

(1999) 08 NCDRC CK 0008

In the National Consumer Disputes Redressal Commission

JAIPRAKASH GUPTA

APPELLANT

Vs

BRANCH MANAGER, NATIONAL INSURANCE COMPANY

RESPONDENT

Date of Decision : 25-08-1999

Acts Referred:

Citation : 1999 3 CPJ 327

Hon'ble Judges : S.K.Dubey , Saroj Rajwade , N.K.Vaidyas J.

Final Decision : Application dismissed

Judgement

1. THE complainant-decree holder has filed this application under Section 27 of the Consumer Protection Act, 1986 (for short the "Act") for initiation of the proceedings under Section 27 of the Act for non-compliance of the order dated 23.3.1999 passed in Appeal No. 363/1995 by this Commission.

2. LEARNED Counsel submits that Section 27 is a penal provision and is in nature of contempt for failure or omission to comply any order passed by the District Forum, the State Commission or the National Commission, as the case may be. In the present case, the order was passed in appeal, therefore, this application for initiation of proceedings has been filed against the non- applicant. Sections 25 and 27 are primal and only provisions providing independent remedies for executing the order of Redressal Agencies within the Consumer jurisdiction.

The question raised before us is whether on an order passed in appeal by this Commission can applicant initiate the proceedings before this Commission instead of District Forum.

3. THE application before this Commission for non-compliance of an order passed in appeal is under Section 27 of the Act which reads thus : "27. Where a trader or a person against whom a complaint is made or the complainant fails or omits to comply with any order made by the District Forum, the State Commission or the National Commission, as the case may be, such trader or person or the complainant shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to three years, or with fine which

shall not be less than two thousand rupees but which may extend to ten thousand rupees, or with both : Provided that the District Forum, the State Commission or the National Commission, as the case may be, may, if it is satisfied that the circumstances of any case so require, impose a sentence of imprisonment or fine, or both, for a term lesser than the minimum term and the amount lesser than the minimum amount, specified in this section."

Admittedly, the complaint was not made before this Commission but before the District Forum and in that complaint in appeal the order was passed. In view of the clear language of Section 27 which constitutes statutory offence for non-compliance of an order duly constituted Tribunal under the Act has been made punishable with simple imprisonment or fine or with both. This penal provision is in addition to any other mode of recovery. Section 27 is in fact a penal provision in the nature for execution of the order. As the order passed by the District Forum has been set aside and has been substituted by the order passed in appeal, in our opinion the appropriate Forum for filing the application would be the District Forum and not the State Commission.

4. IN view of the above, this application is dismissed summarily without notice to the other side with a liberty to the applicant to approach before the District Forum for executing the order either under Section 25 or under Section 27 of the Act as may be advised. Application dismissed.