
(2013) 02 NCDRC CK 0031

In the National Consumer Disputes Redressal Commission

B. Vasudeva

APPELLANT

Vs

CHIEF MANAGER

RESPONDENT

Date of Decision : 25-02-2013

Acts Referred:

Citation : 2013 0 NCDRC 195

Hon'ble Judges : V.B.GUPTA , R.GUPTA J.

Judgement

1. PRESENT revision petition was received by post.
2. VIDE order dated 23.11.2012, notice was ordered to be issued to the petitioner for today. Today, petitioner is not present. Instead, petitioner has sent an application seeking exemption from personal appearance on the ground that he is old man aged 75 years and is not able to appear before this Commission in person due to health problem. Besides that, he is not in a position to meet the expenditure for travel etc. Accordingly, it is prayed that this petition may be decided on the basis of averments made therein.
3. PETITIONER is granted exemption from personal appearance.
4. WE have perused the record of this case. Petitioner/complainant had sought certain information from respondent/o.p. for the first time on 20.12.2005, under the provisions of Right to Information Act, 2005 (For short, "RTI "Act ") which respondent refused to furnish. Subsequently, petitioner filed a complaint before the State Information Commission, Bangalore, which directed the respondent to furnish the information as sought for by the petitioner.
5. PETITIONER has further alleged in his complaint that he again sought some more information under the RTI Act on 17.5.2006. The respondent furnished some portion of the information and denied to furnish the remaining information. In spite of various reminders, respondent has failed to furnish the requisite information.
6. ACCORDINGLY , petitioner filed a complaint before District Consumer Disputes

Redressal Forum, Udupi (Karnataka) (for short, " District Forum ") which dismissed the complaint, vide order dated 24.2.2011. Aggrieved by the order of the District Forum, petitioner filed an appeal before Karnataka State Consumer Disputes Redressal Commission, Bangalore (for short, "State Commission "). The State Commission, vide impugned order dated 1.8.2012, dismissed the appeal and confirmed the order of the District Forum.

7. HENCE , this revision.

8. SECTION 24A of the Consumer Protection Act, 1986(for short, "Act ") states ; " [24A. Limitation Period.----(1) The District Forum, the State Commission or the National Commission shall not admit a complaint unless it is filed within two years from the date on which the cause of action has arisen. (2) Notwithstanding anything contained in sub-section (1), a complaint may be entertained after the period specified in sub-section (1), if the complainant satisfies the District Forum, the State Commission or the National Commission, as the case may be, that he had sufficient cause for not filing the complaint within such period: Provided that no such complaint shall be entertained unless the National Commission, the State Commission or the District Forum, as the case may be, records its reasons for condoning such delay.] "

As per petitioner 's case, he has sought information under the RTI Act from the respondent for the first time in the year 2005. For the second time petitioner sought information in the year 2006. However, the complaint before the District Forum was filed by the petitioner on 20.5.2010. Thus, on the face of it, the complaint filed by the petitioner before the District Forum is hopelessly barred by limitation and it is liable to be dismissed on this short ground.

9. EVEN on merits, petitioner has no case. State Commission in the impugned order observed ; "6 First of all it is the duty of the appellant to prove that, there existence any relationship of a "Consumer " and "Service Provider " with the respondent. So under the RTI Act, the appellant is entitled to see a required information for his benefit as the respondent is a public officer. If the required information or copies are not furnished then the remedy is available for him to approach the Appellate Authority under the RTI Act. First of all, the complaint filed before the DF in our view is not maintainable. No doubt that, in para-22 of the order, the DF has referred a decision reported in ILR 2010 Karnataka 3214 in that case the party involved was Bangalore International Air Port Ltd. Vs Karnataka Information Commission and others and rightly held that the ratio laid down in the aforesaid decision will not come to the aid of the appellant/complainant. 7. In this connection we would like to refer to the decision rendered by the Hon 'ble National Commission in Revision Petition No. 1250/2010 in the case of S.N.Subramanya Vs. Bruhat Bangalore Mahanagara Palike wherein the Hon 'ble National Commission has held that the party should always approach the Appellate Authority against the alleged action of the respondent/statutory authority. In the case of T. Pundalika Vs. Revenue Department (Service Division),Government of Karnataka dated 21.3.2011 passed in Revision Petition

No. 4061/2010 the National Commission held that, petitioner cannot be claimed to be a consumer under the C. P. Act. There is a remedy available for him to approach the Appellate Authority under Section 19 of the RTI Act. Therefore, taking into consideration the facts and circumstances of the case, followed by this Commission in various cases, the DF is right in dismissing the complaint filed by the very appellant. Hence, we don "t see any perverse or incorrect findings recorded by the DF ".

10. THE RTI Act is a Code in itself. It provides for remedies available under this Act to a person who has been denied any information. Since, petitioner has specific remedy available to him under the RTI Act and which he has already availed, the present consumer complaint does not lie under the Act. Present revision petition has been filed under Section 21(b) of the Act. It is well settled that the powers of this Commission as a Revisional Court are very limited and have to be exercised only, if there is some prima facie jurisdictional error in the impugned order.

11. HON "ble Supreme Court in Mrs. Rubi (Chandra) Dutta Vs. M/s United India Insurance Co. Ltd. 2011 (3) Scale 654 has observed ; "Also, it is to be noted that the revisional powers of the National Commission are derived from Section 21 (b) of the Act, under which the said power can be exercised only if there is some prima facie jurisdictional error appearing in the impugned order, and only then, may the same be set aside. In our considered opinion there was no jurisdictional error or miscarriage of justice, which could have warranted the National Commission to have taken a different view than what was taken by the two Forums. The decision of the National Commission rests not on the basis of some legal principle that was ignored by the Courts below, but on a different (and in our opinion, an erroneous) interpretation of the same set of facts. This is not the manner in which revisional powers should be invoked. In this view of the matter, we are of the considered opinion that the jurisdiction conferred on the National Commission under Section 21 (b) of the Act has been transgressed. It was not a case where such a view could have been taken by setting aside the concurrent findings of two Fora ".

12. THUS , no jurisdiction or legal error has been shown to us to call for interference in the exercise of power under section 21 (b) of the Act, since two fora below have given cogent reasons in their order, which does not call for any interference nor they suffer from any infirmity or revisional exercise of jurisdiction. It is not that every order passed by the Fora below is to be challenged by a litigant even when the same is based on sound reasoning. Under these circumstances, present petition being without any legal basis, is hereby dismissed.

13. NO order as to cost.