(2003) 08 NCDRC CK 0089

In the National Consumer Disputes Redressal Commission

NIWAS SPINNING MILLS LTD. APPELLANT

Vs

Bank of India RESPONDENT

Date of Decision : 21-08-2003

Acts Referred:

Citation : 2003 3 CPJ 190 : 2004 1 CPC 321

Hon'ble Judges : D.P.Wadhwa , Rajyalakshmi Rao , B.K.Taimni , K.S.Gupta J.

Final Decision : Complaint dismissed with costs

Judgement

1. REQUEST for adjournment is declined. On 28.2.2003 when the matter was taken up for admission, Mr. Kulkami who now says he is the Manager of the complainant, stating himself to be the authorised rapresentative sought time on the ground that Counsel was not availale that day. Complaint was adjourned to 21.5.2003. On the adjourned date also, an adjournment slip was circulated on behalf of the complainant and the matter was adjourned to this day. Today again Mr. Kulkami states that the advocate is not availale. Managing Director or any Director of the complainant is also not present. We put it to Mr. Kulkami to argue the matter. He expressed his inability to do so. We, therefore, ourselves proceed to examine the complaint.

2. IN this complaint filed under Section 21 of the Consumer Protection Act, 1986, there is a claim of Rs. 50 crores "by way of damages and actual loss occurred due to deficiency in service" by the Bank of INdia, the opposite party. The complaint was filed on 21.8.2002. There are no particulars as to how the amount of Rs. 50 crores has been arrived at. The alleged deficiency against the Bank is that it had no reason to refuse or avoid or delaying the proposal for grant of loan to the complainant and that this amounted to "deficiency in service in view of the provisions of Consumer Protection Act". It is stated that the complainant is and was having ability and credibility. The non-action on the part of the Bank on the application for loan of the complainant pending for more than 3 years amounted to deficiency in service. The complaint contains many superfluous averments unrelated to facts of the case and it mentions that since for more than 5 years of

its proposal, it could not get assistance from the Bank nor could it complete the full-fledged project, the complainant had to suffer a lot and incurred heavy losses resulting the complainant forced to file a reference with the BIFR under the SICA Act for rehabilitation/restructuring.

Admittedly, Bank never agreed to advance any loan and the last letter of the Bank which has been brought on record is dated 24.7.2000 where it writes to the complainant as under : "We refer to your letters dated 16.6.2000 and 15.7.2000 on the captioned matter. The matter was put up to Appropriate Authority. We have to advise you that we are ''In-principle'' agreeable to consider an additional term loan of Rs. 5 crores, subject to the following conditions : (a) Duly cancelled EPCG guarantee of Rs. 8.70 crores would be returned to our Bank. (b) The company ties up balance loan amount of Rs. 4.50 crores with some other bank and/or ties up part of loan amount as DPG with some other bank. (c) The company should also tie-up working capital requirement as our existing working capital limit/demand loan would be converted into term loan. (d) Other lenders agreeing to restructure the present dues of the company with suitable interest concession. Please inform us about your acceptance of the above offer. The ''in-principle'' approval is valid upto 15.9.2000."

Nothing happened thereafter except that this complaint was filed in August, 2002.

3. THE Bank has to safeguard its interest. It is fully justified the laying down conditions for grant of loan, it being holder of public money and entering into a commercial transaction. We do not find any merit in complaint and rather it is an abuse of process of the Consumer Protection Act. It is dismissed with cost of Rs. 10,000/- payable to NCDRC Bar Association (Legal Aid Programme), Japath Bhawan, "A" Wing, 5th Floor, Janpath, New Delhi. Complaint dismissed with costs.