

(1995) 11 NCDRC CK 0032

In the National Consumer Disputes Redressal Commission

AREA MANAGER, NATIONAL SEEDS CORPORATION LTD.

APPELLANT

Vs

A.KARUPPANAN SERVAI

RESPONDENT

Date of Decision : 09-11-1995

Acts Referred:

Citation : 1995 0 NCDRC 34 : 1995 3 CPR 587 : 1996 1 CPJ 110 : 1996 4 CTJ 509

Hon'ble Judges : S.P.BAGLA , S.S.CHADHA J.

Advocate : A.Y.N.GUPTA , P.P.JUNEJA

Judgement

1. THIS batch of Revision Petitions has arisen out of the order dated 10.8.1994 of the State Commission, Tamil Nadu, at Madras upholding the order dated 14.10.1993 of the District Forum, Ramanathapuram that IR 20 variety seeds supplied by National Seeds Corporation-Petitioner herein, were adulterated and the Complainants had suffered heavily on account of the use of these adulterated seeds but reducing the award of compensation for the average loss per acre suffered by the complainants from Rs. 4,000/- to Rs. 3,400/- per acre.

2. THE Complainants, in various petitions before the District Forum are agriculturists owning lands in Ramanathapuram District. The Agricultural Department of the Government of Tamil Nadu persuaded these farmers to go in for a special variety of paddy seeds known as IR-20 on an assurance that they will be able to get higher yields. To satisfy the requirement of the agriculturists, the Agriculture Department placed orders with the National Seeds Corporation for purchase of huge stocks of seeds of IR-20 variety. This order was placed by the Agricultural Development Officer, Ramanathapuram who is incharge of the Agricultural Department. On receipt of the seeds from the National Seeds Corporation, Agricultural Development Officer sold the IR-20 seeds to the agriculturists in bags weighing 30 kgs. each. All the bags were received by the agriculturists in sealed condition. The seeds that were purchased by the agriculturists were sown by them in their lands some time in the 1st week of November, 1992. The seedlings were raised and their transplantation was done

by them in their fields. According to the Complainants for the operations of sowing and manual transplantation of saplings in properly prepared beds, the Complainants had to spend a considerable sum of money for ploughing the land, for fertilisers and for other expenses. After transplantation they had to labour in nurturing the plants and for periodical irrigation and the farmers had to wait for the yield. When the saplings flowered the agriculturists were surprised to find that the paddy raised by them did not belong to the IR-20 variety and it was a mixture of IR-20 and other coarse variety of nil or very low value. Due to this adulteration, the yield was much less and even the paddy harvested could not be sold at a good price. It is further alleged that before the harvest itself and on receiving complaints from the agriculturists, the officials of the Agricultural Department visited the fields and found that the complaints were genuine and that the seeds supplied by the National Seeds Corporation were in fact not IR-29 variety. The Agricultural Development Officer wrote to the Deputy Director of Agriculture complaining about the poor quality of the seeds supplied by the National Seeds Corporation and the matter was brought to their notice. A joint inspection was held by the officials of the Agricultural Department and the officers of the National Seeds Corporation and all of them concurred that the seeds supplied to the agriculturists were not IR-20 variety but was a low mixture of IR-20 and other quality of seeds and weeds. Since the Complainants did not receive any relief, they filed complaints before the District Forum. As already noticed the District Forum allowed the complaints and directed the National Seeds Corporation to pay damages at the rate of Rs. 4,000/- per acre but on appeal the State Commission reduced the compensation payable to Rs. 3,400/- per acre.

