
(1998) 11 NCDRC CK 0055

In the National Consumer Disputes Redressal Commission

MUNICIPAL CORPORATION

APPELLANT

Vs

T.R.JAIN

RESPONDENT

Date of Decision : 03-11-1998

Acts Referred:

Citation : 1998 2 CLT 528 : 1998 3 CPJ 626 : 1998 3 CPR 524 : 1999 1 CPC 111

Hon'ble Judges : P.N.Nag , Krishana Tandon J.

Final Decision : Appeal dismissed

Judgement

1. THIS appeal is directed against the order of the District Forum, Shimla, dated 17.1.1998 whereby the appellants/opposite parties (hereinafter to be referred to as the Municipal Corporation, Shimla) have been directed to instal water meter or connection in the premises of the respondent/ complainant (hereinafter to be referred to as the complainant) within 15 days and to pay compensation of Rs. 5,000/- within 30 days from the date of order, failing which, the Municipal Corporation shall be liable to pay interest @ 12% per annum.

2. THE relevant facts which are not in dispute are that the complainant has constructed a house at Bhathakufer (Kamlanagar) in the year 1994. THE house of the complainant is situated within the Municipal area. After such construction, he applied for installation of water connection in the premises on 23.3.1994. After completing all the required codal formalities by the complainant, the Municipal Corporation accorded sanction for the installation of water connection on 26.2.1996 vide their letter No. M.C.S./W.D.1439/ 94-2014. Inspite of the sanction order, the water connection was not released to the complainant. Hence, the complaint. The Municipal Corporation, Shimla, have resisted the complaint on the ground that the complainant has failed to submit the completion report of the plumber to their office within required time of three months. Further, according to the Municipal Corporation, Shimla, they have received a representation from the Peyjal Sanstha", Kamlanagar, Shimla, through its President requesting them not to sanction water connection to the complainant till the water supply is not granted to all the 73 members of the said Sanstha/Samiti and that the

complainant has not submitted No Objection Certificate from the aforesaid Sanstha/Samiti. Again, on the basis of such a representation from the President of the Peyjal Sanstha, the Municipal Corporation, Shimla has by a resolution adopted on 29.10.1993 resolved that the water connections have to be released first only to 73 members of the said Sanstha/Samiti and that the name of the complainant is not figuring in that Sanstha/ Samiti.

We have heard the learned Counsel for the parties.

3. THE main thrust of argument by the Counsel for the Municipal Corporation was that the water connection could not be released to the complainant, as the Members of the Peyjal Sanstha, Kamlanagar have raised serious objection to supply water to Shri T.R. Jain, the complainant from the pipe line laid at Bhathakufer in accordance with the scheme/programme "Vikas Mein Jan Sehyog". According to the members of the Peyjal Sanstha, Kamlanagar, all its members have not been given water supply even now and Shri T.R. Jain whose name does not figure in the list of Sanstha/Samiti, cannot be granted such water connection. At one stage on 10.3.1998, we ordered for the impleadment of Peyjal Sanstha, Kamlanagar as a party in order to know about their version, but they always had been insisting that they were not a necessary party and their name should be deleted and on their insistence, their name was deleted from the array of respondents on 4.8.1998.

4. WITH a view to resolve the point in controversy between the parties, on 9.9.1998, we summoned the Municipal Commissioner and the Executive Engineer (Water Supply) to apprise the Court whether under the "Vikas Mein Jan Sehyog" scheme, the Government has any control over the supply of water to other residents of the locality and they were present on 11.9.1998 and we accordingly heard them. Their main stress of argument was that since the members of Peyjal Sanstha, Kamlanagar are opposing the water connection to the complainant, they are not in a position to give water supply. However, they informed that the Deputy Commissioner, Shimla is the proper authority who deals with the matter and who can throw light on the Scheme/ Programme "Vikas Mein Jan Sehyog" and on the question whether the Government has control over such water supply in case the water supply is given from such scheme. The Deputy Commissioner was summoned for 15.9.1998 and accordingly he attended the Court on that date. Nothing was shown to the Court that if the Scheme for water supply is sanctioned under "Vikas Mein Jan Sehyog", the Government is left with no control over such a Scheme and only the members of such Sanstha/Samiti are the Sole Arbitors to decide as to whom the water supply should be given. WITH a view to settle the matter amicably, the Deputy Commissioner was requested to call a meeting with the "Peyjal Sanstha", Kamlanagar and try to persuade them to give water connection to the complainant from the water supply sanctioned under "Vikas Mein Jan Sehyog". The Deputy Commissioner, Shimla has given a report on 9.10.1998. The Deputy Commissioner in his report has stated that he has called a meeting with the Peyjal Sanstha/Samiti, Bhathakufer (Kamlanagar)

