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(2005) 06 NCDRC CK 0026

In the National Consumer Disputes Redressal Commission

Indusind Bank Ltd. APPELLANT

Vs

N. ALAGAMMAI RESPONDENT

Date of Decision : 10-06-2005

Acts Referred:

Citation : 2006 1 CPJ 139 : 2006 1 CPR 391

Hon'ble Judges : A.Raman , R.Vanaroja , PonGunasekaran J.

Final Decision : Appeal allowed

Judgement

1. THIS complaint relates to delay in transfer of shares. The opposite party have given the reasons for the delay. The fact is not disputed that the complainant is an NRI. It is also not disputed that the Registrars to the issue was M/s. Karvy Consultants. The said M/s. Karvy Consultants are not agents of the Bank. They are an independent entity recognized by the SEBI. The said M/s. Karvy Consultants have not been made a party to the complaint. It is also to be pointed out that under the rules framed under the SEBI Act, 1992, a procedure has been provided whereby an investor has been given a protection. But, for reasons best known, the complainant has not chosen to resort to SEBI. It is to be pointed out that the complainant, no doubt, remitted the amount due for the purchase of the shares to the opposite party bank. It is also true that the shares were not received by the complainant. The issue of shares is in the hands of the Registrars to the issue. It is not under the control of the Bank. Therefore, if there is any delay or failure to issue the shares, the Bank cannot be made liable. The Bank is only a collecting agent for the issue of shares. They collected the money and forwarded it to the concerned company or to the Registrar, once shares are floated for sale to the public. Therefore, in such circumstances, if there is a delay or defect in the issue of shares, the Bank cannot be made liable since they act merely as a post office in receiving the amount from the complainant and in forwarding them to the concerned corporate body or to the concerned authority constituted under the relevant Central Act. The complainant has not chosen to make either the company which floated the shares or the Registrars to the issue as a party to the complaint. Only if they are all made parties, one would be in a

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position to know on whose part lies the reason for the delay. Further, it is to be pointed out that if the shares are applied for by NRIs or by persons making payment out of NRO accounts, they are required to give an address in India so that the shares can be despatched on allotment. It is the consistent and specific stand of the opposite party that the complainant did not furnish any such address. Share certificates, according to the opposite party, cannot be sent to persons abroad and it has to be sent only to the local address. It is also stated that the complainant was asked to give a local address, but the complainant has refused to give a local address or local place of residence. Therefore, we find that the complaint is guilty in the sense that she was omitted to furnish her local address and, therefore, apparently, for want of local address, the allotment could not be made. In this connection, the opposite party relies upon the Circular issued by the SEBI in SMDRP/Policy/Cir. 28/98, dated 7.10.1998. It is also to be pointed out that the complainant has not proved in what manner she suffered loss. The processing of application for grant of shares or allotment of shares do not rest with the opposite party. As pointed out already, the opposite party acts only as an agent to collect the money and forward it either to the Registrars of the shares or the concerned authority who, after verifying the fact whether the legal requirements are satisfied, order the allotment of shares. Therefore, taking into consideration the circumstances, we are of the view that this is not a case where it can be held that there is any deficiency in service. Consequently, we hold that the opposite parties are not liable to pay any compensation.

2. IN the result, this appeal is allowed without any costs. The order of the Lower Forum is set aside. The complaint will stand dismissed, but in the circumstances without costs. Appeal allowed.

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