

(2024) 01 KL CK 0123
In the High Court Of Kerala
Case No : Writ Petition (C) No. 658 Of 2024

K.A Pius (Sreeni)

APPELLANT

Vs

Consumer Disputes Redressal Forum Rep By Its President

RESPONDENT

Date of Decision : 17-01-2024

Acts Referred:

Citation : (2024) 01 KL CK 0123

Hon'ble Judges : Devan Ramachandran, J

Bench : Single Bench

Advocate : Neeraj Narayan, R.Harikrishnan, Denny Varghese, Lakshmanan Iyer T J, Sunil Kumar Kuriakose

Final Decision : Dismissed

Judgement

Devan Ramachandran, J

1. The petitioner impugns Ext.P9 order, through which, the Consumer Disputes Redressal Commission ('Commission' for short) has rejected I.A.No.996 of 2023, filed by him assertedly seeking an opportunity to cross examine the complainant in C.C.No.209 of 2018, namely the 2nd respondent herein.

2. Sri.Neeraj Narayan – learned counsel for the petitioner, pointed out that the impugned order has taken away the most fundamental right of his client, namely cross examining the complainant; and hence is vitiated and illegal in law. He, therefore, reiteratingly prayed that Ext.P9 be set aside and the 'Commission' be directed to allow his client one more opportunity of cross examining the complainant - the 2nd respondent herein.

3. Interestingly, the learned counsel for the 2nd respondent – Sri.T.J.Lakshmanan Iyer, in response, submitted that his client has absolutely no objection in being available for cross examination; and that if this Court fixes a particular time frame, he will comply with the same. He added that, however, the petitioner cannot assail Ext.P9 on its merits because, as is evident therefrom, the 'Commission' had given him several opportunities to cross examine his client,

which he had refused. He submitted that, therefore, normally, even the concession as afore made need not have been offered by his client, but that he is doing so only in fairness.

4. I have examined Ext.P9, which is the order impugned.

5. I must say upfront that I find favour with the afore submissions of Sri.T.J.Lakshmanan Iyer because, the 'Commission' has recorded therein that, on the day when the said order was issued, namely 06.11.2023, the complainant - the 2nd respondent herein, was available, but that the counsel for the petitioner was not ready to cross examine him. The order further says that 'numerous occasions' had been provided in the past to the petitioner to cross examine the 2nd respondent, but that has not availed of by his learned counsel.

6. Normally, therefore, as correctly argued by Sri.T.J.Lakshmanan Iyer, this Court would have been justified in dismissing this writ petition, finding Ext.P9 to be without error. However, since fairness in procedure is the sine qua non of any judicial or quasi judicial proceedings, I deem it appropriate to grant one more opportunity to the petitioner, particularly because the 2nd respondent does not oppose it.

Resultantly, Ext.P9 will stand set aside to the extent to which I.A.No.996 of 2023 was rejected; thus allowing it, with a consequential direction to the 'Commission' to allow the petitioner to cross examine the 2nd respondent on the next posting date, which is stated to be tomorrow (18.01.2024).

Needless to say, if the petitioner does not avail of this opportunity, then the benefit of this judgment will stand lost to him and Ext.P9 will stand fully restored.