection on 09.09.2005 for running flour mill from OP - petitioner. On 17.07.2008, the complainant applied for disconnection as landlord was selling said property. It was further submitted that at the time of taking connection, complainant paid 14,910/- and at the time of disconnection, opposite party was to refund security amount 6,400/- and 6,000/- fixed charges taken for granting permanent connection and cost of meter 650/- and cost of meter box 950/-. It was further submitted that after deducting 2,506/- towards consumption charges, 11,494/- was to be refunded but opposite party has not refunded 6,000/- towards fixed charges and also deducted 329/- Alleging deficiency in service on the part of the opposite party complainant filed complaint before District Forum. OP resisted complaint and submitted that 6,000/- paid by complainant for granting electric connection was not refundable at the time of disconnection and further submitted that 329/- were deducted for consumption of electricity after making necessary adjustment and prayed for dismissal of complaint. Learned District Forum after hearing both the parties allowed the

complaint and directed the opposite party to refund 6,000/- with interest @9% p.a. and further directed to pay cost of 1,000/-. Appeal filed by the opposite party was dismissed by State Commission vide impugned order against which this revision petition has been filed. None appeared for respondent ever after service of notice and he was proceeded ex -parte.

3. HEARD the learned counsel for petitioner and perused the record.

4. LEARNED counsel for petitioner submitted that learned District Forum committed error in allowing refund on the basis of circular dated 17.11.2007 and learned State Commission further committed error in dismissing appeal hence revision petition be allowed and impugned order be set aside. It is admitted case of the complainant that he obtained electricity connection from opposite party on 09.09.2005 for running flour mill and at that time, he paid 6,000/- towards fixed charges for granting permanent connection. He applied for disconnection on 17.07.2008 and claimed refund of fixed charges. Learned District Forum allowed complaint on the basis of circular dated 17.11.2007 which runs as under: - - "5. Sub -Clause (1) of Clause - 5 denoting "Withdrawal of application" shall be substituted by the following namely;

1. If any person, after applying for supply of electricity withdraws his application or refuses to take supply, the amount of application fee shall be forfeited but the amount of security shall be refunded. The amount, if any, deposited by the application towards the line and plant cost shall also be refunded as under:

Such refund shall be paid by the Nigam within 30 days of receipt of withdrawal/ refusal letter by the Nigam and beyond which interest at bank rate shall be payable."

5. PERUSAL of aforesaid clause reveals that amount of security is required to be refunded by department only if applicant withdraws his application for electricity connection or refuses to take supply. In the case in hand, complainant applied for connection, obtained connection and availed connection for almost 3 years. In such circumstances, this circular was not applicable and complainant was not entitled to get refund of fixed charges.

6. LEARNED District Forum and learned State Commission has also placed reliance on letter dated 19.08.2008 of the Assistant Engineer in which it was stated that no line work has been done and complainant is entitled to refund. Without electricity wire line, how complainant would have obtained electricity supply and run his flour mill. When complainant had consumed electricity for a period of 3 years necessary line must have been drawn and in such circumstances, fixed charges taken by opposite party while providing electricity connection were not refundable in the light of circular dated 17.11.2007 and learned District Forum has committed error in allowing complaint. The State Commission has also committed error in dismissing the appeal, hence revision petition is allowed to be as fixed electricity charges are not refundable. Consequently, revision petition filed by the petitioner is allowed and impugned

order dated 27.07.2010 passed by learned State Commission in appeal No. 1346/2010 in "Ajmer Vidyut Vitran Nigam Ltd. versus Chitransh Flour Mills" and order of District Forum dated 03.06.2010 in complaint No. 311/2008 "Chitransh Flour Mills v. Ajmer Vidyut Nigam Ltd." Is set aside and complaint stands dismissed. There shall be no order as to costs.