
(2001) 08 NCDRC CK 0009

In the National Consumer Disputes Redressal Commission

ALKA NARAYANRAO GHOSEKAR

APPELLANT

Vs

VENUGOPAL NAIDU

RESPONDENT

Date of Decision : 28-08-2001

Acts Referred:

Citation : 2001 0 NCDRC 17 : 2001 3 CPR 135 : 2002 0 CTJ 134 : 2002 1 CLT 648 : 2002 1 CPC 391 : 2002 2 CPJ 69

Hon'ble Judges : B.K.TAIMNI , C.L.CHAUDHRY , D.P.WADHWA , J.K.MEHRA , RAJYALAKSHMI RAO J.

Advocate : P.B.SURESH

Judgement

1. THESE revision petitions arise out of proceedings under Section 25/27 of the Consumer Protection Act, 1986. These were dismissed in default by order dated 27th April, 2001. Application has been filed (M.P. No. 758/2001) for setting aside that order.

2. ON March 26, 2001 these petitions were adjourned to 27th April, 2001. Adjournment was sought on the ground that Mr. Uday Warunjikar, Advocate for the petitioners was not well for the last four days. On the request of Mr. Lakhanpal, Advocate for Mr. Warunjikar matter was adjourned to 27th April, 2001. Since Ms. A. Jayashree Rao, Counsel for the respondents had come from Nagpur, we adjourned the matter subject to payment of Rs. 5,000/- as costs payable to the Counsel for the respondents. On 27th April, 2001 when the petitions were dismissed in default, we had recorded the statement of Ms. A. Jayashree Rao, who had come from Nagpur that she had not received the cost as per the last order. In application for setting aside the order dated 27th April, 2001 the ground is that the petitioners are based at Bombay and they could not be informed of the adjourned date and that subsequently they were advised by Mr. Warunjikar that they should find out the next date of hearing from the Registry of the National Commission. It is stated that the agent of the petitioners whose name is not disclosed did come to Delhi on July 24, 2001 and after enquiry from the Registry came to know about the dismissal of the petitions in

default on 27th April, 2001. It is thus stated that the absence on April 27, 2001 was neither wilful nor deliberate. The present miscellaneous application has been filed by another Counsel working in the name of Temple Law Firm. It has become practice to change a Counsel one after the another to seek adjournment on any excuse. When we adjourned the matter to 27.4.2001 we recorded that the order of the State Commission which was impugned showed that the petitioners were getting adjournment by changing Counsel one after the another on each date of hearing. We may note a few lines from the impugned judgment of the State Commission : "O.Ps. have been dodging this Commission from the year 1994. This Commission has passed the original order on 6.10.1994 and during the last more than 5 years, the O.Ps. have been avoiding the compliance of the order. They have been changing their Counsels frequently, one Counsel given an assurance and he disappears from the scene from the next date. At least 5-6 Counsels are changed so far and almost every Counsel on behalf of the O.Ps. had given an assurance to this Commission that the O.Ps. would complete the construction work and accordingly, this Commission has given several opportunities to the O.Ps."

Considering the fact that the order of the State Commission on merit had become final and proceedings were initiated for compliance of that order by complainant, under Section 25/27 of the C.P. Act and taking into account the background in which the State Commission has adversely commented upon the conduct of the petitioners, we are of the view that the absence on 27.4.2001 was deliberate. There is no ground to set aside that order. Miscellaneous application for restoration is, therefore, dismissed.