
(1997) 11 NCDRC CK 0043

In the National Consumer Disputes Redressal Commission

HARYANA SHEET GLASS LTD.

APPELLANT

Vs

TRUCK UNION BHROR

RESPONDENT

Date of Decision : 06-11-1997

Acts Referred:

Citation : 1998 1 CPJ 44

Hon'ble Judges : Sardar Ali Khan , U.P.Singh J.

Final Decision : Enquiry disposed of

Judgement

1. THIS order shall dispose of a Notice of Enquiry instituted under Section 10(a) (i), 36A and Sections 37, 36B(a) and 36D of the Monopolies and Restrictive Trade Practices Act, 1969 (hereinafter referred to as the Act) and Regulation 51 of the Monopolies & Restrictive Trade Practices Commission Regulations (hereinafter referred to as the Regulations). THIS Notice of Enquiry is based on the complaint of M/s. Haryana Sheet Glass Ltd., Regd. Office F-24, Desh Bandhu Gupta Road, Karol Bagh, New Delhi, Factory 14, RIICO Industrial Area, Neemrana, Shahjahanpur, District Alwar, Rajasthan (hereinafter referred to as the applicant) against M/s. Truck Union Bhror, Rajasthan, Bhror village. Near Neemrana Shahjahanpur, District Alwar, (Rajasthan) (respondent No. 1) and Shri Ram Naresh Yadav, President of respondent No. 1 (respondent No. 2). On the basis of the complaint a Notice of Enquiry was issued against the respondents, which inter alia states as under : "And whereas the complainant has started production of glass bottles for supply to pharmaceutical companies, which require special handling during transportation. And whereas a complaint has been received from the complainant aforesaid that respondent No. 2 met its General Manager in the factory premises and asked him to hire the services of respondent No. 1 alone for transportation of its products and also informed him that respondent No. 1 does not allow any truck or other transport vehicle from outside for transportation of goods and that the trucks which bring in raw material or other goods are also not allowed to load goods from any factory in the area that the respondent No. 1 has fixed the rates for transportation of goods to various destinations and the members of the association have no liberty to negotiate the

rates. The trade practices aforesaid tantamount to restrictive/unfair trade practice within the meaning of Sec. 33(1) read with Sections 2(o), 2(o)(ii) and 36A of the Act."

2. IN this case the applicant has also filed an application for interim order against the respondents. The Commission vide its Order dated 19.7.1997 inter alia passed the following order : "We have also considered the INjunction Application and hold that there is a prima facie case against the respondents of unfair and restrictive trade practices, that because of the alleged trade practices, the complainant is suffering severe loss and damage and is likely to suffer further irreparable damage in case the alleged trade practices are continued and that the balance of convenience clearly rests in favour of the complainant. IN the premises the respondents are directed not to compel the complainant company to hire trucks from the respondent union. They are also restrained from preventing the complainant from lifting goods with its own vehicles or vehicles hired from agencies other than the respondent Union. This restraint order shall operate till the next date of hearing. Liberty as prayed is given to the complainant to serve a copy of this Order alongwith copies of two applications Dusti on the respondents and file an affidavit of service before the next date of hearing."

It is seen from the docket order dated 6.8.1997 that the respondents have refused to take the Notice of Enquiry issued by the Commission in support of which an envelope received back bears the postal endorsement. The applicant also placed on record the notices sent by it "Dasti", which have also been refused by the respondents. In the circumstances of the case the proceedings against the respondents were directed to be ex parte and the applicant was directed to file the evidence in the form of an appropriate affidavit and the matter was fixed for ex parte arguments on 15.9.1997. On the adjourned date it was seen that the applicant has filed an affidavit of Shri M.B. Singh, Chief Executive Sales as well as Factory Manager of the applicant alongwith certain documents, wherein the witness has reiterated the averments made by the applicant in the main application. Exhibit "A" is a letter dated 28.6.1997 addressed to the District Collector Alwar, Rajasthan, which was stated to be delivered by the applicant to District Collector, who in turn, directed the S.D.M. Bahrar to take necessary action. In the said letter it is seen that the attention of District Collector is also invited to the injunction order passed by the Commission and the applicant has requested that the truck union and its President and the members be directed not to compel the company to hire trucks from the said Union and be restricted from preventing the company from lifting the goods in their own vehicles, the vehicles hired from others than the said union trucks. etc. The contents of Exhibit "B" are also similar to that of Exhibit "A", but this letter was addressed to the Additional Superintendent of Police, Alwar. Exhibit "C" is a letter which has been sent by the office of the Chief Minister, Jaipur to the Chief Secretary Industries (Rajasthan), Jaipur. The witness also deposed that on 28.6. 1997 when the applicant's Center DL-1L-B-4009 was carrying the

finished goods to Mohan Nagar having proper documents was ceased by the respondents and the same was detained from 2.00 p.m. to 8.00 p.m. and was later on released with understanding that it will not carry company's goods in future. The applicant has deposed that immediately on the next date on 29.6.1997 written to the S.D.M. Bahrar and S.H.O. Shahjahan, Alwar a letter in this regard (Ex. "D").

This Commission has in scores of other cases against the various transport unions held that the similar trade practice indulged in by the truck unions are restrictive and unfair trade practices under the provisions of the Act, which are prejudicial to the public interest or interest of consumers, etc. and passed a "cease and desist" order.

3. THERE is not an iota of doubt that the respondents in this case are indulging in restrictive and unfair trade practices as stated in the Notice of Enquiry. We are also of the view and hold that the said restrictive and unfair trade practices are prejudicial to the public interest and/or to the interest of the consumer/applicant. In view of the matter we hereby direct that the respondents shall discontinue the said restrictive and unfair trade practice and shall not repeat the same in future. We further direct that the respondents shall file an affidavit of compliance Within 8 weeks from the date of the order. In order to see the service and compliance of this order, from the record of the case it clearly suggests that the respondents are avoiding the services. We are, therefore, of considered view that a copy of this order shall be sent through the District Collector, Alwar (Rajasthan) to the respondents. No order as to costs. Enquiry disposed of. _____