

(1998) 11 NCDRC CK 0053

In the National Consumer Disputes Redressal Commission

Balkar Singh

APPELLANT

Vs

Ashok Kumar Goyal

RESPONDENT

Date of Decision : 06-11-1998

Acts Referred:

Citation : 1999 2 CPJ 429

Hon'ble Judges : A.L.Bahri , Jasbir Singh , Davinder Kaur Bhamrahs J.

Final Decision : Appeals allowed

Judgement

1. VIDE this order, three Appeal Nos. 1175/1997, 1176/ 1997 and 1177/1997 are being disposed of as the facts and the question of law raised therein are common. The District Forum vide separate orders disposed of three complaints filed by Shakuntla Devi, Balkar Singh and Ashok Kumar with the directions to the opposite parties, which are common in all the three cases, officers of the Food and Supplies Department, Deputy Commission and Darshan Kumar, Depot Holder to supply ration to the complainants every month.

2. THE complainants claimed to be in possession of Ration Cards issued by the Department of Food and Supplies. THEY approached Darshan Kumar, a Depot Holder of Budladha for registration of their Ration Cards in his Depot for the purpose of purchasing essential commodities (ration articles). Darshan Kumar declined their request on the ground that the number of Ration Card Holders registered with him were up to the number as sanctioned by the Food and Supplies Department Authorities. Hence these complainants approached the District Forum for the relief. THE Depot Holder submitted his version raising the plea as aforesaid. On the evidence produced by the parties by way of affidavits, the impugned orders were passed. It is Darshan Kumar who has filed the aforesaid three appeals challenging the aforesaid orders of the District Forum dated June 20, 1997 directing registration of the names of the complainants in his Depot for the purpose of sale of essential commodities and to pay costs of Rs. 1,000/- in each of the case. Since there is no dispute regarding facts, straightway question of law requiring decision is formulated as under : "As to

whether a person possessing a Ration Card issued by Food and Supplies Department of the State authorising him to make purchase of essential commodities from the Fair Price Shops (Depots) can be treated as a consumer as defined under the Consumer Protection Act to have recourse to the proceedings under the Consumer Protection Act for the relief of direction to the Depot Holder to register their names and to supply them the essential commodities when the number of Ration Card Holders already registered with him is upto such number as sanctioned by the Food and Supplies Department ?"

In case a Ration Card holder makes purchase of the essential commodities from a Depot Holder and finding defect therein obviously he would be a consumer as defined under Section 2(1)(d) of the Consumer Protection Act as such purchases are made for consideration. However, such a stage has not come in the facts and circumstances of the present case. Darshan Kumar, Depot Holder has declined to register the names of the complainants at his Depot as he has already registered 300 Ration Cards as permitted by the Authorities. Thus, it is not a case of sale of goods or the defect finding therein that the complainants could be treated as consumers. At the same time, it cannot be said that the complainants have hired services either of the officials of the State Government, opposite parties Nos. 1, 2 and 3 or the Depot Holder for consideration that the question of deficiency in rendering service could be gone into. Opposite parties Nos. 1, 2 and 3 are Deputy Commission, Food and Supplies Controller and Assistant Food and Supplies Officer. Some of them perform their duty under the provisions of the Essential Commodities Act and the orders issued by the State Government under Section 3 of the Essential Commodities Act in the matter of fair distribution of essential commodities. When officials perform such duties, their services are not hired by the citizens for consideration and the activity of distribution of essential commodities at a subsidised rates can hardly be said to be rendering service for consideration. Ration Cards issued by the Authorities under the aforesaid order is merely permission granted to allow such persons to make purchases from the Fair Price Shops at the prices lower than the market prices and the limited quality of articles distributed in the system as aforesaid. It is not necessary further to comment on the purpose or objects of such orders being issued under Section 3 of the Essential Commodities Act. Suffice it to say that such functions are performed by the Authorities under the provisions of the Act and they cannot be classified as service for consideration to attract the provisions of the Consumer Protection Act. It is only after the sale of such articles as referred to above that the complainant could be treated as a consumer entitled to make the complaint with regard to the defects in the quality or quantity of the goods purchased.

3. THERE may be separate remedy available to the complainants to approach the Appellate Authority, if the Depot Holder violated the terms and conditions of the licence for its cancellation But that cannot be treated as a consumer dispute that the complainants could invoke jurisdiction of the District Forum in the matter. This is neither a case of defect in the goods purchased nor a case of deficiency in

rendering service hired by the complainant for consideration. The orders passed by the District Forum thus cannot be sustained in law. For the reasons recorded above, these appeals are allowed. Orders of the District Forum are set aside. THERE will be no order as to costs in these appeals. Appeals allowed.