
(1996) 12 J&K CK 0002
In the Jammu And Kashmir High Court
Case No : CIA No. 78/1995

Nirmal Singh

APPELLANT

Vs

Manager, Central Cooperative Bank

RESPONDENT

Date of Decision : 26-12-1996

Acts Referred:

Jammu and Kashmir Consumer Protection Act, 1987 — Section 17

Citation : (1997) SriLJ 90

Hon'ble Judges : A.Q.Parray, J

Bench : Single Bench

Advocate : G.R.Tantray, Advocates appearing for the Parties

Judgement

1. This appeal has been filed against the order dated 26091995 purported to have been passed by the State Commission in the proceedings

moved by the present appellant against the Manager, Central Cooperative Bank, Seer Ananatnag. Under the impugned order, evidence of the

complainant, present appellant, has been closed without affording him further opportunity to adduce evidence in support of the complaint.

2. Mr. Tantray, appearing for the appellant, submitted that the appeal is maintainable. While developing his arguments further, Mr. Tantray has

taken me through Section 17 of the Consumer's Protection Act 1987 (hereinafter to be referred to as the Act), which reads:

17. Appeals: Any person aggrieved by any order by the State Commission in exercise of its powers conferred by subclause (i) of clause (a) of

section 15 may prefer an appeal against such order to the High Court within a period of thirty days from the date of the order in such form and

manner as may be prescribed; Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied

that there was sufficient cause for not filing it within that period.

3. Thus Ld. counsel for the appellant has laid emphasis that he has a statutory right under the provisions of the Act to file the appeal against any

order. By any order, he means even an interlocutory order or final order, and submits that the order, though passed in the proceedings on

26091995, whereunder his evidence was closed, is also falling within the definition of an order and, as such, he has preferred the appeal.

4. The contention raised by Mr. Tantray is not well founded. It may be noted that Consumer's Protection Act is a special Act and has been passed

by a Legislature only to provide better protection of the interests of the consumer and for that purpose, provisions for establishments of

Consumer's Council and other Agencies for the settlement of such consumer disputes and all such matters connected therewith have been provided

under the Jammu and Kashmir Consumer's Protection Act. Not only in the State but through out the Country, there is consumer movement

wherein interests of the consumers are protected.

5. The Forums which have been created and authorised under the provisions of the Act are Divisional Forum and the State Commission. Divisional

Forum has the jurisdiction prescribed under the provisions of Section 9 and whereas the State Commission has the jurisdiction provided under

section 15 of the said Act and the procedure to be adopted by such Forums is governed under the Rules which have been framed under the Act.

So in order to overcome the difficulties which were being faced by the consumers on behalf of unscrupulous traders by deficiency of service in any

manner has been made cognizable and falls within the compass of the Consumer's Protection Act and even court fee, stamp duties and other

procedural wrangles have been dispensed with in order to have speedy redressal of the grievances of the Consumer which are being preferred

before the Divisional or the State Commission. Keeping under consideration this very purpose, the legislature has enacted the Act, where there is

only one appeal provided in each case namely if the order is passed by the Divisional Forum, appeal shall lie to the State Commission under the

provisions of Section 13 of the Act and that appeal is also to be filed within thirty days. Similarly in case a person is aggrieved of the order passed

by the State Commission, appeal has been provided under the above referred

provisions of Section 17 of the Act to the State High Court. But are all orders appellable as has been projected?

6. So the short point which is to be considered and projected by the appellant is that as because the words in Section 17 of the Act do envisage

that any person aggrieved by any order passed by the State Commission, meaning thereby that it is any order whether passed as an interlocutory

or the final order which is to be agitated in the appellate Forum? The contention of learned counsel for the appellant is not well founded for obvious

reasons because the legislature has furthermore enacted that every order of Divisional Forum or the State Commission shall, if no appeal has been

preferred against such order under the provisions of this Act, be final and to circumvent as to what is the order which will be deemed as a final

order, Section 19 reads and provides:

19. Enforcement of order by the Forum or the State Commission: Every order made by the Divisional Forum, or the State Commission may be

enforced by the Divisional Forum, or the State Commission as the case may be in the same manner as if it were a decree or order made by a court

in the suit pending therein and its shall be lawful for the Divisional Forum or the State Commission to send in the event of its inability to execute it,

such order to the Court within the local limits of whose jurisdiction...

a) In case of an order against a company, the registered office of the company is situated, or

b) in the case of an order against any other person, the place where the person concerned voluntarily besides or carries on business or personally

works for gain, is situated,

and thereupon the court to which the order is so sent, shall execute the orders as if it were a decree or order sent for it for execution.

7. So the order which is to be deemed as inal and which is appellable must be an orders as if it were a decree or order made by a court in a suit

pending therein.

8. Furthermore it has been provided that it shall be lawful for the Divisional Forum or the State Commission to send, in the event of its inability to

execute it, such order to the court within the local limits of whose jurisdiction for execution and the executive court to which order is so send shall

execute the order as if it were a decree or order send to it for execution. This shows the intention of the legislature that it is only final order passed

by the Divisional Forum or the State Commission which is to be agitated in appeal before the State Commission or before the High Court. So it is

not all the orders which are to be deemed as decree as has been clearly circumvented and defined in Section 19 of the Act. Thus it will be an

anomaly in case courts give loose interpretation to the word 'any order' passed by State Commission or the Divisional Forum to take it as an

appellable. That is neither the intent nor the purport of the legislature and even nor of the Act.

9. In case courts would give such a loose interpretation to the word 'any order' meaning thereby that all interlocutory orders passed by the

Divisional Forum or the State Commission are appellable, then that will be shattering the whole figure of the statute as well as the intent and

purpose for which this special legislation has been enacted.

10. So the orders which is appellable is only the order which is executable as a decree passed by a Civil Court of competent jurisdiction. The

result is that this appeal being misconceived is accordingly dismissed. Inform the Commission accordingly. File be consigned to records.