

(2017) 05 NCDRC CK 0054

In the National Consumer Disputes Redressal Commission

Case No : 608 of 2017

DILIP SHARMA & ANR.

APPELLANT

Vs

S.B.I. LIFE INSURANCE COMPANY LTD.

RESPONDENT

Date of Decision : 03-05-2017

Acts Referred:

Consumer Protection Act, 1986, Section 13(1)
(a), Section 21(b) - Procedure on admission of complaint
- Jurisdiction of the National Commission

Citation : 2017 2 CPR 627

Hon'ble Judges : B.C. Gupta, S.M. Kantikar

Advocate : Nitin Bhardwaj

Judgement

1. This revision petition has been filed under section 21(b) of the Consumer Protection Act, 1986 against the order dated 07.01.2017, passed by the Madhya Pradesh State Consumer Disputes Redressal Commission (hereinafter referred to as "the State Commission") in RP No. 184/2016, "Dilip Sharma & Anr. versus SBI Life Insurance Company Ltd.", filed against the order dated 08.12.2016, passed by the District Forum, Gwalior.

2. The facts of the case are that the petitioners/complainants filed the consumer complaint No. 235/2016 before the District Forum, Gwalior against the respondent/Opposite Party(OP) SBI Life Insurance Company Limited, saying that an officer of the respondent/OP Insurance Company informed them that the company had to install towers and ATMs etc. on rental basis and the rent for a tower will be 48,500/- per month and for the ATM would be 25,000/- per month. It was also stated that a security amount of 12,50,000/- be also deposited by the petitioners. Later on, the OP asked the complainants to deposit a sum of 5,66,000/- only, in a four-month period for installation of towers alone. The executives of the respondent company approached the petitioners and obtained their signatures on certain documents. After obtaining the consideration amount of 5,66,000/- from the complainants on different dates, the petitioners/complainants were told that the required letter would be sent to them, after due

verification. The petitioners kept on contacting the officers of the company, but there was no satisfactory reply, neither the towers were installed. The petitioners/complainants filed the consumer complaint in question, alleging deficiency in service and unfair trade practice on the part of the OPs, resulting in financial loss and mental agony to them. A direction was sought that the amount of 5,66,000/- deposited on different dates should be refunded to them alongwith interest @15% p.a. A sum of 2 lakh towards compensation for mental agony and 20,000/- towards litigation cost was also demanded.

3. It has been stated that notice of the complaint was sent to the OP Insurance Company, which was served upon them on 06.06.2016. However, the OP failed to file their written statement within a period of 30 days of the service of the notice, i.e., upto 05.07.2016, as provided under section 13(1)(a) of the Consumer Protection Act, 1986. It is stated that the said time was extended upto 14.07.2016 and then again, the District Forum granted them further time for filing the reply, although they had not made any application for extension of time to file reply. It has been alleged that the action of the District Forum in extending the time, was not in accordance with law. The complainants filed an application before the District Forum, objecting to the grant of extra time to the OP to file the written statement, but the said application was rejected by the District Forum vide order dated 08.12.2016. Being aggrieved against the order of the District Forum, the petitioners/complainants challenged the same by way of the revision petition, RP No.184/2016 before the State Commission. Vide impugned order dated 07.01.2017, the State Commission observed that the written version had been filed within the prescribed extended period of 45 days. The State Commission concluded that there was no substance in the submission of the complainants that the extension in time by 15 days could be granted only, on making of an application in writing and hence, they found the order of the District Forum in extending the time to be in order.

4. A perusal of copy of the order dated 08.12.2016 passed by the District Forum indicates that the said order was signed by the President of the District Forum and two other Members. However, after passing the said order, the President of the District Forum recorded further at 5:00PM at the bottom of the said order that the complainant was being allowed time till 21.12.2016 to file their rejoinder to the written statement of the OPs. In the impugned order of the State Commission, it has been observed that this part of the order recorded at 5:00PM has been signed by the President of the District Forum only and not by any of their Members. The State Commission directed that since proceedings before the District Forum are to be conducted by the President and at least one Member thereof seated together, this part of the order was being set aside and that the District Forum should pass fresh order for grant of time to the complainants to file their rejoinder / counter affidavit.

5. In the revision petition before this Commission, the main issue involved in the matter, i.e., the grant of permission to file written statement by the OP beyond a

period of 30 days has been challenged and not the part of the order by which time was allowed to the complainant to file the rejoinder/counter affidavit.

6. During arguments before us, the learned counsel for the petitioners/complainants contended that the OP had not moved any application to extend the time beyond 30 days for filing the written statement and hence, the order made by the District Forum to extend the time without such an application, was not in accordance with law. The learned counsel stated that a direction be issued to the District Forum not to take the reply of the opposite party on record, in the instant case.

7. We have examined the entire material on record and given a thoughtful consideration to the arguments advanced before us.

8. Section 13(1)(a) of the Consumer Protection Act, 1986 reads as follows:- "13. Procedure on admission of complaint. - (1) The District Forum shall, on admission of a complaint, if it relates to any goods,-

(a) refer a copy of the admitted complaint, within twenty-one days from the date of its admission to the opposite party mentioned in the complaint directing him to give his version of the case within a period of thirty days or such extended period not exceeding fifteen days as may be granted by the District Forum;"

9. A plain reading of the above section shows that the written version could be filed by the opposite party within a period of 30 days or such extended period not exceeding 15 days as may be granted by the District Forum. It has not been mentioned anywhere that a request in writing should be made by the OP for the extension of such period and that it was mandatory to do so. The wording of the section implies that such extension in period could be made by the District Forum even on their own. The plea taken by the petitioners/complainants that the District Forum should not have extended the time without written request is, therefore, without any reasonable basis.

10. Vide impugned order, the State Commission have stated that it was not disputed that written version had been filed within the period of 45 days as prescribed under the Act. The State Commission has also observed that the extension in time could be given in one stretch or in instalments. We do not find any illegality, irregularity or jurisdictional error in the order passed by the State Commission, and the same is upheld.

11. The State Commission have further observed in the impugned order that the grant of time to the complainant for filing the rejoinder/counter affidavit have been signed only by the President and hence that part of the order was being set aside. They directed the District Forum to pass fresh order for grant of time to the complainants for the purpose. Since this part of the order has not been challenged in the present revision petition, the same is also upheld.

12. From the foregoing discussion, it is held that there is no merit in this revision petition and the same is ordered to be dismissed. The impugned order passed by

the State Commission is upheld. There shall be no order as to costs.