

(1992) 04 NCDRC CK 0023

In the National Consumer Disputes Redressal Commission

CONSUMER ACTION GROUP, REP. BY ITS EXECUTIVE
DIRECTOR

APPELLANT

Vs

MANAGING DIRECTOR, TAMIL NADU CO-OPERATIVE MILK
PRODUCERS FEDERATION

RESPONDENT

Date of Decision : 23-04-1992

Acts Referred:

Citation : 1992 2 CPJ 416

Hon'ble Judges : V.Balakrishna Eradi , A.S.Vijayakar , Y.Krishan , B.S.Yadav J.

Final Decision : Appeal dismissed

Judgement

1. THE "Tamil Nadu Action Group" which is a registered Consumer Association had filed a complaini before the State Commission, Madras as Original Petition No. 3 of 1991 on its file against the Managing Director, Tamil Nadu Co-operative Milk Producers Federation (respondent herein). It was alleged in the complaint that the opposite party was supplying milk in sachets to the consumers in Madras on a system of cards which could be obtained between the 2nd and 10th of each month after making full payment in advance. THE card would entitle the holder to the supply of milk from 16th of the month during which it was purchased till the 15th of the succeeding month. It would appear that from the 2nd September to 10th September, 1990, the opposite party had issued cards and collected full payment in advance from the consumers for the supply of "standardised milk" with 4.5 percent fat content. However, the manufacture and supply of standardised milk was discontinued by the opposite party with effect from 6th October, 1990 when it switched over to the production and supply of only "toned milk". It is stated that cards have been issued and full amounts had been collected from consumers during the period between 2nd and 10th October, 1990 also for the supply of standardised milk but, as already stated, only "toned milk" was supplied to them from 6th October, 1990 onwards. THE complainant alleged that the discontinuance of the production and supply of "standardised milk" was done without notice and no opportunity, or choice was given to the consumers in regard to the said matter. Since "toned milk" is inferior in quality, the opposite

party offered a rebate of 10 paise per litre to all the consumers who had paid for "standardised milk but were supplied only "toned milk". THE complainant contended that considering the difference in the composition of standardised milk and toned milk, the price differential offered to be refunded to the consumers who had been issued cards for "standardised milk" during the aforesaid periods ought to have been at the rate of 70 paise per litre. On this basis, the complainant sought the issuance of a direction by the State Commission compelling the opposite party to refund to all the consumers who had obtained cards for supply of standardised milk during the aforesaid period, the differential price at the rate of 70 paise per litre from the date on which the opposite party started supplying toned milk. THE other prayers in the petition were to direct the opposite party to resume the supply of "standardised milk" forthwith since there was no justification whatever for the stoppage of its production and for a further direction to the Federation to ensure that there was no shortfall in the quantity of milk supplied in the sachets or in the weighment of butter packed and sold by the opposite party.

2. THE opposite party filed a detailed counter- statement explaining the reasons for the stoppage of the production and supply of standardised milk and denying the petitioner"s allegations regarding the price differential between standardised milk and toned milk. The State Commission went into the matter in detail and it found that the price of milk of every kind supplied by cooperative organisations in the State of Tamil Nadu had been fixed by the State Government and that the opposite party was only carrying out the directions issued in respect of the matter by the State Government. In those circumstances it was held by the State Commission that it was not possible to find fault with the opposite party for having fixed the price of the different varieties of milk in the manner in which it had been done. The State Commission has also rightly held that it was not within its province to decide what price should be charged in respect of an article produced and supplied by the opposite party when there was no statutory price fixation in respect of the article concerned as contemplated by Section 2(1)(c) (iv) of the Act. This view taken by the State Commission is fully in accord with the dictum laid down in the case of the Manager, Milk Chilling Center, Mahaboobnagar viz. Mahaboobnagar Citizen Council (Revision Petition No. 3 of 1990) decided by this Commission.

As regards the prayer that consumers who had purchased milk cards upto November 15, 1990 for standardised milk should be given a higher rebate at not less than 70 paise per litre, the State Commission accepted the case of the opposite party that the Federation had given wide advance publicity by notice about the proposal to supply only toned milk and to grant a rebate of 10 paise per litre and that an option was given to the card holders either to accept the supply of toned milk with the rebate of 10 paise per litre or to obtain a refund of the full price already paid by them for standardised milk. The State Commission found that the card holders had accepted the offer of supply of toned milk with the rebate and hence it was not open to the petitioner to put forward on their

behalf a plea of breach of contract and a claim for additional rebate. We fully agree with the said reasoning and conclusion of the State Commission.

3. DEALING with the prayer of the complainant for issuance of a direction to opposite party to resume supply of standardised milk forthwith, the State Commission rightly held that it was a matter which fell entirely within the discretion of the opposite party as to what quality or variety of milk they should produce and supply and its decision in the matter cannot be supplanted by the judgment of the Redressal Commission. The said view is fully in accord with the dictum laid down by this Commission in the Manager, Milk Chilling Centre, Mahboobnagar viz. Mahboobnagar Citizen Council (Supra). The further prayers contained in the complaint petition for issue of directions to ensure that there was no shortfall in the quantity of milk supplied in the sachets and the weighment of butter sold in packages were disallowed by the State Commission by stating that the allegations made in support of these prayers in the complaint petition were general in nature and no specific instances of defect or deficiency were brought to its notice. No interference is called with the said finding. In the result, the order of the State Commission will stand confirmed.

4. SHRI Mukul Mudgal, learned Counsel appearing on behalf of the Tamil Nadu Co-operative Milk Producers Federation (respondent) gave an assurance to this Commission that in future whenever the Federation proposes to change the quality of the milk that is being supplied to the consumers, a notice will be published by the Federation in the leading Tamil dailies of Madras City atleast fifteen days prior to the implementation of such proposal informing the public about the proposed change. We record this assurance. Subject to the above, this appeal will stand dismissed. No costs. Appeal dismissed.