
(1999) 11 NCDRC CK 0065

In the National Consumer Disputes Redressal Commission

G.Hanumanth Reddy

APPELLANT

Vs

SINGH POULTRY LTD.

RESPONDENT

Date of Decision : 17-11-1999

Acts Referred:

Citation : 2000 1 CPC 310 : 2000 1 CPJ 26 : 2000 1 CPR 15

Hon'ble Judges : S.C.Sen , R.Thamarajakshi , S.P.Bagla , J.K.Mehra J.

Final Decision : Appeals dismissed

Judgement

1. THESE four appeals, 190-91/95, 345/95 and 347/95, are against the common order dated 19.1.1995 of the State Commission, Andhra Pradesh. The facts and law point in all the four appeals are the same with a few minor variations of no relevance or consequence as to the merits of the cases. Therefore, this common order will dispose of all these four appeals.

2. BASIC facts of the case are that the appellants namely Shri G. Hanumanth Reddy in the F.A. Nos. 190-91/95, Shri T. Nageswara Rao in F.A. No. 345/95 and Shri M. Sivanarayana in First Appeal No. 347/95 bought Rani Shaver Star Cross 288 layer chicks from M/s. Singh Poultry Ltd., Hyderabad who are the respondent No. 1 - opposite party No. 1 (before the State Commission). The chicks are reported to have been vaccinated for the disease Merek by the vaccine produced and supplied by M/s. BAIF Laboratories Ltd., Pune who are respondent No. 2. The chicks did not yield the desired production of eggs; the production is reported to be 50 to 60% instead of 80 to 90% as promised. All the appellants had bought the chicks by obtaining loan finance from the Vijaya Bank. The case of the appellants is that either these chicks were not administered the vaccine for Merek disease at all or if administered the vaccine supplied by M/s. BAIF Laboratories was defective. The chicks died very early after giving very low production of eggs. The post-mortem report indicates that the chicks died of Merek disease. The case of the respondent No. 1 is that chicks supplied by them were in good shape and condition and were duly vaccinated for the Merek disease. If they supplied 100 chicks to the appellants later on, free of cost it was

out of sympathy and by way of help so as to enable them to make up some loss which they would have suffered on account of low production. Further, they wrote a letter to the Vijaya Bank in the case of one appellant so as to help him in getting a rescheduling of his loan obtained from the Bank for the purchase of chicks. In no way it amounted to the admission of non-vaccinated chicks or the defective chicks. The respondent No. 1 M/s. Singh Poultry Ltd. also raised the point before the State Commission that the chicks were purchased by the appellants herein for commercial purpose and, therefore, their complaint is not within the ambit of the Consumer Protection Act.

M/s. BAIF Laboratories Ltd., Pune in their defence stated before the State Commission and before us that on receipt of a letter from M/s. Singh Poultry Ltd., Hyderabad they sent their expert to the Farms of the appellants but the latter did not co-operate in investigating the cause of death of the chicks. Neither any chicks were given to them for the purpose of investigation nor any evidence was produced to show that it was because of defective medicine that the chicks did not yield appropriately or live longer. Both the respondents-opposite parties i.e. the supplier of chicks and Laboratories which supplied the vaccine contended that in spite of the administration of vaccine the chicks are vulnerable to Merek disease due to variety of reasons including the hygienic condition of the Farm, proper feed, maintenance and upkeep of the chicks. The only advantage of administration of vaccine is that the chicks so vaccinated are less vulnerable than the chicks not vaccinated.

3. WE have gone through the detailed order of the State Commission which has adequately appreciated the evidence produced before them by both the parties. Somehow or the other the State Commission did not go into the question of the nature of the transactions between the appellant-complainants and the respondent-opposite parties. The contention of the respondent No. 1 - M/s. Singh Poultry Ltd. is that the chicks were purchased for business and therefore the transaction between the parties was of commercial nature and hence the complainants/appellants could not invoke the jurisdiction of consumer fora. In fact, the State Commission framed the following four questions for their consideration : 1. Whether the complainants purchased the chicks for a commercial purpose and therefore not consumers within the meaning of the Consumer Protection Act ? 2. Whether the purchase of day-old chicks amounts to purchase of goods by the complainants ? 3. Whether there is any defect in the chicks purchased by the complainants as they were not properly vaccinated with anti-Merek's vaccination ? 4. Whether the vaccine said to have been purchased by the first opposite party from the second opposite party with which one day-old chicks were vaccinated is defective and not of proper standard and what is the loss suffered by the complainants ?

The State Commission straight went into the question Nos. 3 and 4 and did not express any opinion in regard to question Nos. 1 and 2. Be that as it may, the discussion of the complaint on merits is far more comprehensive than the legal

question as envisaged in question Nos. 1 and 2. After going through the facts of the case, we are of the opinion that the purchase by the appellant-complainants can be termed as for self-employment and therefore is within the ambit of the Consumer Protection Act. However, on merits of the case we find that the appellant-complainants have not been able to establish either the non-administration of vaccine or the vaccine being defective in the absence of any analysis of the sample or any investigation by the supplier of vaccine into the cause of death of birds by taking a few dead birds. Nor such an investigation has been got done either by the opposite party No. 1 - M/s. Singh Poultry Ltd. or the complainant - appellants themselves. It is true that the post-mortem report does indicate the death of chicks by Merek disease but it has been cogently argued that mere vaccination of chicks does not absolutely free them from any susceptibility to Merek's disease in case they are not kept in proper conditions. It would, therefore, not be correct to place the blame at the door of M/s. BAIF Laboratories Ltd., whose samples of vaccine have not been tested in this regard. Neither the appellant-complainants nor the respondent No. 1 - opposite party No. 1 thought it fit to get the samples of vaccine tested. Further the fact that 100 chicks were supplied free of cost later or that a letter was written by the opposite party No. 1 - M/s. Singh Poultry Ltd., Hyderabad to the lending Bank, does not ipso facto establish that the chicks were not properly vaccinated by them. We are, therefore, not convinced that these appeals have any weight or that there is any error in the order of the State Commission. All these appeals, therefore, stand dismissed. There will be no order as to costs. Appeals dismissed.