
(1996) 10 NCDRC CK 0021

In the National Consumer Disputes Redressal Commission

MANGTURAM AGARWAL

APPELLANT

Vs

EXECUTIVE ENGINEER, R.W.S. And S.DIVISION

RESPONDENT

Date of Decision : 30-10-1996

Acts Referred:

Citation : 1998 1 CPJ 302

Hon'ble Judges : P.C.Misra , Biswanath Rath J.

Final Decision : Appeal allowed

Judgement

1. THIS appeal is directed against the final order passed by the District Forum, Balangir on 8.4.1993 in C.D. Case No. 3 of 1993. The appellant before us as complainant had filed a complaint before the Forum because he was not given water supply connection by the Public Health Division, Balangir, even after his approaching the concerned Authorities several times.

2. BY the impugned order, the Forum held that no direction could be given to the opposite parties to give water connection to the complainant's house and that there was no deficiency in service on the part of the opposite parties. The case of the complainant before the Forum was that he wanted water connection for his newly constructed building and for that purpose, he collected an application form from the opposite parties on payment of Rs. 5/- on 29.7.1992. The opposite party No. 2 on being satisfied on the basis of the feasibility report submitted by opposite party No. 3, recommended acceptance of Rs. 500/- from the complainant towards the fees for scrutiny of application, etc. as a condition precedent to give water supply connection. Accordingly the complainant deposited Rs. 500/on 6.8.1992. Thereafter the complainant approached opposite party No. 1, the Executive Engineer, R.W.S. & S. Division, Bolangir and Officers above him including the relevant department of Government to get redressal, but to no avail. At last he filed his complaint before the Forum on 8.1.1993 with a prayer for direction to be given to the opposite parties to supply water connection immediately.

The opposite parties filed their joint written version and resisted the complaint of

the complainant on several grounds, the principal being that the complainant was not a consumer. The other grounds they have taken in their written version are that there was acute water scarcity in Bolangir town for which reason, the Chief Engineer, Public Health (Urban) Orissa, in his letter No. 22884 dated 4.12.1992 had instructed them not to allow new water connection unless the Executive Engineer was satisfied that the water requirement of existing consumers had been fully met. The opposite parties further stated that practically no new water connection was given at Bolangir town since December, 1986 because the infrastructure as existing in the town for supply of water was inadequate and there was constraint of funds for augmentation of the infrastructure. The opposite parties did not, however, dispute the fact that the Assistant Executive Engineer, opposite party No. 2 had passed order to receive Rs. 500/- from the petitioner towards scrutiny fee which was received on 6.8.1992 from the complainant and thereupon the application for water connection was submitted to the Executive Engineer for necessary sanction.

3. IN view of the undisputed fact that all necessary formalities required to be observed for supply of water connection to the complainant had been observed and that after being satisfied that water connection could be given to the complainant, the opposite parties had received the necessary scrutiny fee, the plea that the complainant was not a consumer was definitely not available to the opposite parties to be taken in the Forum. Forum in its final order has nowhere said that the complainant was not a consumer. IN fact Forum had not touched upon this aspect at all. The only question that is to be decided at this stage is whether a direction could be given to respondents to give water supply connection to the appellant because that is his only prayer. The opposite parties took the stand before the Forum that at the relevant point of time, i.e. in 1992, the consumers in Bolangir town were not getting sufficient water supply and timely supply, that there was no possibility for the Municipality to provide funds for augmentation of water supply scheme and as such no new connection could be given which would have meant inviting unnecessary embarrassment to the Department as well as to the consumers. The Forum accepted the said plea of the opposite parties and held that the opposite parties could not be held responsible for non-supply of water connection to the complainant and there was no deliberate deficiency of service on the part of the opposite parties. Hence this appeal.

4. THE appellant, among other grounds taken in the appeal memorandum, has contended that by the time he applied for water connection, there was no ban from the Department and even if the Chief Engineer, Public Health (Urban) Orissa instructed the Field Officers at Bolangir in December, 1992 not to give any fresh connection, that was not binding on him because by that time he had deposited the required fee. THE appellant has further stated that the contention of opposite parties about a Standing Circular from Public Health Department not to give new water connection which was said to be in force from 1986 is not correct. If there was water scarcity, the opposite parties should not have accepted the scrutiny

fee from him. THE appellant has further taken the stand that the opposite parties have misguided the Forum and had not placed all the facts relevant for the case and as such the Forum's order was not based on facts. We have carefully gone through all the papers on record. We heard Mr. Satpathy, the learned Additional Standing Counsel appearing on behalf of the respondents, the Assistant Executive Engineer, P.H.D. and Mr. K.N. Jena, the learned Counsel appearing for the appellant. The Assistant Executive Engineer stated that the scheme of augmentation of water supply scheme in Bolangir town has been approved by the Government, a new Sub-Division has been created for this purpose, necessary staff have been posted, budget provision has been made and the Finance Department have also communicated the allotment. They are only waiting for the letter of credit. As soon as that is received, the work will be taken up and the present water scarcity problem will be removed. The Additional Standing Counsel stated that the Government are keen to remove the drinking water scarcity problem in Bolangir and after funds are made available, the existing infrastructure would be suitably augmented. Once the administrative approval is accorded to a project, and budget provision is made and allotment is also made, it is common knowledge that funds provided for the purpose must be spent during the relevant financial year. It need not therefore, be doubted that water supply scheme will have been implemented before the end of the current financial year because the full complement of staff for the scheme have also been posted for the purpose. In view of the facts and circumstances of the case as discussed above, we do not feel the necessity of discussing in any further detail about the grounds of appeal. We dispose of this appeal with the direction that the respondents do supply water connection to the appellant which according to their statement today made before us will not be difficult because the main constraint, i.e., money has been removed and that work would start as soon as letter of credit is received. There is every reason to believe that the work of augmentation of water supply will have been accomplished before the end of the current financial year. We accordingly set aside the order of the Forum below and allow the appeal and direct the respondents to supply water connection to the appellant before 31.3.1997. No compensation was prayed for by the complainant and therefore, there is no question of awarding any compensation. There shall be also no order as to costs. Appeal allowed.