(1993) 12 NCDRC CK 0062

In the National Consumer Disputes Redressal Commission

LAXMI FABRICATORS APPELLANT

Vs

Union Bank of India RESPONDENT

Date of Decision : 22-12-1993

Acts Referred:

Citation : 1994 1 CLT 688 : 1994 1 CPC 278 : 1994 1 CPJ 101 : 1994 1 CPR 88

Hon'ble Judges : V.Balakrishna Eradi , Y.Krishan , B.S.Yadav J.

Final Decision : Petition dismissed

Judgement

1. - THOUGH there are four Opposite Parties in this Original Petition, in fact there are only two: (a) Union Bank of India and its Branch Office (opposite parties Nos. 1 & 2) and (b) Maharashtra State Financial Corporation (M.S.F.G.) and its Regional Office (opposite parties Nos. 3 & 4).

2. THE complainant acquired a plot of land from the Maharashtra Industrial Development Corporation (M.I.D.C.) for setting up a factory for manufacture of irrigation and agricultural equipment, sluice gates, oil expellers, folders, pullies, agricultural implements, man-hole covers, fixtures for irrigation water works and water sewerage board etc. For establishing this factory, the complainant-petitioner received a term loan for the fixed assets viz., for erection of factory building, sheds, plant & machinery, godown etc. It was to obtain its working capital from the commercial banks. The MSFC sanctioned term loans of 11.25 lacs in September, 1986 and 4.65 lacs in December, 1988. Complainant approached the Union Bank of India for working capital loan and the said bank on 18th March, 1989 sanctioned the working capital of Rs. 9 lac (Cash Credit hypothecation Rs. 5 lacs, Bills purchase Rs. 4 lacs). It was stipulated that these limits would be available only after installation of machineries and "completion of bank''s formalities and procedures". Subsequently, on 2nd March, 1991 it revoked the provisional sanction of 18th March, 1989 and declined to give any financial assistance for "adverse reasons". The letter of the 2nd March, 1991 which is crucial for deciding this case is reproduced below : " With reference to your application seeking financial assistance for working capital requirement of

your unit, we hereby inform you as under: Your application for financial assistance stands declined in view of the following adverse reasons- (1) The main working partner does not have any technical qualification and his experience is also insufficient in the proposed line. Second partner is a house-wife. (2) Lack of infrastructural facilities at the place of business. (3) Shortage of margin money due to escalation in project cost. (4) Production/sales target estimated by the party/MSFC seems too optimistic. Besides the above reasons the fact of borrowings with State Bank of India Warud branch and default status leading to legal action against one of the partners was not disclosed by you earlier. In view of the above reasons, your proposal is not acceptable to our bank for financing and it is finally declined. Consequently the provisional sanction conveyed to you vide our letter No. ADV: ADD:295:89 dt. 18.3.89, stands automatically withdrawn which may please be noted. Thanking you."

The complainant petitioner has alleged that because of the refusal of the opposite party bank to finance the project, he has run into losses. He has to make his own investment of Rs. 11.54 lacs and his commitment to M.S.F.C. is Rs. 10.83 lacs on the date of the filing of the complaint viz. October, 1992 and his liability would increase in future due to avoidable interest and overhead expenses. He has, therefore, claimed Rs. 50 lacs as compensation from the opponents, obviously parties Nos. 1 & 2, the Union Bank of India.

It would be evident from the facts above that the opposite party Union Bank of India had in 1989 only agreed to sanction working capital facilities after completion of bank''s formalities and procedures. In other words, this sanction was provisional. Even this provisional sanction was revoked for reasons given in the opposite party bank''s letter of 2nd March, 1991.

3. IT is entirely within the discretion of the bank to decide whether a particular project deserves financial assistance or not, keeping in view the technical, commercial and financial viability of the project, the expertise and the financial soundness of the managers of the project. The refusal of the opposite party bank to provide financial assistance for the project: for the reasons given, therefore, cannot be deemed to be deficiency in service attracting the mischief of the Consumer Protection Act. The petition is misconceived and has caused avoidable harassment and expense to the opposite party bank. In the circumstances, it is dismissed and the complainant petitioner is required to pay a sum of Rs. 2,000/- by way of costs to the opposite party. Petition dismissed.

