

(2000) 02 NCDRC CK 0011

In the National Consumer Disputes Redressal Commission

LOGICSTAT INTERNATIONAL (P) LTD.

APPELLANT

Vs

NEW BHANDARI HOSPITAL (REGD.)

RESPONDENT

Date of Decision : 08-02-2000

Acts Referred:

Citation : 2001 2 CPC 246 : 2001 3 CLT 26 : 2002 2 CPJ 318

Hon'ble Judges : H.S.Brar , Jasbir Singh , Davinder Kaur Bhamrahs J.

Final Decision : Appeal allowed

Judgement

1. VIDE this order two appeals (Nos. 1029 of 1997 and 998 of 1997) are being disposed of as both the appeals are against the same order. The main order is being passed in Appeal is No. 1029 of 1997.

2. IN this appeal against the order dated 27.8.1997 of the District Consumer Disputes Redressal Forum, Amritsar (hereinafter called the District Forum), the main argument canvassed by the learned Counsel for the appellant is that the plea of the opposite party that the District Forum had no territorial jurisdiction to try the complaint was not decided by the District Forum; instead the complaint was decided on merits only. Learned Counsel submits that without deciding the question of territorial jurisdiction, the merits of the case should not have been touched by the learned District Forum. On the other hand, learned Counsel for the respondent submits that the District Forum had earlier vide its order dated 19.9.1996 had decided that the District Forum had jurisdiction to decide the complaint. However, the learned Counsel for the appellant submits that vide that order the complaint of the respondent was dismissed by the District Forum by holding that the complainant was not a consumer. It was only on the appeal of the respondent-complainant against that order that the State Consumer Disputes Redressal Commission, Punjab (hereinafter called the State Commission) had set aside the order dated 19.9.1996 and remanded the case back to the District Forum for fresh decision in accordance with the law. The District Forum thus should have decided the question of jurisdiction in the impugned order itself when the specific question of jurisdiction had been raised before the District

Forum and the case had to be decided afresh in accordance with law as directed by the State Commission. According to the learned Counsel for the appellant, the appellant/opposite party had no occasion to challenge the decision, if any, made by the District Forum earlier because in that order the complaint of the respondent was dismissed and the appellant had no occasion to challenge that order as it was in the favour of the appellant and against the respondent/complainant.

We have heard the learned Counsels for the parties and have perused the impugned order as well as the order dated 18.6.1997 of the State Commission and the earlier order dated 19.9.1996 of the District Forum.

3. WE find merit in the argument advanced by the learned Counsel for the appellant. The order dated 19.9.1996 of the District Forum was challenged by the respondent-complainant before the State Commission and it was set aside by the State Commission vide its order dated 18.6.1997 and the case was remanded back to the District Forum for a fresh decision in accordance with the law. While deciding the matter afresh, the District Forum was obliged to decide as to whether it had the territorial jurisdiction to decide the complaint. The plea that the District Forum had no territorial jurisdiction to decide the matter was taken up before the District Forum; but without deciding the issue of territorial jurisdiction, the District Forum decided the complaint on merits. It is not even mentioned by the District Forum that the plea taken by the appellant-opposite party about jurisdiction matter had been decided earlier. In these circumstances, we accept the appeal, set aside the order of the District Forum and remand the case back to the District Forum for fresh decision in accordance with the law. In view of our decision in this appeal, the Cross Appeal No. 998 of 1997, M/s. New Bhandari Hospital (Regd.) v. M/s. Logicstat International Pvt. Ltd., also stands disposed of. Any plea taken in this appeal may be taken before the District Forum. Appeal allowed.