
(1998) 08 NCDRC CK 0029

In the National Consumer Disputes Redressal Commission

P.P.KAPOOR

APPELLANT

Vs

GOVERNMENT SERVANTS CO-OPERATIVE HOUSE BUILDING
SOCIETY LTD.

RESPONDENT

Date of Decision : 25-08-1998

Acts Referred:

Citation : 1999 1 CPJ 81

Hon'ble Judges : A.P.Chowdhri , Desh Bandhu J.

Final Decision : Complaint dismissed

Judgement

1. FACTS of the case gathered from the complaint and documents filed therewith are as under :

2. ON 13.8.1968, Mr. P.P. Kapoor, complainant applied to Government Servants Co-operative House Building Society Limited to register his name for waiting list for the allotment of a plot of land in one of the sites in Moti Bagh or R.K. Puram, assuring that he would make the payment on hearing from the Society. He sent a reminder on 25.7.1970 and a detailed letter dated 25.2.1988. Having failed to receive any reply, he approached the Director of Grievances, Cabinet Secretariat by his letter dated January 10, 1989/ February 27, 1989 pointing out that he was shocked that some persons who had applied to the Society much later than the date of his application had been allotted plots by the Society. He further stated that on representation, he was informed by Shri Dharam Vira, President of the Society and Former Governor of West Bengal to the effect that Membership of the Society closed in 1973 after the formation of a waiting list of about 30 applicants, before he took over as President of the Society. The complainant submitted several representations to all concerned against the decision of the Society highlighting the following points : (1) The waiting list is required to be based on first come first served principle. (2) Proper record is required to be kept with regard to the date of receipt of the application. In the present case, such particulars of 30 persons who were put on waiting list should have been properly kept and displayed for the information of the applicants. (3) Due and proper

notice was required to be given to all applicants before the closing the Society's Membership to enable them to oversee and glance the waiting list; and (4) The waiting list should have been got approved from the Competent Authority by a fair and impartial and unquestionable procedure after full disclosure of the information regarding the manner and method of selection of the applicants included. The contention of the complainant was that since the above mentioned norms were not shown to have been followed, the waiting list was invalid and further action of allotment was also invalid.

The complainant was informed by the said Society vide letter dated September 27, 1991 that the Society had no plots either in Vasant Vihar or Shanti Niketan for allotment. The complainant claimed compensation on account of amount paid by way of rent by him over a period of 14 years i.e. since his retirement in 1978. Including the cost of shifting from one residence to another totalling a sum of Rs. 3,50,000/- and another Rs. 2,00,000/- on account of the mental pain and agony suffered by him.

In the written version filed on behalf of the opposite party filed through Mr. B.P. Mittal, Member of the Executive Committee, it was submitted that the complainant was not covered within the meaning of "Consumer" as defined in the Consumer Protection Act and that the complaint was hopelessly barred by limitation. It was further stated that basically the complainant was aggrieved by the decision of the Society in not enrolling him as a Member. The matter was covered by the provisions of Delhi Co-operative Societies Act and Rules and Bylaws framed thereunder and the remedy provided under the said Act, was to approach the Registrar of Co-operative Societies. It was further stated that there was no plot of land available with the Society as all available plots had already been allotted a few vacancies occurred subsequently as a result of cancellation of allotment for various reasons, the same were filled by persons which were on the waiting list under the orders of the Government. There was, thus, no occasions for admitting any further members in the Society. It was pointed out that the complainant had approached RCS, comments of the Society were obtained by him. The Registrar did not find anything wrong with the decision of the Society in respect of the allotment of plots and preparation of the waiting list. The representation of the complainant had been rejected by the RCS. The present complaint was not maintainable in view of the rejection of the representation by the RCS. Lastly it was stated that the complainant was not entitled to any compensation from the Society inasmuch as no person can compel the Society to admit him as a member or to allot him a plot of land especially when the Society had no plot available for allotment.

3. A rejoinder was filed by the complainant. We have gone through the records and have heard the complainant, none having appeared for the opposite part)" at the time of hearing. A perusal of the correspondence placed on record by the complainant shows that the complainant approached Director, Grievances Cabinet Secretariat. His representation was forwarded to RCS (Registrar of Co-

operative Societies). The RCS obtained the comments of the DDA as well as the Co-operative Society concerned and on the basis of the comments received, disposed of the complainant's representation. Rule 30 of the Delhi Co-operative Societies Rules, 1973 lays down that on receipt of an application for membership, the Co-operative Society shall enter particulars of the application in the Register of Applications giving a Serial No. there to. Sub-rule 2 further lays down that the Cooperative Society shall dispose of the application not later than expiration of one month from the date of receipt and in case of refusal such Society shall communicate its decision together with the reasons, therefor, to the applicant. Sub-rule 3 further provides that an appeal shall lie to the Registrar against the order for refusal to admit a Member to be filed within 30 days of the date of communication of refusal. The object of referring to the above rule is to show that it was the RCS who had jurisdiction in the matter and in case the complainant was not satisfied with the order passed by the RCS it was open to him to challenge his orders in further appropriate proceedings including a writ petition under Articles 226/227 of the Constitution.

4. IN our view, the dispute sought to be raised was a dispute arising out of the alleged non-compliance of provisions of the Delhi Cooperative Societies Act and the Rules framed thereunder, under Section 60 of the said Act. Section 93(1)(c) of the said Act vests jurisdiction in respect of the disputes required to be referred to the Registrar under Section 60. Sub-rule 3 ousts jurisdiction of "any Court on any ground whatsoever" to question any order/decision or award made under the Act. IN *Dilip Bapat and Another v. Punchyati Co-operative Housing Society Limited*, I (1993) CPJ 68 (NC), it was observed in Para-11 of the report that dispute of this nature is not a consumer dispute under the Consumer Protection Act and the right Forum was to have ones remedy under the Co-operative Societies Act. For these reasons, we find that we have no jurisdiction in the matter and accordingly dismiss the complaint with no order as to costs. Copy of the order be furnished to the parties. Complaint dismissed.