
(2011) 08 NCDRC CK 0056

In the National Consumer Disputes Redressal Commission

Maheswar Patra

APPELLANT

Vs

Block Development Officer

RESPONDENT

Date of Decision : 09-08-2011

Acts Referred:

Citation : 2011 0 NCDRC 543 : 2011 3 CPJ 480 : 2011 3 UC 2385

Hon'ble Judges : V.B.Gupta , Suresh Chandra J.

Final Decision : Revision petition is dismissed

Judgement

1. PETITIONER is the original complainant in this case. Briefly stated, the petitioner, who claims to be a poor person, was given a BPL card (Below Poverty Line) duly certified by the competent authority. It is stated that a person holding BPL card is entitled to receive grocery, kerosene and other essential commodities as per the policy of the Government through public distribution system from the specified shops. According to him, he was availing the benefit under the card till the year 2009. In 2009, Respondent No.3/OP-3, who is Project Director in the D.R.D.A. under the State Government, refused to supply monthly ration and essential commodities except the kerosene. He, therefore, raised his grievances before the Block Development Officer, Respondent No.1 herein. Having failed to get a positive response from the authorities, he approached the District Consumer Forum and filed a consumer complaint in August 2009. On being noticed, the respondent authorities contested the complaint by filing their written submission in which they stated that the petitioner is not a BPL card holder / consumer and SI No.31 is the name of another person, namely, one Basanta Patra, S/o Ramachandra Patra and the list was duly certified by the Project Director, D.R.D.A., Gajapati in the year 1999 and the PDS commodities have all along been provided to Basanta Patra as a bonafide consumer. The District Forum after considering the material before it, allowed the complaint vide its order dated 4.11.2009 and directed the respondent Authorities to issue the articles under the public distribution system from the date of its order to the petitioner. Aggrieved by the order of the District Forum, an appeal was filed by the respondent authorities before the Orissa State Consumer Disputes Redressal

Commission, Cuttack (State Commission for short) challenging this order. The State Commission at the very admission stage without issuing a notice to the petitioner, allowed the appeal of the respondent authorities and set aside the order of the District Forum. Present revision petition has been filed by the complainant/petitioner against this impugned order dated 11.1.2010 passed by the State Commission.

2. WE have heard learned amicus curiae and perused the record before us. The State Commission while unsuiting the claim of the petitioner and granting the appeal of the respondent authorities even without issuance of a notice to the petitioner has observed as under:- Be that as it may, since for providing the PDS commodities none of the appellants, who were the opposite parties before the District Forum were being provided with any consideration by the complainant/respondent, they do not come within the meaning of service provider and the complainant a consumer. In that view of the matter, the consumer complaint was not at all maintainable. The only argument which learned amicus curiae has put forth before us in favour of the revision petition is that the petitioner was not afforded an opportunity of hearing by the State Commission since the appeal of the respondent authorities came to be allowed without issuance of any notice to the petitioner right at the admission stage and the matter should be remitted to the State Commission for deciding the matter after hearing the parties. He has, however, not disputed the broad facts of this case. Therefore, the short question that has arisen before us in this case is as to whether the petitioner is a consumer under the Consumer Protection Act, 1986 and whether his complaint is maintainable under the C.P. Act. The undisputed facts of this case indicate that the grievance of the petitioner is in respect of distribution of ration commodities through the public distribution system by the district authorities. This being the admitted position, the petitioner will not be covered within the definition of a consumer under the C.P. Act nor can the respondent authorities be called the service providers qua the distribution of ration under the PDS. The District Forum apparently ignored this important aspect and committed grave error while accepting the complaint in question. We do not agree with the learned amicus curiae that principles of natural justice got violated in the present case by non-issuance of a notice by the State Commission to the petitioner. Since the facts are undisputed and based on them no other view could be held than the one already held by the State Commission through its impugned order, no purpose could have been served by issuance of notice in the present case. Learned amicus concedes that there is no other ground or issue involved in the matter. Having heard him, we agree with the view taken by the State Commission and do not consider it necessary to interfere with the impugned order passed by it. No useful purpose would be served by remanding the matter to the State Commission in the facts and circumstances of this case. Revision petition devoid of any merit, therefore, is dismissed at the threshold with no order as to costs.