

---

**(1993) 11 NCDRC CK 0016**

**In the National Consumer Disputes Redressal Commission**

ASSISTANT MANAGER (ADMN.), MAHARASHTRA HYBRID  
SEEDS CO. LTD.

APPELLANT

Vs

S.V.BADAGOUDARA

RESPONDENT

---

**Date of Decision :** 06-11-1993

**Acts Referred:**

**Citation :** 1994 1 CPJ 384

**Hon'ble Judges :** D.R.Vithal Rao , Susheela Cheluvaraju J.

**Final Decision :** Appeals allowed

---

**Judgement**

1. THE facts, briefly stated, are as follows: 1. THE District Forum, Dharwad, clubbed all the five complaints i.e., complaint Nos. 38,39, 40, 41 and 42 of 1991-92 as common question of law and facts had arisen and the opposite party in all the complaints was one and the same, so disposed them off by a common order. THE complainants are all agriculturists. THEy have their lands at Godachikonda village of Hirekerur Taluk, in Dharwad District.

2. THE complainants purchased water melon seeds of opposite party No.2 MHYCO company from opposite party No. 1, Mahalakshmi Agro Centre of Hirekerur, sowed the said seeds in their lands, the complainants in Complaint Nos. 38, 39 and 40 of 1991-92, to the extent of 2 acres each and complainant in Complaint No. 41 /9192, to the extent of 1 acre and complainant in Complaint No. 42/91-92, to the extent of 1 acre 10 guntas. It is the further case of the complainants that, they properly manured and watered the seeds at proper time and took all necessary care and precaution for its proper growth. Though the seeds germinated and creepers grew well, but they could not get proper yield; the creepers did not bear sufficient number of fruits and the fruits were deformed and developed cracks. It is the further case of the complainants that immediately thereafter, they made complaints to the office of the agricultural department authorities who along with agricultural University experts inspected the complainants' lands and took samples of fruits grown. The experts on examination gave report stating that the yield was not proper because the seeds

sowed were not of Arkamanik type and they were spurious.

The complainants averred that due to this spurious nature of seeds, sold by the opposite parties stating it to be of Arkamanik seeds of MHYCO company; the complainants suffered heavy loss and sought compensation from the opposite parties.

3. OPPOSITE party No. 1, admitted the sale of Arkamanik seeds of MHYCO company and averred that the said seeds sold by him were not defective. Opposite party No. 4, further averred that the complainants had not sowed Arkamanik seeds purchased from him in their lands. Opposite party No. 1, nextly averred that Arkamanik seeds were sold by him not only to complainants but to several other agriculturists but none of them made complaints about the inferior quality of seeds sold by him.

4. O.P. No. 2, MHYCO Company denied the sale of MHYCO company seeds to the complainants. It further urged that experts of Agricultural University had no authority to give the opinion regarding the quality of seeds. It was only the Seeds Inspector who was competent to do so. It nextly urged that the complainants had not produced seeds and bags of seeds and the samples of which were not sent to the Laboratory for analysis as required under Section 13(1)C of the Act and so there was absolutely no material placed on record by the complainants to prove the quality of seeds. It also urged that the complainants could not be classified as "consumers" under the provisions of the Act as they had grown the water melon crops for commercial purposes.

5. DURING enquiry all the complainants examined themselves. They also examined a Research Assistant of Agricultural College, Dharwad, Sri Vishwanath Patil as PW 2 and got Exs. P-1 to P-12 marked in evidence.

6. EXS. P-2 and P-8 are the xerox copy and office copy of the report of Professor Horticulture, Dharwad. Opposite party No.1 examined himself as RW-1, O.P. No. 2 did not examine any witnesses.

The District Forum, Dharwad, on consideration of this material placed on record by the parties, held that the complainants were "consumers" under the provisions of the Act, that the complainants established that the complainants had sown the Arkamani seeds in their lands purchased by them from O.P. No. 1 and that, the said seeds were of defective quality. In that view the District Forum, Dharwad, awarded compensation to all the complainants as referred above.

