

(2002) 04 NCDRC CK 0023

In the National Consumer Disputes Redressal Commission

MAHARASHTRA STATE SEEDS CORPORATION (LTD.)

APPELLANT

Vs

KAILASH YADAO JADHAO

RESPONDENT

Date of Decision : 26-04-2002

Acts Referred:

Citation : 2004 4 CPJ 463

Hon'ble Judges : M.S.Rane , V.K.Data J.

Final Decision : Appeal allowed

Judgement

1. HEARD the arguments of both the learned Advocates. This appeal is filed against the order dated 30.12.1997 in Complaint No. 231/1997 passed by the District Forum Buldana. The brief facts of the case are as follows: In the year June, 1997, the respondents/complainants purchased Moong seeds from the appellant's organization. Moong seeds were purchased from the appellants with an understanding that the produce of said Moong seeds would be sold to the appellants. Thus in brief it was a buy-back scheme between the appellants and respondents and as such complainant would stand in shoes as Seller of goods.

2. THE contention of the respondents was that the seeds supplied by the appellants were of inferior quality and as a result thereof, the produce for the season 1996-97 was very poor and the respondents/complainants were put to substantial financial loss. It is pertinent to note that in the previous year i.e., prior to June, 1996-97 season, the respondents had purchased the seeds from the appellants and sold back the produce to the appellants under the buy-back scheme. Thus the complainants/respondents were aware of the risk involved in the buy-back scheme. The District Forum has referred to some decisions of the National Commission and treated the respondents/complainants as a Consumer. In fact, the ratio of the decision referred to by the District Forum is not applicable in the present case. The factual position of the present case is different.

The appellant has also pointed out the ruling of this Commission dated 8th January, 1999 in the case of Maharashtra State Seeds Corporation, Akola and Others v. Sayyad Muomtaaz Sayyed Tahir Ali and Another, in Appeal No. 344 of

1998, reported in 1999 (3) All MR (Journal) 334, whereby the Agriculturist engaged in buy-back scheme was not treated as a Consumer and hence the present proceedings will not attract the provisions of Consumer Protection Act, 1986.

3. HEARING of the present appeal was already over and Member was about to sign the judgment and Advocate for the respondent Mr. Jain has referred to two citations of the National Commission on behalf of the respondents as under: 1. Mr. Bhupinder Singh @ Tek Singh v. Omega Agro Private Ltd. and Others, in Appeal No. 559 of 1993 decided on 6.5.1996 and reported in II (1996) CPJ 86 (NC). 2. Laxmi Agriculture Seed Store v. Dhoop Singh and Others, in Revision No. 469 of 1993 decided on 21.10.1994 and reported in I (1995) CPJ 45 (NC).

On going through the relevant citations, it is observed that substantial facts in both the cases referred to above is differed from the facts obtained herein. Thus the ratio of the above citations of National Commission is not appliable in the present appeal.

4. IN view of the position clarified hereinabove, the present respondents cannot be treated as consumers and hence there is no alternative but to allow the appeal and dismiss the order of the District Forum. ORDER "Appeal is allowed and order of the District Forum is set aside. Original Complaint No. 231/97 stands dismissed. As far as this appeal is concerned, no order as to costs. Office shall furnish copies of the order herein to the parties."

Appeal allowed.