(1991) 10 NCDRC CK 0026

In the National Consumer Disputes Redressal Commission

JAI BHARAT STEEL INDUSTRIES — APPELLANT

Vs

Punjab National Bank — RESPONDENT

Date of Decision : 22-10-1991

Acts Referred:

Citation : 1992 0 CPC 350 : 1992 2 CPR 191 : 1992 3 CPJ 597 : 1994 1 CLT 218

Hon'ble Judges : S.S.Dewan , Laxmi Kanta Chawla J.

Final Decision : Complaint dismissed

Judgement

1. M/s. Jai Bharat Steel Industries has filed this complaint under Section 12 read with Section 17 (a) of the Consumer Protection Act, 1986 (for short, the Act) against the opposite parties on 15.4.1991. In view of the conclusion to which we have arrived at, it is not necessary to state the facts in detail. Suffice it to state that the complainant-firm and its partners were sanctioned cash credit limit to the extent of Rs. 2,50,000/- by the respondents on 24.11.1973 and they enjoyed the cash credit facility from Rs. 2,50,000/- to Rs. 9,00,000/- from the Punjab National Bank, Mandi Gobindgarh from 1973 to 1987. From April 1987, however, the said bank stopped releasing cash credit facility to the complainant firm. It is alleged by the complainant that the complainant-firm was faced with the financial crisis but instead of all this the firm repaid the outstanding loan amount to the bank and levelled the balance to the tune of about Rs. 3,00,000/- . The attitude of the bank, however, got changed and the respondent-bank put number of restraints on the credit facility despite several representations made by the firm. In brief, the complainant-firm maintains that due to the failure of the bank to render the service which it is bound to render to the complainant as per the policy of the Government of India, the credit policy of" the Reserve Bank of India and the agreement with the bank regarding financial assistance, there was deficiency in service rendered by the bank and this negligence caused failure of its business which entitled it to compensation amounting to Rs. 5,00,000/- besides interest and costs.

2. THE opposite party (Punjab National Bank) has raised preliminary objections

as well as objections on merits to the claim of the complainant. THE opposite party has pointed out that the complaint is barred by time as the cash credit facilities were stopped in April 1987 and this complaint was filed by the complainant on 15.4.1991. Furthermore, the Punjab National Bank (Opposite Party No. 1) has filed a civil suit in the Court of Sub'' Judge First Class, Khanna, against the complainant for the recovery of Rs. 4,87,142/- , outstanding amounts of various loans availed of by the complainant as a borrower from the bank. According to the opposite party No. 1, the complainant in the civil suit will raise almost the same and similar defence. It is alleged that the complainant did not appear in the said Court on 20.5.1991 and as such the complainant-firm and its partners were proceeded exparte and that now the. complainant party has appeared in the said Court and prayed for setting aside the ex-parte order; that the claims, questions and issues arising in the present complaint are inextricably inter-twined with the claims, questions and issues arising in the said pending civil suit since the same very bank account facilities and transactions are in the issue in both the proceedings and to a great extent common documentary and oral evidence will have to be adduced and scrutinised in the two proceedings and that as the matter is sub-judice before the learned Sub Judge First Class, Khanna, therefore, this Commission should reject the complaint on this preliminary ground alone. On merits, the Punjab National Bank has denied all the allegations of the complainant party in para 11 of the written statement. We have heard the learned Counsel for the complainant and the opposite party No. 1. It is not disputed by the learned Counsel for the complainant that the Punjab National Bank (opposite party No. 1) had instituted a suit against the complainant party which is pending in the Court of Sub Judge 1st Class, Khanna. The learned Counsel for the complainant has strenuously urged that there is no bar in regard to the maintainability of the complaint and in this connection he has invited our attention to Section 3 of the Act which says that the provisions of the Act are in addition to and not in derrogation of the provisions of any law for the time being in force. It is not necessary for us to make probe into the matter in view of the various authoritative pronouncements made by the National Commission, New Delhi. In M.L. Joseph v. State Bank of India Tricliur (Original Petition No. 12/89) decided by the National Commission on August 23, 1989, II (1992) CPJ 446 (NC). the complaint pertained to a transaction of borrowing from the Bank and the grievance of the petitioner was that the Bank has not been accommodating him sufficiently in the matter of grant of nursing facilities for small scale industry which has fallen sick. It was held that the. petitioner is at liberty to seek his relief from the Civil Court either in the proceedings that are already pending before the Sub Judge, Trichur or in other independent proceedings as may be open to him in law. Again in Society of U.P. Consumers for Education and Actions v. Bank of Baroda, Lucknow and Others (Original Petition No. 13 of 1989 decided on 23.8.1989 by the National Commission) the complaint was in respect of transaction of borrowing from a nationalised Bank and the grievance of the petitioner was that the Bank has not been rendering him sufficient supplemental financial assistance for the continued implementation of his project of establishing a poultry farm. The complaint was dismissed with the liberty to the petitioner to seek appropriate redressal in a Civil Court. The matter was considered in M/s. Jayal Iron & Steel v. State Bank of India and Others (Original Petition No. 2 of 1989 with Miscellaneous Petition No. 23 of 1989 for directions, decided on August 31,1989, by the National Commission). In that case the grievance of the petitioner pertained to the alleged failure on the part of the. State Bank of India and the U.P. State Financial Corporation to grant financial assistance to the petitioner for nursing and rehabilitating a sick industrial unit of his A grievance was also put forward against the U.P. Electricity Board that they had illegally delayed the grant of power connection to the petitioner and subsequently disconnected the power connection Without valid justification. The National Commission ruled that these are matters in respect of which the petitioner should approach a Civil Court for appropriate redress.

In the light of the principle laid down in the aforesaid authorities of the National Commission, it is manifest that the complainant is not entitled to the grant of any relief from the State Commission in this proceeding. The complainant-firm is, however, at liberty to seek his relief from the Civil Court either in the proceedings that are already pending before the Sub Judge 1st Class, Khanna, or any other independent proceedings as may be open to him in law. With this observation, the complaint is accordingly dismissed with no order as to costs. Complaint dismissed.

