
(1990) 03 NCDRC CK 0012

In the National Consumer Disputes Redressal Commission

INDIA PHOTOGRAPHIC CO. LTD.

APPELLANT

Vs

H.D.Shourie

RESPONDENT

Date of Decision : 20-03-1990

Acts Referred:

Citation : 1991 0 CPC 448 : 1991 2 CPJ 142 : 1991 2 CPR 519

Hon'ble Judges : Prithvi Raj , B.L.Anand , Avtar Pennathur J.

Final Decision : Appeal disposed of

Judgement

1. THIS appeal has been filed against the order dated 26.2.89 passed by the District Forum, Tis Hazari, Delhi whereby the appellants were directed to display the sale price of the film on the package of the film sold by them.

2. BRIEF facts of the case are that the complainant "Common Cause", Public Interest Organization filed a complaint against the appellants India Photographic Co. Ltd, 22-A Janpath, New Delhi (hereinafter called the Company) on the ground that they are guilty of non-observance of the Statutory Rules in making sale of their products. It is alleged that the Company are in the representatives of famous Kodak, an International Co. dealing in photographic films etc. and that the Company sells different varieties of photographic films. The precise grievance of the complainant is that the Company is selling the films without the price being printed or prominently displayed as required under Rule 6 of Packaged Commodities Rules promulgated under the Standards of Weights and Measures Act, 1976. The Kodak film sold by the Company to the complainant supplied by Cash Memo No. 630847 dated 27.4.88 being an imported product is subject to the provision of the Rules as the indigenously manufactured/packaged products and that the package cover of the said film did not bear any price printed on it. The complainant accordingly prayed that suitable action be taken against the Company. The Company did not file any reply to the complaint but relying on the stay orders granted in their favour in the writ petitions filed by them before the Hon'ble High Court of Andhra Pradesh at Hyderabad and the High Court of Kerala at Ernakulam which it was contended covered the grounds averred in the

complaint prayed before the District Forum that the proceedings in the complaint be stayed. We need not set out the averments made in the respective writ petitions filed before the High Court of Andhra Pradesh and the High Court of Kerala, they have been noted in detail by the District Forum in its impugned order. It was not disputed before the District Forum that in accordance with Rule 6 of the Standards of Weights and Measures Act, 1976, the dealer is required to display sale price on the packages. The only argument advanced before the District Forum on behalf of the Company was that since similar matter was pending in the High Courts of Andhra Pradesh and Kerala, the present complaint be stayed in view of the orders passed by the said High Courts. The Forum on appraisal of the record and the submissions of the parties passed the impugned order directing the company to display the sale price of the film on the package in a manner so as not to violate the orders of stay passed by the High Courts, within one month of the date of the Forum's order.

Feeling aggrieved by the order of the District Forum, the company has challenged the same in appeal before us. Before us it is contended that the retail price of the films are not displayed or printed by the original manufacturer as the films are sold by it in various countries and that the sale price of the films is based on foreign billing, rate of import and other duties prevailing in the country at the time of import. It is further contended that if the original packages are opened, either there would be doubt in the minds of the customer about the genuineness of the films or there is a risk that while repacking, there may be in fact some substitution. In this view of the matter it is contended that the Company has to take care to see that the original packing is not tampered with in any way and the film is sold in its original condition and package. Lastly the grievance of the Company is that they were denied the opportunity to file reply on merits and that they have been condemned unheard.

3. WE have heard the parties at length and gone through the record and keeping in view the grievance of the Company as noted above in this order, no useful purpose will be served in sending the case back to the Forum for affording an opportunity to the Company to file its reply on merits. The main grievance of the Company is that if the original packages are opened, either there would be doubt in the mind of the customer about the genuineness of the films or there is risk that while repacking, there may be in fact some substitution. The grievance aired before us by the Company in view of the requirement of Rule 6 of the Rules being mandatory is not even a statable possibility, much less allowed to denude the right of a customer to know the price of the film from the seller. However, on a conspectus of the facts of the case it will meet the ends of justice and the requirement of law by requiring the Company to (i) publish the price of the film in a national Daily fortnightly ; (ii) to print notice on its Invoice asking the dealers to print or attach a price tag on the film before selling it to the customer; (iii) issue circulars to each dealer to print or affix a price tag on each film before selling the film to the customer, and (iv) attach price tag on each unit in their own shop/outlet before it is sold to the customer. The order of the District Forum

is modified to the extend indicated above. The appeal is disposed of in the above terms. Appeal disposed of.