(1993) 04 NCDRC CK 0050

In the National Consumer Disputes Redressal Commission

Padma Charan Sahoo APPELLANT

Vs

Block Development Officer RESPONDENT

Date of Decision : 27-04-1993

Acts Referred:

Citation : 1993 3 CPJ 1298

Hon'ble Judges : S.C.Mohapatra , R.N.Panigrahi , J.Patnaik J.

Final Decision : Appeal allowed

Judgement

1. OPPOSITE-party No.2 dealer is the appellant.

2. GRIEVANCE of complainants is that appellant is a dealer in essential commodities and is required to supply the essential commodities like sugar to the villagers including complainants. On 20th July, 1991 complainants approached the dealer-appellant for supply of his quota, but in vain. Thereafter complainants made grievance against the appellant before the Block Development Officer but did not get any response. Subsequently when complainants approached the appellant, sugar was supplied but higher price was charged. Case of appellant is that on 19th July, 1991 he deposited the money and lifted the sugar on 23rd July, 1991. As he fell ill till 27th July, 1991, he could not open his fair price shop and from next day, i.e. 28th July. 1991 he started distributing essential commodities including sugar to the villagers as per their requirement. In view of the direction of the Civil Supply Officer that he is to deposit the price of sugar at a higher rate although he had lifted it at an earlier date, appellant had to charge extra price from the consumers. Thus there is no defect in the goods and also there is no negligence in the service rendered.

District Forum has found that quota of July was not supplied and accordingly, directed supply of the quota of July to the complainants and to pay a compensation of Rs. 100/- to each of the complainants.

3. WHEN appellant lifted the quota on 23rd July, 1991, there was no scope for supply on 20th July, 1991 when he was approached by the complainants. If the

appellant has not lifted and distributed it, there might be deficiency in service but this is not on account of negligence. Appellant has averred that due to his illness, till 27th July, 1991 he could not open his fair price shop which was opened on the next day. There is no assertion that on or after 28th July, 1991 when complainants approached appellant, he refused to supply their quota of sugar. On this account appellant cannot be said to be negligent. If sugar has not been supplied to the complainants, appellant can be called upon and explained about the stock of sugar that remained undistributed. If he has not explained the same, his licence is liable to be cancelled. It is stated by Mr. Mohanty that on the direction of the Sub Divisional Officer, the balance sugar has been supplied to the persons who are not supplied their July quota as advance of August quota. Besides August quota has also been supplied to those persons. This is a matter to be enquired into by the Sub Divisional Officer, Civil Supply Officer and the Block Development Officer. If there is no supply of such quota, the dealer has mis-utilised the same and accordingly his licence is liable to be cancelled on that account. Therefore, we hope that the authorities would look into the matter carefully. This Commission will be happy if a copy of the result of the enquiry is sent to us. Assistance of the complainants, if required, can be taken in such matters.

4. IF July quota has actually not been supplied, there is no scope for the redressal agency to give a direction for supply the same to the consumers long after the said period. IF the nature of suffering would have been indicated, payment of compensation could have been considered. In such circumstances, we vacate the order of the District Forum directing supply of quota for the month of July to the complainants. Complainants have been awarded compensation of Rs. 100/- each for non-supply of the quota for the month of July. In absence of materials, no compensation on that count is payable. However, we find that excess price has been collected by the appellant in view of the order of the Block Development Officer though the quota was lifted at a lesser rate. Civil Supply Officer has no jurisdiction to give such direction. Central Government enhanced the rate with effect from 25.7.91. Whole-sale stockists are agents of the Government. Retail dealers in this regard are not agents of the Government. Accordingly, fair price shop dealer could not sell the sugar at a higher price as they could not have purchased the same at that rate. State Government is not a profit making organisation. No extra profit is possibly to be made by the dealers in respect of goods which were purchased at a lesser rate. Excess price charged shall be returned by the appellant to the complainants. Since the excess price was charged on the basis of the direction of the Civil Supply Officer, there is no deficiency in service. Accordingly, no compensation is payable. But as stated earlier, excess price collected shall be returned. In result, appeal is allowed to the extent indicated above. Appeal allowed.

