

(1998) 04 NCDRC CK 0064

In the National Consumer Disputes Redressal Commission

API KARMACHARI SAHAKARI GRAHAK SANSTHA LTD.

APPELLANT

Vs

BHIMRAO H. MAGRE

RESPONDENT

Date of Decision : 13-04-1998

Acts Referred:

Citation : 1998 2 CPJ 597

Hon'ble Judges : A.A.Halbe , G.R.Bedge J.

Final Decision : Appeal allowed

Judgement

1. THE appellant, API Karmachari Sahakari Grahak Sanstha Ltd. through Secretary has filed this appeal against the order of District Forum, Aurangabad in Complaint No. 501/1994 directing the appellant Society to pay Rs. 200/- to each of the complainants for mental agony caused to them in not getting the household articles like grains, etc. during the period of Diwali of 1995. THE principal contention of the appellant is that appellant is a Co-operative Society and that the original complainants are the members. Providing food articles to the members is without consideration and that the order directing the payment of compensation is patently erroneous. At the outset, we are rather inclined to observe that there has been undue haste on the part of the District Forum in approaching the matter when there was sufficient time for compliance of the demands of the complainants. Again, the question of the nature of service rendered by the Society does not appear to be supported by any special consideration paid to the Society. Whatever amount was spent by the complainants for the articles was being deducted from their respective salaries. It has, therefore, become necessary to set out the salient facts of the grievance made by the complainants.

2. THE complainants are the members of the above API Employees Society and that the said Society distributes the food grains, clothes, etc. to its members. As per the terms of the constitution of the Society, every member was to be given food grains, etc. worth Rs. 1,000/- per month. During the Diwali season, they were given coupons on shops for purchase of clothes at lesser rate. THE

complainants have made the grievance that during the period of Diwali between 30.10.1994 to 5.11.1994, the appellants and those office bearers deliberately withheld the supply of articles. THERE was election and the office bearers viz. me President and the Secretary created some problems at the time of election which took place around the same period indicated above. A complaint was lodged with the Co-operative Court in regard to the election. Keeping this in mind, the office bearers took revenge on the complainants and did not supply food grains and cloth. THE complainants therefore, lodged the complaint. The appellants contended that the complainants were asked to collect the food grains etc. The complainant Nos. 1 & 2 were given coupon Nos. 27071-80 and 26031-40. The complainants did not collect their quota of food grains, etc. Even after the receipt of the notice of the complaint, which was lodged on 24.10.1994, the office bearers again offered to complainants to collect the food grains but they did not avail of it and have lodged the complaint before the District Forum. The complainants were motivated against the office bearers. They were involved in the election and that they had filed a dispute before the Co-operative Court. The election took place on 26.8.1994 and there was lot of commotion in that period, the new body was elected and that was possibly not to the liking of the complainants.

The District Forum on the basis of the affidavit found that the coupons for cloth were issued to only complainant Nos. 1 and 2, but the grains were not supplied to none. The complainants were put to lot of mental harassment. The office bearers were revengeful against the complainants and they, therefore, deliberately withheld the supply of food grains to the complainants.

3. WE have carefully examined the record. WE find that the complainants are members of the A.P.I. Society. The complainants are thus, the shareholders, having interest in the corpus of the Society. The complainants have not been able to establish that they gave separate consideration for service of providing foodgrains. WE cannot be oblivious of the fact that complainants are the shareholders and thus the owners of the Co- operative Society. If that be so, the dispute regarding non-supply of foodgrains against non- payment of special charges, will not be a consumer dispute. The office bearers are not under bounden duty to supply foodgrains, etc. to the complainants. The complainants can approach the Co-operative Court for remedy. However, no consideration is passed by the complainant for the service rendered by the Society, the claim of the complainant for compensation is not sustainable. The District Forum should have viewed the entire complaint in this background. When the owners themselves complained against the Society, when the shareholders complained against the Society, the complaint will not be a consumer dispute, but would be dispute between the members and the Society. As indicated above, the remedy was elsewhere, but certainly not in this Forum. The remedy is to dislodge the office bearers from their office. Factually also, we find that the complainant Nos. 1 & 2 were supplied with the coupons. There was no reason for the appellant Society not to supply similar coupons for other members. It is also disputed that

the complainants did not receive the foodgrains. The Society has contended that the complainants were asked to lift their quota, but when they failed to avail of it, they can not make any complaint. On factual aspect, therefore, the room of doubt is created, the same should tilt in favour of the Society.

4. WE reiterate that the owners can not sue themselves in the Consumer Forum. WE, therefore, find that the order of the District Forum has to be set aside. The other ground to allow the appeal is that the dispute between the member and the Society, would clearly fall within Section 91 of the Maharashtra Co-operative Society's Act. Misfeasance, breach of duty and loss to the Society, can be taken grounds for unseating the office bearers. For this reason, we pass the following order. ORDER Appeal is allowed. The order of the District Forum is set aside. Original complaint is dismissed. Appeal allowed.