
(2016) 08 NCDRC CK 0023

In the National Consumer Disputes Redressal Commission

Case No : 3039 of 2010

M/S. INDUSTRIAL H PACKERS

APPELLANT

Vs

K.M. GEORGE & ORS.

RESPONDENT

Date of Decision : 22-08-2016

Acts Referred:

Citation : 2015 3 CPR 706

Hon'ble Judges : D.K. Jain

Advocate : Himanshu Gupta, Shinoj Narayan, Resmitha R. Chandran

Final Decision : Petition Dismissed

Judgement

1. By these two Revision Petitions, M/s Industrial "H" Packers, Opposite Party No.2 in the Complaints, questions the correctness and legality of a common order dated 19.05.2010, passed by the Kerala State Consumer Disputes Redressal Commission at Thiruvananthapuram (for short "the State Commission") in Appeals No. 813 and 814 of 2006. By the impugned order, the State Commission has affirmed a common order dated 05.10.2006, passed by the District Consumer Disputes Redressal Forum at Indukki (for short "the District Forum") in OP No. 257 and 258 of 2004. By the said order, while accepting the Complaints filed by Respondent No.1 in both the Revision Petitions, the District Forum came to the conclusion that the rain Guarding Compound, supplied by the Petitioner for protecting the trees, was defective, and directed the Petitioner to pay to the Complainants certain amounts by way of compensation along with interest etc., as stated in the penultimate paragraph of the said order.

2. I have heard learned Counsel for the parties and perused the impugned order as also the order passed by the District Forum.

3. I am of the view that the impugned order is unsustainable on the short ground that it does not show any independent application of mind on the part of the State Commission, the first Appellate Authority. The relevant portion of the

impugned order reads as follows: "8. Heard both sides and on perusing the entire case bundles of the both cases and this commission is reaching in a conclusion that the order passed by the Forum below is legally sustainable and strictly according to the provisions of the law and evidence. An Ext. C1 and C2 expert commission report is sufficiently proved the allegations of the complaint. There is doubt that the act of the 2 nd opposite party is nothing but a deficiency in service and unfair trade practice. This Commission is seeing that the order passed by the Forum below is legally sustainable and there is no reason to interfere in the order passed by the Forum below. We uphold the order of the Forum below."

4. The afore-extracted portion of the impugned order, which contains the entire reasoning of the State Commission, shows that while affirming the order passed by the District Forum, the State Commission was influenced by the two reports, Exhibits C1 and C2, which reports were in fact rejected by the District Forum. Instead of returning a clear finding on re-appraisal of the material on record, on the question as to whether or not there was deficiency in service and/or unfair trade practice on the part of the Opposite Parties, the State Commission, while expressing doubt on this aspect of the matter, has affirmed the District Forum's order.

5. It is trite proposition of law that the First Appeal being the extension of the original proceedings, it is one of postulates of the First Appellate Authority to apply its independent mind and arrive at a conclusion based on reason. The necessity to provide reasons is too obvious to be reiterated. Obligation to give reasons not only introduces clarity, it also provides the basis to the higher forum to test its correctness. Unfortunately, the impugned order does not reflect any application of mind on the part of the State Commission. In fact, its observations in the afore-extracted paragraph are somewhat conflicting.

6. In view of the above, both the Revision Petitions are allowed; the impugned order is set aside; and both the Appeals are restored to the board of the State Commission for fresh adjudication on merits on the basis of the material placed on record by both the parties.

7. It goes without saying that I have not expressed any final opinion on the merits of the Complaints.

8. Since the Complaints were filed as far back as in the year 2004, it is expected that the State Commission shall give priority to these Appeals and try to dispose of the same as expeditiously as practicable.

9. The parties/their counsel are directed to appear before the State Commission on 30.09.2016 for further proceedings.

10. Both the Revision Petitions stand disposed of in the above terms, with no order as to costs.