

(1994) 11 NCDRC CK 0019

In the National Consumer Disputes Redressal Commission

PARIMAL COMPUTERS And DATA PROCESSING CENTRE (P) LTD. APPELLANT

Vs

PROJECT CO-ORDINATOR RESPONDENT

Date of Decision : 17-11-1994

Acts Referred:

Citation : 1995 1 CPC 497 : 1995 1 CPJ 380 : 1995 1 CPR 312 : 1995 2 CLT 147

Hon'ble Judges : D.R.Vithal Rao , Susheela Cheluvaraju J.

Final Decision : Complaint dismissed

Judgement

1. IN this complaint the complainant has sought a direction to the opposite party to settle his claim and to pay the balance amount in a sum of Rs. 2,00,000/- and a further sum of Rs. 1,00,000/- as compensation.

2. THE complainant is Parimal Computers and Data Processing Centre (P) Ltd. It is the case of the complainant that the opposite party - THE Project Co-ordinator had entrusted the work of preparing the Computerised Project Report which the complainant prepared and executed. THE complainant received a sum of Rs. 17311/- from the opposite party towards the supply of materials. The opposite party during the second week of March, 1992 sent a letter to the complainant requesting the complainant to submit the quotation for preparation and development of the second project in connection with the above reducing the total cost of the project. The complainant also prepared the second project report and submitted the same to the opposite party. The complainant received a sum of Rs. 20,000/- for this project and later on claimed a sum of Rs. 1,31,826/- from the opposite party for the said report.

It is the further case of the complainant that the opposite party for the third time entrusted the preparation of such project report to some other Software Computer Company without settling the claim of the complainant for the projects already developed by it.

3. THE complainant, on the basis of these averments sought settlement of his

claims for the first and second project reports submitted by him and also compensation in a sum of Rs. 1,00,000/- for entrusting the preparation of the third report by the Opp. party to some other company. The opposite party filed its version and admitted the fact of entrusting the work of preparation of the project reports as averred by the complainant. But the opposite party submitted that a sum of Rs. 17,311/- and a sum of Rs. 20,000/- paid by it to the complainant was in full and final settlement of the entire projects reports submitted by the complainant to the opposite party. The opposite party denied the fact that the claim of the complainant was pending settlement with it.

4. THE complainant filed its affidavit and got Exs. C.1 to C.18 marked. We heard the learned Counsel for the parties. We have also perused the material on record. We find from the averments contained in the complaint that the complainant is not consumer within the meaning of Section 2(1)(d) of the Consumer Protection Act, 1986. The provisions of Section 2(1)(d) of the Act read as under : (d) "Consumer" means any person who,- (i) buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any used of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment when such use is made with the approval of such person, but does not include a person who obtains such goods for release or for any commercial purpose; or (ii) hires or avails of any services for a consideration which has been paid or promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person; Explanation-For the purpose of Sub-clause (1) "commercial purpose" does not include use by a consumer of goods brought and used by him exclusively for the purpose of earning his livelihood, by means of self-employment;" It is clear from the averments contained in the complaint that the complainant had neither bought any goods from the opposite party for any consideration nor he had availed of any services of the opposite party for consideration

5. HAVING regard to these facts from the averments in the complaint itself the complainant cannot be classified as a consumer under the provisions of the Act. In view of this fact, this complaint cannot be entertained by the Commission.

6. IN the result, therefore, this complaint fails and it is dismissed. Under the circumstances of the case, we direct the parties to bear and pay their own costs. Complaint dismissed.