
(1990) 10 NCDRC CK 0015

In the National Consumer Disputes Redressal Commission

CHIEF DIVISIONAL MANAGER, I. O. C.

APPELLANT

Vs

M.B.NATARAJ

RESPONDENT

Date of Decision : 29-10-1990

Acts Referred:

Citation : 1991 1 CPJ 246

Hon'ble Judges : R.G.Desai , K.R.Ramaswamy Iyengar , Sudha V.Reddy J.

Final Decision : Appeals allowed

Judgement

1. THESE three Appeals arise out of an Order passed by the District Forum, Bangalore in Complaint No. BDCF: 9/1990-91 on its file.

2. THEY arises in this way : - In the daily paper "Deccan Herald" dated 30.3.1990, an advertisement was jointly issued by IOC, HPC and BPC (Appellants in these appeals and hereinafter referred to as the companies), it was stated that checking of Cylinder Pressure Regulator, Rubber Tubing and Hot Plate/Stove is compulsory once in two years and that the checks will be carried out by the distributors mechanics at a nominal charge of Rs. 10. The complainant who is one of the users of the LPG Gas challenged that advertisement by his complaint dated 30.3.1990 before the District Forum. Bangalore and sought for a direction against the said companies to conduct the said check free of charge The companies resisted the complaint by contending inter alia that the District forum has no jurisdiction to entertain the complaint and to give a direction as sought for by the complainant, that the checking is intended for the safety of the consumers; that as per the Agreement entered into between the consumers and Oil Companies, all necessary installation work including connection and disconnection of the Cylinders to and from the appliances/ Pressure Regulator and the work of the repairs to appliances and replacement of the rubber tubing will be carried out at the customers expenses and on his own responsibility by the Distributor and not on behalf of the companies and that the consumer is not entitled to get his Hot Plate and Rubber Tube tested free of charge.

No oral evidence was adduced by the parties. The complainant wrote a letter

dated 5.7.1990. On hearing the Advocate for the companies, the District Forum reached the conclusion that it has jurisdiction to entertain the complaint; that the companies are not entitled to any such fee from the consumers for checking the equipments and directed the companies not to charge any fee for checking the Cylinder, Pressure Regulator, Rubber Tubing and Hot Plate/Stove of a consumer of LPG. Hence these three appeals by the Three Companies against the said Order.

3. THE respondent was absent when the appeal was called out for bearing. We heard the learned Counsel for the Appellant and perused the records including the written representation sent by the respondent by post. As all the three Appeals arise out of a common order, they were heard together and this Order will dispose off all the three Appeals.

4. MR. Vishwanatha Setty, learned Counsel for the companies took us through Sections 2(1)(c) and Section 14 of the Act and urged, that the District Forum has no jurisdiction to issue such a direction which is in the nature of an injunction. Section 2(1)(c) defines a complaint. According to it, "Complaint" means any allegation in writing made by a complainant that: (i) as a result of any unfair trade practice adopted by any trader, the complainant has suffered loss or damage; (ii) the goods mentioned in the complaint suffer from one or more defects; (iii) the services mentioned in the complaint suffer from deficiency in any respect; (iv) a trader has charged for the goods mentioned in the complaint a price in excess of the price fixed by or under any law for the time being in force or displayed on the goods or any package containing such goods, with a view to obtaining any relief provided by or under this Act, Section 14(1) of the Act deals with the reliefs to be granted by the District Forum. It reads thus: If, after the proceeding conducted under Sec. 13, the District Forum is satisfied that the goods complained against suffer from any of the defects specified in the complaint or that any of the allegations contained in the complaint about the services are proved, it shall issue an order to the opposite party directing him to take one or more of the following things. namely: (a) to remove defect pointed out by the appropriate laboratory from the goods in question; (b) to replace the goods with new goods of similar description which shall be free from any defect; (c) to return to the complainant the price, or, as the case may be. the charges paid by the complainant; (d) to pay such amount as may be awarded by it as compensation to the consumer for any loss or injury suffered by the consumer due to the negligence of the opposite party.

As stated earlier, the complainant is about charges to be paid by the consumers for checking the cylinders. Pressure Regulator, Rubber Tube and Hot Plate/Stove. This must come under Section 14(1)(c) according to which the District Forum can direct the opposite party to return to the complainant the price or the charge paid by the complainant. The complaint is not in respect of any charges paid by the complainant. It is also not in respect of the deficiency in service. The complainant has approached the District Forum on seeing the advertisement and

he has nowhere stated that he has paid the charges. Hence the relief claimed by the complainant in this case cannot be granted under the Consumer Protection Act. We may also mention here that the District Forum has no jurisdiction to issue a direction of the type issued by it in the present case, as it would amount to issue of an injunction, which power has not been conferred on the Forum by the Act.

5. RECOMMENDATION No. 4.13 of Smt. Sudha Joshi Committee and the Order passed on the same by the Ministry concerned are as follows: 4.13: Regular Inspection of Equipment installed at Customer's Premises: 4.13.1: Oil Companies should introduce a system whereby checking of the equipment at consumers premises at periodical intervals once in two years is made mandatory. This should be in addition to the existing system of delivery boys of the distributors checking the equipment whenever a refill is delivered. Ministry's order: Industry to work out a programme and commence implementation from 1.4.1988. Action to be completed by 1.4.1991.

6. FROM this, it is clear that the Ministry had accepted the said recommendation of the Committee and directed the companies to implement it. In pursuance of that, the said notification has been issued. Charging of Rs. 10/- for checking of the equipment at consumer premises once in two years in addition to the existing system of delivery boys, checking at the time of delivery of refill, cannot be said to be unreasonable. That apart, when the District Forum had no jurisdiction to issue an injunction, the Order of the District Forum cannot be sustained. In the result, all the three Appeals are allowed and the order of the District Forum is set aside. Under the circumstances, we direct the parties to bear their own costs. Appeals allowed.