on 19.9.1998 and the issue of providing water connection was discussed. According to the Deputy Commissioner, for the Bhathakufer Water Supply Scheme, a Committee of 73 members was constituted in the year 1992-93. The total cost of this Scheme was Rs. 1,32,240/- and the Scheme was sanctioned by their office under "Vikas Mein Jan Sehyog". The share to be contributed by the public was Rs. 40,000/- and the Government contributed Rs. 92,240/-. The pipes were laid down from the pipe line of the Municipal Corporation upto Bhathakufer under this Scheme and further pipes from this pipe-line, to their respective houses were to be laid down by the members of the Peyjal Sanstha at their own expense. Thus, according to the Deputy Commissioner, the water supply was taken from main pipe-line of Municipal Corporation and the benefit was taken under "Vikas Mein Jan Sehyog" by supplying water to various houses. 13 members out of 73 members of this Sanstha/ Samiti have not been given water supply so far. Even out of remaining 60 members who have been given water connections, 15 members could not get sufficient water supply and the other members of the Sanstha/Samiti have opposed to give water connection from the above pipe-line, as the old members of the Sanstha/Samiti have not yet get sufficient water supply. Further, according to the Deputy Commissioner, the geographical location of the house of Shri T.R. Jain is so much down below that by providing water connection to Shri T.R. Jain, it will adversely effect water supply to other members and, therefore, water connection to Shri T.R. Jain, in his view, is not possible and he has suggested that it would be proper for Mr. Jain to apply directly to the Municipal Corporation for water connection. In substance, the Deputy Commissioner has suggested not to release water connection to Shri T.R. Jain. We have considered the report and we are afraid that this report cannot be accepted in entirety. The total cost of this Scheme is Rs. 1,32,240/-, out of which a sum of Rs. 40,000/- has been contributed by the Members of the Peyjal Sanstha/Samiti and a contribution of Rs. 92,240/- has been made by the Government. This report is in conflict with the letter addressed by the Additional Deputy Commissioner, Shimla, dated 8.9.1998 to the complainant whereby it has been stated that office of the Deputy Commissioner has no objection, if water connection is provided from the source of Water Supply Scheme, Kamlanagar (Bhathakufer) in favour of the complainant which was sanctioned under "Vikas Mein Jan Sehyog" and is meant for the benefit of public only. A copy of such letter was also addressed to Municipal Corporation, Shimla and there is no material on record to show that once the Scheme is sanctioned under "Vikas Mein Jan Sehyog", it is only the members of the Peyjal Sanstha exclusively who can get water supply and not other residents of the locality. As a matter of fact, the major share of contribution towards this Scheme was borne by the Government and the Scheme is meant for the benefit of general public only. In our opinion, no vested right would accrue to the members of such Peyjal Sanstha enabling them to object to supply of water to other residents of locality. It is for the Deputy Commissioner and the Municipal Corporation, Shimla to see whether the water could be supplied to other residents of the area having regard to sufficient quantity of water, viability and feasibility of water connection etc.

Merely because certain Members of Peyjal Sanstha are objecting to supply of water to the complainant, it cannot be taken as a ground by the Municipal Corporation to deny water supply to the complainant, as already stated, no right vests with the Members of the Peyjal Sanstha to object to supply water to the complainant. Once the water connection has been sanctioned to the complainant by the Municipal Corporation after thorough consideration of the matter and completion of codal formalities and deposit of Rs. 700/- as required by the Municipal Corporation, it does not lie now in the mouth of the Municipal Corporation to take up the defence that they cannot release the water supply, as the members of the Peyjal Sanstha/Samiti are objecting to supply water to Shri T.R. Jain nor can they pass any resolution to that effect. Such an action of the Municipal Corporation is wholly arbitrary and untenable in the eyes of law and clearly amounts to deficiency in service. Furthermore, since the house of the complainant falls within the Municipal area, it becomes statutory duty of the Municipal Corporation to provide water to the complainant.

5. NO doubt, the Deputy Commissioner in his report dated 9.10.1998 has stated that out of 73 members, 13 members still have not been provided water connection and out of remaining 60 members who have already been given water connections, 15 members are not getting full quantity of water supply and further in case the water supply is given to the complainant, it can effect water supply to other members of the Sanstha/Samiti who have already been given water supply. At the very outset we may notice that in our order dated 15.9.1998 Deputy Commissioner was asked to persuade the members of the Peyjal Sanstha/Samiti to allow the water supply to the complainant in the interest of amicable settlement and he was not required to submit such a report which is beyond the directions of the Court. This part of the report is also too vague to be taken into consideration and without any basis. The Deputy Commissioner has not placed any material on the record to substantiate this part of the report. There is no report of the Expert that the complainant cannot be given water supply under the Scheme and that it will effect the prospects of water supply to other members of the Sanstha/Samiti. Such a report also cannot be relied upon in view of the fact, as already discussed above, that the Additional Deputy Commissioner, Shimla vide his letter dated 8.9.1998 addressed to the complainant, has already given "NO Objection Certificate" for supply of water under the Scheme to the complainant and a copy thereof was sent to the Municipal Corporation. Further, the Municipal Corporation after due consideration has sanctioned water connection to the complainant, as otherwise such water connection could not be sanctioned.

6. IT is a common knowledge that there is no adequate water supply at so many places in Shimla and there is scarcity of water. In such a situation, we should adopt a policy of "Live and let live". Merely because if certain members of the Sanstha/Samiti are refusing to supply water to the complainant, it should not be taken as a ground for refusal of water supply to the complainant by the Municipal Corporation or Deputy Commissioner. No other points were urged.

In the light of what is discussed above, there is no force in this appeal and the appeal is accordingly dismissed. Appeal dismissed.