

(1998) 12 NCDRC CK 0016

In the National Consumer Disputes Redressal Commission

BHAVNAGAR DISTRICT SALT MANUFACTURERS' ASSOCIATION	APPELLANT
Vs	
HINDUSTAN LEVER LTD.	RESPONDENT

Date of Decision : 16-12-1998

Acts Referred:

Citation : 1999 1 CPJ 32

Hon'ble Judges : A.N.Divecha , S.K.Parthasarathy J.

Final Decision : Application disposed of

Judgement

1. THIS order disposes of the application filed by the respondent in the above case under Regulation 65(1)(j) of the Monopolies and Restrictive Trade Practices Commission Regulations, 1991 (for brief the Regulations) praying for discharge of the Notice of Enquiry (NOE) issued against it on 9.10.1997.

2. THE facts leading to issue of the NOE against the respondent may be briefly recalled. THE applicants/complainants approached this Commission with a complaint charging the respondent with adoption and indulgence in unfair trade practices within the meaning of Section 36-A of the Monopolies and Restrictive Trade Practices Act, 1969 (for brief the Act). THE applicants/complainants alleged that the respondent was showing TV commercials with respect to its product by the name Kisan Annapurna Salt. THE respondent's claim was with respect to its iodized content in the correct proportion and that it was helpful for the mental development of children. It also transpired from the complaint that the price of 1 kg. pack of Kisan Annapurna Salt was Rs. 6/- while salt with same iodine content manufactured by others was available at the price ranging from Rs. 2 to 4. While entertaining the complaint and the interim relief application filed alongwith it the Commission passed an ex parte ad interim order on the 19th September, 1997 directing the respondent not to allow display of TV commercials with a campaign that Kisan Annapurna Salt helps development of mental faculty of children. Noting that the respondent had aired a new TV commercial on the same lines as before, the applicants/complainants also filed an application under Section 13-B of the Act to take action in contempt against the respondents. The applicant/

complainant also filed another application under Section 12-A of the Act for grant of injunction against airing of TV commercials by the respondent in the modified form.

The Commission by an order dated 27th October, 1997 rejected the contempt application filed by the applicants/complainants. After hearing arguments of both the applicants/ complainants and the respondent the Commission by an order pronounced on 11th December, 1997 also rejected the two applications under Section 12-A filed by the applicants/ complainants and the ad interim injunction granted on 19.9.1997 was vacated.

3. IN the application under Regulation 65(1)(j) of the Regulations the respondent has prayed for the discharge of the NOE dated 9.10.1997 in view of the findings of the Commission contained in its order dated 27.10.1997 and 11.12.1997. The applicants/ complainants did not file any reply to the application filed by the respondents. We gave a hearing to Mr. H.D. Pithawala, Advocate for the applicant/ complainant and Mr. Aditya Narain, Advocate for the respondent. Mr. Pithawala stated that the complaint was essentially filed as to protect public interest and it was for the Commission to decide whether to proceed further in the matter or not having regard to the material placed before it.

4. WE have carefully gone through the material on record as well as the orders passed by the Commission so far in this case. A NOE was issued on 19th September, 1997 on the basis of the material furnished by the applicants/ complainants which indicated that prima facie the TV commercial of the respondent claiming that Kisan Annapurna Salt because of iodization helped mental development of children was misleading. It also appeared that having regard to the fact that visual media would have wide appeal on gullible Indian masses, the TV commercials might deflect the ignorant masses to purchase the high priced iodized salt in preference to medium priced iodized salts with the same iodine content. However, after hearing the detailed arguments of both the applicants/ complainants and the respondent and taking into account the research studies, publications and authoritative opinions regarding right level of iodized salts and its beneficial effects, the Commission came to the finding as contained in its order dated 11.12.1997 that "it can be prima facie concluded that the TV commercials of the respondents are not false and misleading and are also not prejudicial to public interest. In fact, the TV commercials are factually correct and are in public interest and in the interest of consumers". WE do not consider it necessary to repeat what is stated in the order of the Commission dated 11.12.1997 and would like that order to be taken as part of this order. From the facts mentioned above it is clear that the NOE against the respondent was issued on 9.10.1997 on the basis of the material furnished by the applicants/ complainants which indicated that prima facie the respondent had indulged in unfair trade practices. Under Section 36-D of the Act, the Commission can take action only if any unfair trade practice indulged in by a party is prejudicial to the public interest or to the interest of consumers. The Commission in this case has

come to the conclusion that the impugned TV commercials are prima facie not false and misleading and are also not prejudicial to public interest. Further, the Commission has also recorded that they are factually correct and are in public interest and in the interest of consumers. Even with regard to the price for the salt charged by the respondent the Commission felt that it appeared to be comparable to those of the competitors of the respondent. Under these circumstances, no useful purpose will be served by proceeding with the enquiry when there are no disputes relating to any facts to be resolved. In the premises, the application of the respondent is accepted and we order that the NOE issued in this case be discharged. Application disposed of.