

(1999) 06 NCDRC CK 0001

In the National Consumer Disputes Redressal Commission

ARIHANT SOLVENT INDUSTRIES (PVT.) LTD.

APPELLANT

Vs

SAMPLA TRUCK OPERATORS UNION

RESPONDENT

Date of Decision : 29-06-1999

Acts Referred:

Citation : 1999 3 CPJ 39

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

Final Decision : Complaint disposed of

Judgement

1. A Notice of Enquiry (NOE) was issued on 3.3.1997 under Sections 10(a)(i) and 36B(a) of the Monopolies and Restrictive Trade Practices Act, 1969 (for brief the Act) to respondent Nos. 1 and 2 as listed above on the basis of a complaint filed by Arihant Solvent Industries (P) Ltd., New Delhi and Shri Ram Kishan Jain, its Managing Director.

2. THE complainants are manufacturers and traders of various kinds of vegetable oils, rice brand, vanaspati ghee etc. THE complainants sell their products throughout India and for despatch of their goods for various destinations they use" trucks. Apart from using their own vehicles the " complainants also engage trucks including those of the respondents. THE respondents have been charging exorbitant rates as freight compared to rates quoted by other willing truck operators and also coerce the complainants by not permitting the petitioners to load the goods in their own vehicles or in trucks/vehicles of other operators excepting those belonging to the respondent's union. Respondents 1 and 2 against whom NOE was issued on 13.3.1997 did not file any reply to the NOE.

During the enquiry the complainants filed an application requesting for impleadment of respondent Nos. 3 and 4 listed above. According to the complainants, in order to flout the interim orders passed by the Commission in this case on 22.1.1997 restraining the respondents from imposing any restrictions in the using of the trucks by the complainants, the respondents have started using fictitious names. The Commission passed an order on 17.3.1998 allowing the impleadment of respondent Nos. 3 and 4 and notices were issued to

respondent Nos. 3 and 4 also. Since all the four respondents failed to file replies to the NOE and they were properly served, the proceedings were declared ex parte against them and the complainants were directed to file their evidence which they did reiterating the points made in their complaint.

3. THE actions of the respondents insisting that the complainants use only trucks/ vehicles belonging to the respondent union and in preventing the complainants from using other vehicles amount to restrictive trade practices in terms of Section 2(o) of the Act. Since the respondent have not denied the charges made against them and have also chosen not to file their replies, I hold that the charges levelled against them stand proved. Further, in RTPE 6/ 97 in the matter of Dairy Food (India) and Others v. Sonapat Truck Owners Union and Others reported as (1997) 5 CTJ 454 (MRTPC) the Commission in its order dated 5.9.1997 passed order against the concerned respondents holding them guilty of indulgence in restrictive trade practice in similar circumstances. In the premises, I pass a "cease and desist" order directing the respondents in this case not to impose any restriction on the complainants in the matter of carriage of their goods in the course of their business. THEy are also directed to file an affidavit of compliance within a period of six weeks from the receipt of this order. The Commission would like to make it clear that any violation of the directions of the Commission by the respondents will invite appropriate contempt and/or criminal proceedings. Complaint disposed of.