

(2008) 01 NCDRC CK 0020

In the National Consumer Disputes Redressal Commission

NATIONAL SEEDS CORPORATION LTD	APPELLANT
Vs	
BHEEM REDDY MALLY REDDY	RESPONDENT

Date of Decision : 23-01-2008

Acts Referred:

Citation : 2008 1 CPJ 492

Hon'ble Judges : S.N.Kapoor , B.K.Taimni J.

Final Decision : Revision Petition dismissed

Judgement

1. -PETITIONER was the opposite party before the District Forum where the respondent had filed the complaint alleging deficiency in service on the part of the petitioner.

2. BRIEFLY stated, the facts of the case are that the complainant who owes 10 acres of land had purchased 42 kgs. of Hybrid Maize Seed with an assurance that the yield would be 25 quintals per acre. The complainant sowed the seeds in June, 2003 in 6 acres of land. Initially the crop growth was satisfactory but when the crop reached the yielding stage, there was total failure of produce even though he took all necessary steps. On filing the complaint, the Agriculture Department Officers of Warangal District visited his field and on 16. 9. 2003 assessed the crop damage. It is in these circumstances, the complaint was filed before the District Forum where the matter was contested by the petitioner. The District Forum after hearing the parties, on contest, allowed the complaint and directed the petitioner to pay Rs. 17,500 along with interest @ 9% from 20. 1. 2004 till the date of payment along with damages of Rs. 2,000 and cost of Rs. 1,000. Aggrieved by this order, an appeal was filed by the petitioner before the State Commission to dismiss the appeal, hence, this revision petition.

We have heard the learned Counsel for the petitioner. It is his case that there was nothing wrong with the seed; crop yields were affected as the area had been drought affected as brought out by the visit of Agriculture Scientist. It is in these circumstances that there were adverse effects on the yield. He also stated that the lower Fora had relied upon the judgment passed in National Seeds Corpon.

Ltd. v. M. Madhusudhan Reddy, I (2004) CPJ 122 (NC). Since this order is under challenge before the Hon"ble Supreme Court, hence relying upon the judgment under challenge before the Hon"ble Supreme Court cannot form the basis of passing the order by the lower Fora on merits.

3. ADMITTEDLY, the Hon"ble Supreme Court has admitted the petition in the case of National Seeds Corpn. Ltd. v. M. Madhusudhan Reddy, on the point of jurisdiction but since there is no stay and no adverse order has been passed, the order passed by this Commission remains valid and relying upon this order cannot be held to be contrary to the law. We have seen the material on record and find that there is nothing on record brought by the petitioner to contradict the report of Agriculture Officers of the District. What has been brought on record is the report of Acharya N. G. Ranga Agricultural University after a visit to the fields of 10 cultivators. Admittedly, it does not comprise the field of the respondent/complainant. Hence, in our view, this report shall have no relevance as far as field of the respondent/complainant is concerned. The petitioner should know that there is a certain procedure for declaring the area drought affected. It is not based on 100% loss of crop in all the farms land falling under the notification. It is based on crop growing experiments which itself is based on certain "annewati"s or crop yields below a "cut-of" point. This is an age old principle of revenue hierarchy based on which droughts are declared. Since there is no report, specifically related to the farm of the complainant/respondent as having been drought affected, we cannot take any cognizance of the report of Mr. R. Sai Kumar.

4. WHAT we see is that both the lower Forums have, in our view, rightly relied upon the reports of the Agriculture Officers after visiting the field of the respondent/complainant indicating loss of crop on account of seed supplied by the petitioner. On the other hand, the petitioner wishes to rely upon a report of officers, who admittedly visited certain fields, but not the "farm" of the respondent. In these circumstances, the report of the experts, being relied upon by the petitioner will have no relevance. What petitioner wishes to rely upon is conjectures and wild guess against a definite report of qualified staff. This cannot be the case. In the aforementioned circumstances, we do not find any merit in this revision petition. Hence, dismissed. R. P. dismissed.