
(2014) 02 NCDRC CK 0038

In the National Consumer Disputes Redressal Commission

Maharashtra Hybrid Seeds

APPELLANT

Vs

Garapati Srinivas Rao

RESPONDENT

Date of Decision : 12-02-2014

Acts Referred:

Citation : 2014 0 NCDRC 339 : 2014 1 CPJ 538

Hon'ble Judges : V.B.GUPTA , Rekha Gupta J.

Advocate : MANOJ SWARUP , Karan Kapoor , R.Sreenivasa Rao

Judgement

1. PETITIONER /opposite party No. 2 being aggrieved by common order dated 27.2.2008, passed by Andhra Pradesh State Consumer Disputes Redressal Commission, Hyderabad (for short, "State Commission") have filed present revision petitions under Section 21(b) of the "Consumer Protection Act", 1986 (for short, "Act"). Revision Petition (No. 2602 of 2008) is taken as the lead case. Brief facts are that Respondent No. 1/Complainants are agriculturists raising crops like Chili and cotton in their fields. Complainant purchased Hybrid Seeds - Tejaswini - MHP 1, from Respondent No. 2/opposite party No. 1 for Rs. 5,775 on 18.6.1996 vide bill No. 085 and on 16.7.1996 vide bill No. 047 for Rs. 1,850, totalling 450 grams of MAHYCO seeds. The said seeds were produced and marketed by the petitioner. It is complainant's case that he sowed the above seeds in his land to an extent of Ac. 4.20 Guntas and used all the fertilizers and pesticides as per the norms spending nearly Rs. 60,000. The complainant was made to believe by the petitioner and respondent No. 2, that this variety would get nearly 25 quintals per acre. In the month of November and December 1996, the crop size was very small and growth was not proper and not in usual shape and direction. Hence, complainant approached respondent No. 2 and demanded compensation but received no reply. Then he complained to the Mandal Agricultural Officer about the defective and inferior quality of the seeds. Mandal Agricultural Officer inspected the complainant's field and found that the variety of the seeds supplied was not notified in that area. To that effect, the Mandal Agricultural Officer gave a report and promised to take action against the petitioner and respondent No. 2. Thus, complainant suffered crop loss of 20

quintals per acre and the present market rate is Rs. 2,500 to Rs. 3,000 per quintal. Hence, complaint seeking a direction to the opposite parties to pay Rs. 2,25,000 i.e. Rs. 2,500 x 90 quintals and other costs towards manuring, labour and compensation was filed before the District Consumer Forum, at Khammam, Andhra Pradesh (for short, "District Forum").

2. PETITIONER in its written statement has admitted about the purchase of the seeds on two different dates by the complainant. However, the complainant has not stated the dates of sowing the seeds. As per agriculturists practice, the transplantation is to be done after 21 to 25 days of sowing, if there was delay in transplanting, the crop loose its growing ability at nursery stage only. It is further stated that during that year Andhra Pradesh State was badly affected due to heavy rainfall and cyclone, due to which fungal diseases, pest incidence and virus infection occurred not only to the complainants' crops but also to other crops. The seeds were not defective as all the seeds were germinated uniformly and satisfactory, which fact has been accepted by the complainant. Petitioner is not responsible for the damages or loss sustained by the complainant which he suffered due to unfavourable weather conditions. Further, the required seed rate of chili for sowing is 200 gms. per Hectare (i.e. 80 gms. for 1 acre) as per standards. However, complainant in its complaint had stated that he had sowed 450 gms. seed in his 4.20 acres land. As per the standard rate, the complainant can sow maximum 360 gms. of seeds in 4.20 acres. Further, it was obligatory and necessary on the part of the complainant and the Mandal Agriculture Office to have called the representative of the petitioner at the time of carrying out the inspection of the crops. The inspection was carried out in the absence of the petitioner. Even otherwise, report was prepared merely on the observations of the standing crops and information given by the complainant. However, as per the Seeds Act, seeds inspection can be done through competent person to decide as to whether the seeds are defective or not after requisite laboratory tests. In the present case, complainant had not informed the Seeds Inspector for verification of the seeds in question. Under these circumstances, the complaint is liable to be set aside.

3. ON the other hand, respondent No. 2 in its written statement has taken the plea that he is simply a dealer and had been selling the seeds supplied by the petitioner which are in the sealed packet. Moreover, chilly is a sensitive crop and it depends upon the land, season, pest and watering etc. It is denied that complainant has raised chilli crops in a proper way and had taken all the care in raising the crop.