3. THERE is a concurrent finding of facts in the orders of the District Forum and the State Commission based on the material on the record and on the joint inspection that was conducted by the officials of the Agricultural Department and National Seeds Corporation and all of them concurred that the seeds supplied to the Complainant were not IR-20 variety but of a low mixed variety. Exhibit R-9 is the report of Dr. Rangaswamy Professor, Head of the Department of Agriculture and Botany, Agricultural Paddy Research Institute, Madurai, who had examined the seeds and plants specimen and had come to the conclusion that the seeds were not IR-20 variety. The oral and documentary evidence in this case established that the seeds sowed in the fields of the Complainants did not belong to the IR-20 variety but was a mixture of coarse varieties. The ryots have, therefore suffered considerably and the loss is estimated between 20% to 60%. The fact that the Agricultural Department had purchased these IR 20 seeds in sealed bags from the Petitioner herein is not in dispute. The evidence clearly points out to the sale of these seeds by the Agricultural Department to the ryots in the sealed bags in which they were supplied to the Department by the National Seeds Corporation. It was further found that there was no need or necessity for the Agriculture Department to tamper with those bags and adulterate the contents. Both the District Forum as well as the State Commission

repelled the contention of the National Seeds Corporation that the seeds were tested for quality and certified to give assumed performance and there was no defect in the quality of seeds. The State Commission upheld the finding of the District Forum that the National Seeds Corporation had supplied seeds of inferior quality i.e. defective goods within the meaning of Section 2(1)(f) of the Consumer Protection Act and they must bear the responsibility therefore. The District Forum had awarded compensation in the sum of Rs. 4,000/- per acre cultivated. Before the State Commission it was admitted that the yields suffered 20% to 60% and thus the average was taken at 40%. The officials of the National Seeds Corporation of Madurai who were present before the State Commission admitted that normally one acre cultivated with IR 20 seeds would yield 2000 kgs. of paddy. Taking the average loss at 40% the quantity loss would come to $2000 \times 40/100 = 800$ kgs. per acre. It was also admitted by the officials of the National Seeds Corporation before the State Commission that the market price of per kilogram of IR 20 paddy is Rs. 4.25, thus the average loss per acre would come to $800 \times 4.25 = \text{Rs. } 3,400/-$. The fixation of loss suffered by the Complainants at Rs. 3,400/- per acre is thus on a rational basis and is not to be interfered in exercise of the revisional jurisdiction.

4. THE only legal submission made by the counsel for the Petitioner herein is that there is no contract between the Petitioner herein and the Complainant. Section 2(1)(q) of the Consumer Protection Act defines "trader" in relation to any goods means a person who sells or distributes any goods for sale and includes the manufacturer thereof, and where such goods are sold or distributed in package form, includes the packer thereof. The National Seeds Corporation is a manufacturer of these seeds and is a trader within the meaning of the Act and is liable for the defective quality of goods sold by it through Agriculture Department. A similar contention was raised before this Commission in the "Malaprabha Neerwari Balakedarara (Irrigation Consumer) Co-operative Sangh Ltd. v. The State of Karnataka, Department of Agriculture and Ors." (1994)2 CTJ 107 (CP) : = 1(1994) CPJ 80, that no farmers either individually or collectively met the Company or its officials in that case, that it was false that the farmers purchased seeds from the 6th Opposite party in these appeals as the company never sold the seeds directly either at its office or through its officials, but the marketing is done through its distributor. This contention was repelled and the manufacturer of the seeds was held liable jointly and severally to the Complainant there for payment of the compensation awarded. Another argument advanced by the counsel for the petitioner herein is that the Complainants are not consumers within the meaning of the definition contained in Section 2(1)(d) of the Act which does not include a person who obtain such goods for resale or for any commercial purpose. It is urged that purchase and sale of seeds for commercial crop is, on the face of it, sale of goods for commercial purpose and therefore would not fall under the provisions of the Consumer Protection Act. This contention has only to be stated to be rejected for it is concluded against the Petitioner herein, by the order of this Commission in Laxmi Agriculture Seed

Store v. Dhoop Singh and Ors. (1995)3 CTJ 209 (CP) = (1995) CPJ 45. This Commission has repeatedly held that purchase of seeds for purpose of agriculture is not a purchase of an article for commercial purpose.

5. WE do not find any illegality or irregularity in the exercise of jurisdiction by the State Commission. Accordingly, this batch of the Revision Petitions is dismissed with costs. The costs are assessed on a consolidated basis of Rs. 2,000/- payable to the Complainants.