7. WE have called for the records and received. WE have heard the learned Counsel for the parties and perused the material placed on record. Having regard to the pleadings of the parties and the submissions made by them, the points that arise for our consideration are as under: (1) Whether the complainants are "consumers" under the provisions of the Act? (2) Whether, the complainants proved that the seeds purchased by them from O.P. No. 1 were sown by them in

their lands and those seeds were of defective quality?

8. REGARDING Point 1 : It is evident from the averments made by the complainants that they had grown the water melon to the extent of one or two acres in their lands. Admittedly all the complainants had grown the water melon in a small portion of their lands. This Commission had an occasion to consider this question in Maharashtra Hybrid Seeds Co. v. R.S. Bannimatti and Others, reported in I (1992) CPJ 248, wherein it was held at para (7) as under: "7. Applying the principles as stated above, it is to be seen whether in the complaints before us, the activity could be considered on a large scale. In para (27) of the judgment of the District Forum, the extent of the lands of each the complainants and the value on the expected yield from each of their holdings are given. It is found that the extent varies from 2 acres to 10 acres and the value of the yield from Rs. 9,600/- in case of two acres holding, Rs. 48,000/- in the case of 10 acres holding. The complainants have stated that they were spending Rs. 2,500 /- per acre for raising their crops. If that is so, the net yield from various holdings would vary from Rs. 4,600/- for two acres holding to Rs. 23,000/- in the case of 10 acres holding. In our view, this cannot be considered to be an activity engaged on a large scale. If that is so, the purchase of the foundation seeds by the complainants from the opponents cannot be considered to be for a commercial purpose."

Having regard to this principle, the complainants who had purchased and grown the water melon seeds in small pieces of their lands cannot be classified as for "commercial purposes" and so the complainants are all "consumers" under the provisions of the Act. Hence, Point No. 1 is answered in the affirmative.

9. REGARDING Point 2 : All the complainants have stated that they purchased Arkamani Seeds from O.P. No. 1 and sowed them in their lands. O.P. No. 1 has also admitted that he had sold water melon seeds to the complainants. Therefore, it is clear that the complainants purchased seeds from O.P. No. 1 and sowed them in their lands.

10. NOW the main point for consideration is "whether the complainants proved that the seeds purchased and sowed by them were of defective quality?" Ex. P-2 is the report given by the Professor of Horticulture. The Professor who gave the report has not been examined. The report shows that the Professor who gave the report had consulted certain experts and opined on examining the fruits and the seeds that they were not of Arkamani seeds. PW 2, Vishwanath Patil, who had inspected the crop in the lands along with plant Pathologist and others has admitted that after their inspection, they had given a report to Prof. Hulimani, Professor Hulimani is the person who had given the expert report as per Ex. P-2. The report given by PW 2, Vishwanath Patil has not been produced.

The proper growth of crop depends not only on good quality of seeds but also on other agricultural operations i.e., proper preparation of land, fertilization at a proper time, pest and disease control, proper irrigation and climate and other

seasonal conditions.

11. THE District Forum has proceeded on the ground that the water melon seeds were not officially notified seeds under the Seeds Act, 1966. THE District Forum, has in this regard, observed thus: "In the said case, the question was as to whether the Bazara foundation seeds sold by the Maharashtra Hybrid Seeds Company, were spurious, or not. While considering the said question at Point No. 2, our State Forum, observed that, in order to prove that, seeds supplied were defective, the Asstt. Director of Agriculture, who was a Seeds Inspector appointed under Sec. 13 of the Seeds Act, 1966 should have taken the samples of the seeds, and should have got them analysed by the Seeds Analyst, and when it was not done, then it cannot be held that, the seeds were spurious and defective. We are of the view that, the said decision, is of no assistance to the Respdt. No. 2 of this case. THE reasons for our said view are that, according to Sec. 5 of the Seeds Act, if the Central Government is of the opinion that, it is necessary or expedient to regulate the quality of seeds or variety of seeds to be sold for the purpose of Agriculture, then it may, by notification in the Official Gazette, declare such kind or variety of seeds to be notified kind or variety, for the purpose of Seeds Act. So it is clear that the provisions of Seeds Act, do not apply to all the seeds sold, but they apply in respect of seeds notified under Sec. 5 of the Seeds Act, 1966. In the instant case, no notification or other material has been placed on record by respondents to show that, watermelon seeds, of Arkamanik type, had been declared as a kind or variety of seeds, for the purpose of Sec. 5 of the Seeds Act. When such a notification in respect of watermelon seeds, is not there, we are of the view that, the provisions of the Seeds Act, do not at all apply to watermelon seeds. So it is not essential according to law that, the spurious nature of water melon seeds, is to be decided only by the Seeds Inspector appointed under the Seeds Act. So in our view, the above stated ruling, relied on by respondents" Advocate, is of no assistance to respondents."

