

(1991) 10 NCDRC CK 0008

In the National Consumer Disputes Redressal Commission

KANISHTHA YANTRI GRAMIN VIDYUT SAHAKARI SAMITI LTD.	APPELLANT
Vs	
KAMAL BHAN SINGH	RESPONDENT

Date of Decision : 26-10-1991

Acts Referred:

Citation : 1991 2 CPR 652 : 1992 1 CPJ 346

Hon'ble Judges : Y.B.Suryavanshi , M.L.Tiwari J.

Final Decision : Appeal allowed

Judgement

1. - THE appellants are aggrieved against the Orders directing them to pay a compensation of Rs. 500/- plus Rs. 200/- as litigation expenses and Rs. 50/- Sundry expenses total Rs. 750/- against the complainant's claim for compensation Rs. 51,030.00 for delay and non-supply of electric connection to the motor-pump which prevented irrigation of fields and caused losses in agriculture.

2. THE complainant alleged that for the purpose of irrigating agricultural fields, area about 7 acres, he purchased, on 8.12.1988, a motor pump on a loan from Co-Operative Society; that on 22.12.88, he deposited Rs. 1,286/- vide Voucher No. 10 as Security; that he complied with other formalities including the Test-Report, but inspite of oral and written requests he has not been given the electricity connection. Giving details he claimed about Rs. 49,000/- after deducting expenses incurred on cultivation. The O.P.'s. version is: that several times they had asked the complainant to comply with the terms and conditions. Because of non-compliance thereof, the connection was not given. If the complainant complies with the terms, the motor pump could be connected with electric supply.

Both the parties examined their witnesses. The complaint was filed on 25.2.1991, but an application dated 30.4.1991 signed by complainant, shows, that connection was given thereafter on 28.4.1991. The learned Forum observed that the matter of connection seems to have held up for Non-Production of Test Report, and that is why the connection was given on 30.4.1991; and, therefore,

"no fault could be found with O.P. "s. if they did not give connection". But at the same time the learned Forum held, that Test Report must have been filed somewhere between 8.2.1991 and 30.4.1991. That, "the complainant has not proved with certainty the loss caused due to non-supply of electrical energy between the period 8.2.1991 and 30.4.1991"; but the O.P"s. have also failed to prove that electrical connection was given within Seven Days of the submission of Test Report." On those findings, the learned Forum "descreed in part" Rs. 750/- as referred earlier.

3. RECORD perused. Both the learned Counsel heard. Shri Dwivedi placed reliance on "M.P. Electricity Energy & Scale of Miscellaneous Charges."... Paragraph 10(a) provides that - (a) For the protection of the consumer and the public in general, it is necessary that the wiring on the consumer's premises should conform to the Indian Electricity Rules, 1956, and the rules of the Fire Insurance Company in terms of which the building is insured and be carried out by a Licensed Electrical Contractor. As soon as the consumer's installation is completed in all respects and tested by the Consumer's Contractor, the consumer should submit to the Board Contractor's completion and Test Report. A form for this purpose shall be supplied at the local Office of the Board. It is important that the conditions named therein are fully complied with, as otherwise there will be a delay in obtaining the supply." "(b) As required by Rule 45 of the Indian Electricity Rules, 1956.no electrical installation work including except such replacement of lamps etc..shall be carried. But upon the premises on behalf of any consumer ...except by an Electrical Contractor Licensed by Government in this behalf, and under the direct supervision of a person holding a certificate of competency issued by the Govt. Any person committing breach of rule 45 shall render himself liable to punishment under Rule 139 of the said Rules."

The Forum of Test Report has also been printed and prescribed in the M.P.E.B. Manual of Instructions. (Photostat copies placed on record). In the context of above rules, it is argued that the sheet-anchor of the defence of the O.P "s. had been that for non-production of completion/Test Report no connection could have been given. The department as per official record, supplied energy within seven days of Test Report. The District Forum has ample powers to call and see record, and on basis of Test Report it could have satisfied itself about the date when it was submitted by the complainant instead of a groping discussion on this aspect already referred earlier. The date on which Test Report was filed is equally a matter within the knowledge of the complainant.

4. IN fact, D.W. 1 Ramchandra and D.W.2 P.L. Singh, are Sub-Engineer and Asstt. Engineer, respectively. They have elaborately pointed out the procedure for obtaining connection. D.W.2 had deposed that they had even sent a notice on 3.2.1990 inviting Test Report. Test Report for connection was a material Condition Precedent which was not observed. Shri Rampal Singh urged, that deposit was made as back as on 22.12.1988; Agreement was also executed, yet there has been departmental delay. D.W. 2 has deposed about the entire

procedure involving sanction of higher authorities, preparation of estimates and plan, demand note, layout of poles, wiring etc. It is urged, that after Security Deposited on 22.12.1988, there had been an inordinate delay of two years and two months. D.W. 1 Ramchandra has given material dates viz. 14.10.88 when application was filed; 30.11.88 - when sanction of superior officer accorded; 22.12.88 when Security Deposit was made and Agreement executed. The poles were erected and wiring was done by 23.10.89 and Department wrote to the complainant on 3.2.1991 for sending Test Report. According to last paras (they should have been numbered) the complainant had told him that there is not much water and he would send Test Report afterwards. On basis of the evidence we are satisfied that delay in giving electrical connection was due to on-furnishing of completion/Test Report, and not due to deficiency in service on the part of appellants. Even the learned Forum has expressed that if it is due to the above fact, then the O.P's could not be blamed.

5. THAT being the finding there was no basis for awarding compensation at all. In the result, this appeal is allowed. The impugned orders dated 6.6.1991 directing the appellants to pay Rs. 750/- are hereby set aside. In the circumstances, the parties are directed to bear their own costs as incurred in the District Forum. But the respondent shall pay Rs. 150/- to the appellants as costs of this appeal, and shall bear his own costs. The Respondent shall pay the said amount within three months of these orders failing which he shall face the consequences provided in Section 27 of the Consumer Protection Act. Appeal allowed.