
(2015) 11 NCDRC CK 0022

In the National Consumer Disputes Redressal Commission

Case No : 840 of 2015

LUDHIANA IMPROVEMENT TRUST & ORS

APPELLANT

Vs

HARWINDER KAUR KHANGURA & 4 ORS

RESPONDENT

Date of Decision : 03-11-2015

Acts Referred:

[Consumer Protection Act, 1986](#), [Section 19](#)
a> - Appeals

Citation : 2016 1 CPR 13

Hon'ble Judges : D.K. Jain, M. Shreesha, Rajesh Verma

Judgement

1. This First Appeal, under section 19 of the Consumer Protection Act, 1986 (for short "the Act"), has been filed by Ludhiana Improvement Trust, Opposite Party No.2 in the Complaint under the Act, against the order, dated 19.01.2015, passed by the Punjab State Consumer Disputes Redressal Commission at Chandigarh (for short "the State Commission") in Consumer Complaint No. 122 of 2013. On consideration of the evidence adduced before it, the State Commission has directed the Opposite Parties, more particularly Opposite Party No.2, i.e. the Appellant, to allot a suitable plot of 500 sq. yards to the Complainants in the Scheme, named as "Bhai Randhir Singh Nagar Development Scheme", on current price and in case the plot was not available in the said Scheme, then the plot of the same size is directed to be allotted by the Appellant in any other Scheme floated by it, having the same value. Besides, the Appellant has also been directed to pay to the Complainants a sum of 30,000/- as litigation expenses.

2. For arriving at the said conclusion, the State Commission has taken into consideration the following facts: On 05.06.1985, Late Sant Singh, the husband and father of Complainants No.1 and 2 to 4 respectively, had applied for allotment of a plot of 500 sq. yards as "Local Displaced Person" (LDP) under the said Scheme and earnest money of 500/- was deposited by him on the said date vide Receipt (Ex. C-2); no order, rejecting the application on the ground that he was not the LDP, had been passed by the Appellant; the Appellant had not placed

on record any document to indicate that due to non-appearance of the Complainants, their claim stood waived off for the allotment of the plot as LDP; the Appellant was adopting a pick and choose method in allotting the plots; a large number of Writ Petitions were filed in the High Court, wherein it was held that the applications, though time barred, could be entertained and, accordingly, Govt. of Punjab, Department of Local Govt., issued guidelines dated 19.05.2006 (Exhibit C-10) to all the Improvement Trusts in the State of Punjab for disposal of pending applications received under the LDP category for allotment of plot; the Appellant had miserably failed to pass any speaking order, either to allot the plot or to reject the application; and that the Complainants being the legal heirs of Late Sant Singh were entitled for allotment of plot as LDP.

3. It is pointed out by the office that the Appeal is barred by limitation, as there is a delay of 205 days in filing the same. Application praying for condonation of the said delay has been filed along with the Appeal. In paragraphs 2 and 3 thereof, a short and crisp explanation furnished for the delay is as under: "2. That the Hon"ble State Commission passed the order dated 19.01.2015 whereby the complaint filed by the respondents no. 1 to 4 was accepted and allowed. The copy of the order was issued on 26.02.2015 and the copy was received thereafter by the appellant Trust.

3. That the letter dated 21.05.2015 was sent for the approval to the Director, Local Government for filing the present appeal before this Hon"ble Commission. The sanction was issued on 11.08.2015 for filing the appeal. Thereafter the appellant engaged advocate who prepared the file and is being filed."

3. We have heard learned counsel for the Appellant on the question of delay.

4. In our view, the explanation furnished by the Appellant is vague to the core and wholly unsatisfactory. Admittedly, the free certified copy of the impugned order dated 19.01.2015 was issued to the Appellant on 26.02.2015 and on 21.05.2015, i.e. after almost three months, a letter was sent by it to the Director, Local Government, Punjab, seeking approval for filing of the Appeal. The Appellant has not indicated as to what prevented it before 21.05.2015 from taking necessary action in the matter. Though the Appeal, to be filed before this Commission, was already barred by limitation, yet the Director, Local Self Government, Punjab, took about three months in conveying its approval to the Appellant for filing the Appeal. If no response was forthcoming from the Director during a reasonable period, without waiting for indefinite period, the Appellant could have taken up the matter personally with the said authority. We are unable to fathom any reason as to why the Appellant kept mum in the matter for about three months after it had sent the afore-said letter to the Director. Bearing in mind the statutory period of 30 days provided under Section 19 of the Act for filing the Appeal against the order of the State Commission, whereby it had been burdened with some liability, which according to the Appellant was unjustified, it was expected to act promptly and with alacrity but it was not so. The explanation furnished, besides being self-serving, it does not inspire any confidence.

5. The question of delay by the Government Departments in prosecuting the cases has been engaging the attention of the Courts. Recently, in *Postmaster General and Ors. V. Living Media India Ltd. & Anr.* [(2012) 3 SCC 563], the Supreme Court has been pleased to observe as under : "28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody, including the Government.

29. In our view, it is right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/ years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few."

6. In view of the above, the typical casual and lethargic bureaucratic attitude adopted by the Appellant is writ large. The Appellant is negligent in prosecuting its cause and the explanation furnished by it is absolutely unsatisfactory. We are of the opinion that not only the Appellant has failed to make out a "sufficient cause" for condonation of inordinate delay of over 200 days in filing the present Appeal, the condonation of delay caused in this case would further cause unnecessary harassment to the Complainants, who are waiting for a plot under the Scheme for the last three decades, since 1985.

7. Bearing in mind the afore-stated facts, we are not inclined to condone an inordinate delay of 205 days in filing of the present Appeal. Consequently, the Appeal is dismissed in limine on the ground of limitation.

8. At this stage, we would also like to express our concern about the state of affairs prevalent in the office of Director, Local Self Government, Punjab. As noted above, from the explanation furnished by the Appellant for condonation of inordinate delay of 205 days in filing of the present Appeal, it is apparent that though on 21.05.2015 it had sent a letter to the Director as regards the future course of action to be adopted in the matter, yet the said letter was replied to only on 11.08.2015, i.e. after about three months from the date of receipt of the afore-said communication from the Appellant. It shows nothing but an indifferent attitude of the officials in the office of the Director, which the Senior Officers are supposed to look into and take necessary steps to ensure that the citizens are

not put to unnecessary harassment. Accordingly, we direct the Secretary, Local Self Government, Punjab, Chandigarh, Respondent No.5 herein, to hold an enquiry and fix the responsibility of the official(s) responsible for causing delay in filing the Appeal and file an affidavit about the action proposed to be taken against them, within a period of four weeks from the date of receipt of a copy of this order.

9. Registry is directed to send a copy of this order to Respondent No.5 forthwith for compliance.

10. List the Appeal for reporting compliance on 08.01.2016.