

(2013) 04 NCDRC CK 0012

In the National Consumer Disputes Redressal Commission

K. Shudhaker

APPELLANT

Vs

THANJAVUR MUNICIPALITY

RESPONDENT

Date of Decision : 23-04-2013

Acts Referred:

Citation : 2013 3 CPJ 338

Hon'ble Judges : J.

Final Decision : Petition allowed

Judgement

1. THE complainant filed a complaint against the opposite party, claiming direction for payment of Rs. 6,000 towards the expenses before the High Court and Rs. 33,000 towards medical expenses and compensation of Rs. 1 lakh for mental agony for the failure of the opposite parties in not furnishing the death certificate of the complainant's mother required by the complainant. Facts of the case in brief:

Mr. K. Sudhaker, the complainant made an application through the registered post on 22.6.2008 to the Municipal Committee, Thanjavur opposite party for the issue of Death Certificate with 12 copies of his mother K, Anusuya and complied all the formalities on 28.3.2008 along with payment of Rs. 150 as fees and obtained receipt. The complainant was dragged from pillar to post, but the certificate was not issued. The complainant filed a Writ Petition before the Madurai Bench/which directed the opposite party to consider the representation within one week from the date of the receipt of the copy of the order and in spite of that the opposite party had not issued the certificate and after issuing a legal notice, the complainant came to file this complaint, claiming the reliefs as above.

2. BEFORE the District Forum the opposite party was set ex parte, and passed an order on merit, by directing the opposite party to pay Rs. 40,000 as compensation for mental agony within one month from the date. Further aggrieved by the order of the District Forum the opposite party preferred an appeal before the Tamilnadu State Consumer Disputes Commission. Chennai and contended that the District Forum erred who did not notice that the appellant is

discharging the statutory duties under the Registration of Birth and Death Act. It is not the service provider under the Act and the appellant delivered the Death Certificate in person to the respondent. The complainant has no locus standi in view of the jurisdiction of the Consumer Forum and the opposite party was not given chance to defend the case.

3. THE State Commission allowed the appeal with the observation as "the complainant has not come forward with clean hands in seeking the remedy before the District Forum as proved from the records and since the opposite party complied the request of the complainant of the case, even though delay on the part of the opposite party is exposed. Against the impugned order in F.A. No. 96/2011 of State commission this Revision petition is filed".

4. WE have heard the Counsel of both sides. It is not disputed that the complainant applied for Death Certificate regarding his mother Anusuya along with 12 copies and made payment of necessary charges to the opposite party on 28.3.2008. For several days the opposite party did not comply with and provide the certificate, thereafter he has filed Writ Petition No. 6792/2008 before the Hon'ble High Court, Madurai Bench which directed the opposite party to consider the representation dated 22.6.2008 submitted by the petitioner, on merit, within a period of one week from the date of receipt of the copy of the order by giving opportunity to the petitioner. Even after such direction the opposite party has not provided the death certificate. For which complainant issued a legal notice on 1.4.2009, and thereafter a complaint was filed before the District Forum on 16.6.2009. The opposite party even though entered appearance through an Advocate, failed to file the written version, for which the District Forum passed an ex parte order, by allowing the complaint. The opposite party contended in the grounds of appeal that since the certificate was handed over in person to the complainant on 22.1.2009, no case would lie and being the statutory authority, the complainant cannot be considered as a consumer. Whereas the complainant has paid necessary fees of Rs. 150 towards the charges for issue of Death Certificate under Ex. A1 it is mentioned as "Service Centre Receipt". By mentioning the name of the complainant date of receipt, etc., issued by the Cashier on behalf of the Thanjavur Municipality and thereby it can be constructed that the amount collected cannot be towards Tax or any statutory payment and is only for the issue of 12 copies of Death Certificate to be treated only as charges for service to be rendered and it cannot be stated that the complainant is not a consumer. The appellant contended that as per the direction from the High Court, the certificate was handed over in person on 12.1.2009 and for which, there was no denial by the complainant either before the District Forum or before this Commission and on perusal of the records. We observe here the attitude of appellant of non-compliance and there was enormous delay in issuing the certificate and which is deficiency of service from the opposite party; the appellant disobeyed the Hon'ble High Court direction. The appellant did not produce any evidence to prove this contention that as per the direction from the High Court, the certificate was handed over in person on 12.1.2009. It appears

to be false submission. It is the harassment to the complainant due to intentional attitude and recklessness by the appellant is deficient in service and certainly liable. Therefore, we allow this revision petition and the order passed by State Commission in F.A. 96/2011 dated 13.1.2012 is set aside. The appellant/respondent is directed to comply with the order of District Forum within one month; failing which it will carry interest @ 12% per annum for the period of default. We also impose litigation costs of Rs. 10,000 upon the respondent which be paid within one month otherwise it will carry interest at the rate of 12% P.A.