4. THE District Forum vide its order dated 19.1.2005, dismissed all the complaints. Being aggrieved, the complainants filed appeals before the State Commission.

5. ALL the appeals were allowed and State Commission vide impugned order, granted respective compensation to the complainants.

6. NOW petitioner has filed these revision petitions. We have heard the learned Counsel for the parties and gone through the record. Complainant in support of its case has filed written arguments also.

7. IT has been contended by learned Counsel for the petitioner, that report dated 24.12.1996 of the Mandal Agricultural Officer and report dated 18.11.1998 of the Advocate -Commissioner, do not state at all about any defects in the seeds. The State Commission had erroneously given the findings on the defective seeds, relying upon above reports. There is no evidence on record to show that the seeds supplied by the petitioner were defective. In support, learned Counsel for petitioner has relied upon the judgments; (i) Haryana Seeds Development Corpn. Ltd. v. Sadhu and Anr., II (2005) SLT 569 : II (2005) CPJ 13 (SC) : (2005) 3 SCC 198; (ii) Mahyco Seeds Company Ltd. v. Basappa Channappa Moki and Ors., Civil Appeal No(s). 2428 of 2008, decided on 21.7.2010 by the Apex Court; (iii) Maharashtra Hybrid Seeds Co. Ltd. and Ors. v. Ajay Singh and Anr., RP No. 252 of 2009 decided on 15.9.2009 by this Commission; (iv) Mahyco Seeds Ltd. v. Kallappa and Ors., RP No. 88 of 2006 decided on 4.5.2010 by this Commission; (v) M/s. Mahyco Vegetable Seeds Ltd. v. G. Sreenivasa Reddy and Ors., II (2012) CPJ 297 (NC) : RP No. 4280 of 2007 decided on 20.3.2012 by this Commission; (vi) M/s. Mahyco Vegetable Seeds v. B. Yedukondalu and Ors., RP No. 2272 of 2010 decided on 27.4.2011 by this Commission and (vii) Maharashtra Hybrid Seeds Co. Ltd. v. Bajrang Lal Yadav and Anr., II (2009) CPJ 352 (NC).

8. ON the other hand, it has been argued by the learned Counsel for the Respondents/Complainants that, petitioner did not chose to file any application for sending the seeds to the laboratory for analysis. Petitioner has tried to shift the burden upon the complainant. Further, there are two inspection reports in this case. The first one is of the Mandal Agricultural Officer and second one is of the Court Commissioner. From these reports, it is manifestly clear that the seeds manufactured by the petitioner were defective. Under these circumstances, there is no infirmity and illegality in the impugned order passed by the State Commission. In support, learned Counsel for the respondents has relied upon the following judgments; 1. National Seeds Corporation Limited v. M. Madhusudhan Reddy and Another, I (2012) CPJ 1 (SC) : II (2012) SLT 51 : (2012) 2 SCC 506; 2. Mahyco v. Alavalapati Chandra Reddy and Others, III (1998) CPJ 8 (SC) 3 and 3. The Malaprabha Neerwari Balakedarara (Irrigation Consumer) Co -Op. Sangh Ltd. v. The State of Karnataka and Ors., I (1994) CPJ 80 (NC) : IV 1994 CPR, 747 (NC).

It is an admitted fact that complainant had purchased the chili seeds from respondent No. 1 being manufactured by the Petitioner. The short question which arise for consideration is as to whether the seeds supplied by the Petitioner were defective or not.

9. THE Hybrid Seeds were purchased by the complainant in the months of June and July, 1996. Thereafter, the sowing was done in his field. As per complainant's case, in the months of November/December, 1996, the size of the

crop was very small and growth was not proper and not in usual shape. Hence, he approached the petitioner and demanded compensation for which petitioner gave evasive reply. Thereafter, complainant complained to the Mandal Agricultural Officer about supply of defective and inferior quality of seeds by the petitioner. The Mandal Agricultural Officer inspected the field of the complainant and found that the variety of the seeds supplied by the petitioner was not notified in that area.

10. DURING pendency of the complaint before the District Forum, it appointed an Advocate Commissioner on the insistence of the complainant for assessing the loss and damage caused to the complainant. Accordingly, District Forum appointed Mr. M. Nagesh Babu, Advocate Commissioner, who filed his report dated 18.11.1998 before the District Forum.

11. NOW let us scrutinize the above two reports so as reach at the conclusion, whether the seeds supplied by the petitioner were defective or not.