THE notification issued by the Central Government under the provisions of the Seeds Act, 1966 was not brought to the notice of the District Forum. THE copy of the said Notification was placed before us, which reads as under: "Government of India Ministry of Agriculture, (Department of Agriculture & Co-operation) No.17/2/90-SD.1V. New Delhi, dated the 15.5.1990 NOTIFICATION S.O.386: In exercise of the powers conferred by Section 6 of the Seeds Act, 1966 (54 of 1966), THE Central Government, after consultation with the Central Seed Committee, being of the opinion that it is expedient to regulate the quality of the seeds of the varieties specified in column (2) of the Table below of the kinds specified in the corresponding entries in column (3) of the said Table, to be sold for the purposes of agriculture, hereby declare the said varieties of seeds to be notified varieties, for 15 years from the date of publication of this Notification in the official Gazette, for the whole of India for the purposes of the Act. TABLE  
Serial Number Variety Kind (1) (2) (3) 1 to 41 xxx xxx 42 Arka Manik Watermelon 43 to 46 xxx xxx Sd/-R.M. Sethi, Joint Secy., Govt of India."

At SI. No. 42, Arkamanik watermelon seeds are the notified variety of seeds under the provisions of the Seeds Act, 1966.

12. PW-2, has admitted that PW 1 had given the sample seeds sown by him in his land. PW 2 has admitted that he had taken some sample seeds from PW 1, Subhash Bachgowda, but they were not sent to the Seeds Inspector, appointed under Section 13 of the Seeds Act, 1966, to take action in accordance with Sec. 15 of the Seeds Act, 1966 and Rule 23A of the Seeds Amendment Rules, 1974, for taking samples of the seeds and to get analysed by the Seeds Analyst. P W 2, at paras 5 and 6 of his deposition, has stated thus: "5. I know about there being Seed Inspectors in every district, who are entitled to inspect the seeds, and report whenever requested. In this case, I did not inform the D.H.O. to approach Seed Inspector, and get his report, because, at the time of the request, we were not knowing that, the failure of the watermelon crop of complainants, were due to defective seeds. 6. I know that, in case of failure of crops, there are two tests, one is field test, and the other is laboratory test. It is true that, to know as to whether the seed is defective or not, a field test is necessary. In the case of the complainants, defective crop, we did not conduct the field test. According to me, the field test consists of (1) Examining the leaves as to whether they are affected by any pests or not, or they are affected by any disease or not (2) Inspect the fruits to see, as to whether they are affected by pests or not, (3) To see as to whether, proper distance has been maintained between creepers or not, (4) To see as to whether, proper watering has been done to the crop or not."

He has admitted that a field test is necessary to know as to whether the seed is defective or not. He has also admitted that no such field test was conducted.

13. HAVING failed to do so the inference based on the observation of the seeds and the fruit will not carry any conviction that the seeds supplied to the complainants were defective.

14. THE quality of seeds cannot be determined without proper analysis or test of the seeds. Admittedly there was no such analysis or test of the seeds as provided by Section 13(1)C of the Act. In the absence of such analysis and test, no finding can be given with regard to the defect in the quality of the seeds alleged by the complainants. We, therefore, hold that the complainants failed to prove that watermelon seeds purchased by them from O.P. No. 1 were defective and they suffered loss thereby. The point No.2, hence, is answered in the negative. ORDER In the result, therefore, appeals are allowed. The common order of the District Forum, Dharwad, made in Complaint Nos. 38,39,40,41 and 42 of 1991-92, are set aside and the complaints are dismissed. . The parties are directed to bear and pay their own costs in their respective appeals. Appeals allowed.