
(1992) 10 NCDRC CK 0009

In the National Consumer Disputes Redressal Commission

PARALIYA VAGHJI KANJI

APPELLANT

Vs

UNION OF INDIA TELECOMMUNICATION DEPT.

RESPONDENT

Date of Decision : 15-10-1992

Acts Referred:

Citation : 1992 2 CPR 683 : 1992 3 CPJ 374

Hon'ble Judges : S.A.Shah , Leelaben Trivedi , R.K.Shah J.

Final Decision : Appeal dismissed

Judgement

1. THAT the appellant is the original complainant whose telephone was disconnected on 17.7.86 for nonpayment of the bill dated 26.6.86 for Rs. 229/-. The complainant alleged that he had not received the bill. However, the department in exercise of its powers under Rule 443 disconnected the telephone. According to the opponent if the bill had not been received by the complainant, he ought to have applied for duplicate bill since he knew that he was required to pay the telephone charges at the due date.

2. THE District Forum has observed that the complaint was time barred since the disconnection was effected on 17.7.86 and the present complaint was filed on 29.10.90 i.e., after 4 years. THE reasoning given by the complainant that Consumer Protection Act was not available at the time when the telephone was disconnected and the District Forum was also not established has no merits. THE complainant should have approached the Civil Court or could have filed the complaint as soon as the District Forum was constituted. It is not necessary to decide whether the limitation Act applies or not because in any case the claim made by the appellant is belated. The complainant has averred in the appeal that the Department was in possession of an amount of Rs. 750/- by way of deposit whereas the bill was only for Rs. 229/- and, therefore, it was not proper for the Department to disconnect the telephone. This point has not been urged before the District Forum and we have no material to know whether the opponent was holding the deposit or not. In any view of the matter, when the cause of action is beyond three years, we are not inclined to enter into the merits of this

contention.

However, we add the note of caution that the powers which are given under Rule 443 should be sparingly used. Such a power is given to safeguard the revenue of the Government and not for penalising the consumers. Telephone is a service under taken by the Union Government to provide better facilities and to prevent exploitation. If the Department was holding a deposit it ought not to have disconnected the telephone. We are, therefore, of the opinion that the Department will look into this aspect of the matter and if the averment is correct, will grant available relief to the appellant. With the aforesaid observation we agree with the decision of the District Forum and dismiss the appeal. ORDER The appeal is dismissed. With no order as to costs. Appeal dismissed.