12. FIRST report is dated 24.12.1996, which is of the Agriculture Officer and it states; Rc. No.: Agril./KVM/36/96 -971 Dated: 24 -12.1996 Sub: CHILI CROP - - Hybrid Chili Tejaswani -Purity pets and diseases -Regarding. Ref: Lr. No: Nil, dated 18.12.1996 of Garapati Srinivasa Rao S/o. Bhaskar Rao, R/o. Pochavaram. Through the above reference and subject cited, I have inspected the field of Garapati Srinivasa Rao S/o. Bhaskar Rao, R/o. Pochavaram Kunavaram Mandal, Khamma District on 24.12.1996. I am herewith mentioning the following Particulars; 1. Verified the Bill No. 085, dated 18.6.96. Qty. 0.350 Grams. Bill No. 085, dt. 16.7.96, Qty. 0.100. 2. Verified the empty packet of Lot No. (1) K95 -68 -15 RNJ -83050 (2) K95 -68 -15 RNJ -83051 3. Crop: Chili 4. Variety: Hybrid Chili Tejaswini (Non notified variety) 5. Class of Seed: Truthfully labeled(T/L) 6. Area in Acre: 4.20 acres 7. Date of transplanting: 8.9.96 8. Purity: (a) No. of plants per acre: 8500 (b) 5 count taken for 4 1/2 acres (each count 500 plants) 9. Pets: Thrips and mites noticed plant protection measures recommended. 10. Diseases: Yellow leaves and Fruit rot noticed plant protection measures recommended. 11. Size of the Fruit: Average 2 CM to 4 CM. 12. Yield per acre: Approximate yield 3 to 5 quintals. 13. Condition of the Crop: Poor. The purity of the seed was not under the Indian Seed Act, 1966. AGRICULTURAL OFFICER"

Now coming to the second report that of Advocate Commissioner dated 18.11.1998, which states; In compliance of the directions of the Hon"ble Forum, I had fixed my date of inspection of Warrant Schedule property on 8.2.1997 and had given notices to learned Counsel for the Complainant and I had sent notices to the opposite parties under certificate of posting and I had also informed the date of inspection to the AAO Kunavaram who is concerned Asstt. Agriculture Officer. On 8.2.1997 when I had inspected the Warrant Schedule property, the learned Counsel for the Complainant was present and opposite parties were also present in person. I had inspected the Warrant Schedule property and found that there was very low yielding of Chilly crops in the Warrant Schedule property.

There were very few Chilli crops which had good yield and most of the lands were having very less yield and there is very low yield in Warrant Schedule property. The Assistant Agriculture Office was not present on my date of inspection. The learned Counsel for Complainant had given my work Memo enclosed with a certificate said to have been issued by the AAO, Kunavaram, who had inspected the Warrant Schedule property on the request of the Cultivator on 18.12.1996 and assessed damages caused to the crop of the Complainant. As per the Certificate given to me by the learned Counsel for the Complainant, the damage caused to the crop approximately 9 to 10 quintals per acre. To ascertain the genuinity of the certificate given by the learned Counsel for the Complainant, I had addressed a letter to the AAO to certify whether certificate given to me by the Counsel for the Complainant was issued by him after inspecting the Warrant Schedule property. The Asstt. Agriculture Officer had sent me a letter through Registered post stating that the certificate given to me by the learned Counsel for the Complainant was issued by him on his thorough, Inspection of Warrant Schedule Property on 18.12.1996 and ascertained that damage caused to the crop of the Complainant in the Warrant Schedule Property was approximately 9 to 10 qtls. per acre. I am herewith enclosing the certificate of the Asstt. Agriculture Officer dated 30.4.1997 received by me through registered post. I had found very low yielding of crop in the Warrant Schedule Property and there was lot of damage to the Chilli which was yielded.

13. RELEVANT observations made by the Agriculture Officer in its report dated 24.12.1996 states; 9. Pests: Thrips and mites noticed plant protection measures recommended. 10. Diseases: Yellow leaves and Fruit rot noticed plant protection measures recommended. 11. Size of the Fruit: Average 2 CM to 4 CM. 12. Yield per acre: Approximate yield 3 to 5 quintals. 13. Condition of the Crop: Poor. The purity of the seed was not under the Indian Seed Act, 1966.

14. AS per Serial Nos. 9 and 10 of the above report, Agriculture Officer has recommended measures for plant protection only. Further, at Serial No. 12, yield per acre is mentioned as "3 to 5 quintals", whereas as per Serial No. 13, the condition of the crop has been mentioned as "Poor". Now, coming to the Advocate Commissioner's report, the inspection was done on 8.2.1997, whereas report was prepared only on 18.11.1998. Why there was long delay of more than one year and six months in preparing the report. There is no explanation for this long delay. Be that as it may the relevant portion of this report states; There were very few Chili crops which had good yield and most of the lands were having very less yield and there is very low yield in Warrant Schedule property.

15. IT is apparent from the contents of the above inspection reports that these reports have been given merely on the basis of visual inspections of the field. Moreover, none of the above reports state that the seeds sown by the complainant were defective.

16. IN National Seeds Corporation Ltd. (supra), cited by learned Counsel for the complainant, the Apex Court observed: The reports of the agricultural experts

produced before the District Forum unmistakably revealed that the crops had failed because of defective seeds. In *M/s. Mahyco Vegetable Seeds Ltd. v. G. Sreenivasa Reddy and Ors.* (supra), a Coordinate Bench of this Commission observed: We have heard learned Counsel for both parties and have also gone through the evidence on record. The report of the Commissioner appointed by the District Forum to inspect the affected fields/Brinjal crops had after visiting the spot given a finding that there were variations in the Brinjal plants which indicated that there was a mixture of the seeds and it is because of this that flowers as well as the plants were of differing varieties. The report nowhere states that the variation was because of defective seeds. Counsel for Petitioner had submitted that under these circumstances, the Fora below erred in concluding by citing report of the Court Commission that the findings of the Commissioner amounted to supply of defective seeds by Petitioner/its dealers. Counsel for Petitioner also cited a number of judgments to state that the onus to prove that the seeds supply were defective were in fact on the Respondent. We find force in these contentions of the Counsel for Petitioner which is in consonance with our own rulings on this issue. In R.P. 3525/2007 in which Mayhco Seeds was also the Petitioner, this Commission had concluded as follows: Initial burden to prove that the seeds were defective was on the complainants. Except for producing the report of the Asstt. Director Agriculture reproduced above, respondents did not lead any evidence to prove that the seeds supplied to them were defective. A perusal of the report would show that it nowhere states that the seeds supplied were defective. Variation in condition of the crops is not and cannot be attributed to the quality of the seeds but to some other factors. Inferior quality of seeds is not a factor for failure of the crops. The report of the Agriculture Officer does not mention that the seeds supplied were of inferior quality. There is no evidence whatsoever on record to show that there was any genetic impurity in the seeds supplied by the petitioner. Hon''ble Supreme Court in *Haryana Seeds Development Corpn. Ltd. v. Sadhu & Anr.*, (2005) 3 SCC 198 as well as in *Mahyco Seeds Co. Ltd. v. Basappa Channappa Mooki & Ors.*, (Civil Appeal No. 2428/2008) has held that variation in condition of crops need not necessarily be attributed to quality of seeds but to other factors unless there is specific mention in the concerned report about the inferior quality of seeds. The Apex Court has held that the onus to prove that there was a defect in the seeds was on the Complainant. In the instant case, in view of the fact that the report of the Court Commissioner does not state that the variation in the seeds was because of any genetic defect and the Respondent on whom the onus to prove otherwise, has produced no evidence that the Petitioner's seeds had any genetic defect, therefore, cannot uphold the orders of the Fora below and the same are set aside. The revision petitions are allowed and the complaints dismissed with no order as to costs.

17. IN the present case, none of the above inspection reports stated even a single word that "the seeds sold by the petitioner to the complainant were defective". Nor there is any cogent evidence to prove the allegations of the

complainant that the seeds were defective.

18. IT is well settled that crop can be affected due to various reasons viz. poor quality of seeds, fertilizers, inadequate rainfall or irrigation, and also due to poor quality or inadequate or overdose of pesticides/insecticides. In the present cases, the respondent -farmers have miserably failed to prove that due to the defective seeds their crops have failed. We are of the opinion that the complainant has failed to establish that there was any defect in the quality of the seeds or the seeds were of sub -standard quality. The crops were affected by thrips and other diseases. However, in order to contain the same, the complainant did not take any remedial measures as recommended by the Agriculture Officer.

19. UNDER these circumstances, the impugned order passed by the State Commission cannot be sustained. Accordingly, we set aside the impugned order passed by the State Commission and allow the above revision petitions. Consequently, all the complaints filed by the respondents/complainants stand dismissed. Parties shall bear their own cost.