

(1996) 07 NCDRC CK 0010

In the National Consumer Disputes Redressal Commission

PURNA CHANDRA PANDA

APPELLANT

Vs

GOVINDA CHANDRA DASH

RESPONDENT

Date of Decision : 19-07-1996

Acts Referred:

Citation : 1998 1 CPJ 293

Hon'ble Judges : P.C.Misra , Biswanath Rath , Mrinalini Padhi J.

Final Decision : Appeal partly allowed

Judgement

1. THE complaint petition out of which this appeal arises was filed by sixty-five complainants against the present appellant and the officials of the Civil Supplies Department, namely, the Supply Inspector, Civil Supplies Officer and also against the Block Development Officer. THEir case in the complaint petition was that the present appellant being the Retail Dealer of essential commodities like rice, sugar, wheat and kerosene oil, he did not supply the said commodities to the complainants during the months of July and August, 1994 saying that he has not received the stock. As a consequence, the complainants alleged that they purchased the said essential commodities at higher rate from the local market. THEy made complaints before the aforesaid Authorities, but finding that no action is being taken by them, they filed the case before the District Forum claiming Rs. 1,000/- each as compensation. THE present appellant as opposite party No. 1 filed his counter denying the allegations made against him. According to him, some of the complainants are not card-holders and therefore, not consumers so far as he is concerned. He has averred that he has been regularly supplying and distributing the essential commodities and there has been no deficiency on his part. He, however, alleged that some of the essential commodities were not supplied to him by the concerned Authorities and therefore, he could not distribute the same to the consumers who were enlisted to take the essential commodities from him. THE other opposite parties impleaded in the said case do not appear to have seriously contested the matter saying that the essential commodities were mostly being supplied to the Retail Dealer for distribution amongst the consumers. It has, however, been said that

the allegations of non-supply of sugar was enquired into and supply of essential commodities was stopped during September, 1994 to the present appellant. THE Collector, Boudh inspected the Block Office of Kantamal and stated that he had cancelled the retail centre of the present appellant on 29.10.1994 and had directed the Block Development Officer to supply the quota to the nearest retail centre. Various documents were filed before the District Forum and the District Forum on analysis found that complainant Nos. 1 to 5,7,12,14,15,17 and 18,20 and 21, 23,27,29 to 31,35,36,38,39,43,46 to 51,54 and 56 & 57,59,60,61,63 and 65 were the consumers in relation to the present appellant-opposite party No. 1 and that the other complainants are not consumers. THE District Forum also found that so far as sugar was concerned, it was not supplied to the present appellant during July and August, 1994. But the other essential commodities were supplied to him which the present appellant did not distribute to the consumers. Having so held, the District Forum directed that each of the above named complainants who were consumers in relation to opposite party No. 1 be paid Rs. 100/- by the present appellant-opposite party No. 1 and they are also entitled to be paid Rs. 10/- each by opposite parties 2 and 4, namely, the Supply Inspector and the Block Development Officer, respectively. Besides the above, the Forum also directed a sum of Rs. 1,000/- to be paid towards the cost of litigation to the complainants.

2. DURING the pendency of the appeal, the following respondents, namely, respondent 8, Braja Adabar, respondent No. 9, Buthi Sethi, respondent No. 10, Mangulu Sethi, respondent " No. 12, Diga Nag, respondent No. 13, Sindhu Pradhan, respondent No. 15, Ganeswar Nayak, respondent No. 16, Hari Sethi, (same card holder as of respondent No. 9), respondent No. 19, Chira Guru, respondent No. 20, Chakradhar Sahu, respondent No. 22, Akhya Guru, respondent No. 23, Ghana Bagh, respondent No. 25, Makardhwaja Pradhan, respondent No. 26, Kapurchan Pradhan, respondent No. 27, Beda Badha, respondent No. 28, Pandab Pradhan, respondent No. 29, Ulu Pradhan, respondent No. 30, Alekh Pradhan, respondent No. 32, Jogi Bagh, respondent No. 33, Rukuni, respondent No. 34, Sura Nag, respondent No. 35, Anadi Bagha, and respondent No. 37, Goura Bastia are said to have entered into a compromise with the present appellant and a compromise petition has been filed signed by the Counsel appearing for both parties. Today a memorandum has also been filed by the appellant mentioning the names and the corresponding Serial Nos. of such respondents who have entered into the compromise as stated above. In the compromise petition they say that are not interested any more to contest the appeal and they concede that they have no claim as against the present appellant. So the contesting respondents are respondent Nos. (1 to 7) Govinda Chandra Desh, Dasharathi Nayak, Cella Mallik, Lingaraj Karmi, Sukadev Patel, Tribikram Mahakud, Nabaghana Dash, respondent No. 11, Narasingh Bari, respondent No. 14, Basanta Kumar Keheti, respondent No. 17, Satyananda Sahu, respondent No. 18, Tankadhar Pradhan, respondent No. 21, Kapilasa Kheti, respondent No. 24, Ghasi Nayak, respondent No. 31, Sadhu Nayak, respondent

No. 36, Rama Nayak. When the case was taken up for hearing, the aforesaid respondents were neither present nor represented by anybody. Having heard the learned Counsel appearing for the appellant at length, we find that there is sufficient materials on record in support of the conclusion of the District Forum that except sugar, all other essential commodities had been supplied to the appellant for distribution amongst the consumers listed under his retailorship. The District Forum has discussed the matter in detail as to the enquiry held by the officers of the department on the allegation of non-supply of essential commodities to the retailers. There appears to be no justification for not supplying the essential commodities, which were available with the appellant, to the consumers. The inference is, therefore, irresistible that the appellant was guilty of deficiency in service. We, therefore, uphold the judgment of the District Forum that each of the consumers who are contesting this appeal would be entitled to compensation of Rs. 100/- each which the appellant is to pay. The further direction of the District Forum is that the contesting respondents would be entitled to Rs. 10/- each from opposite party Nos. 2 and 4, the respondent Nos. 38 and 40 respectively. The aforesaid direction of the District Forum has not been challenged before us. Now that some of the consumers have compromised the matter with the appellant and some others who were not consumers as found by the District Forum had brought action against the appellant, we would modify the order of the District Forum as regards the cost awarded. In our opinion, in such circumstances, the appellant would not be saddled with cost as the complaint petition was at the instance of some persons who were found not to be consumers and the present contesting respondents associated themselves with these persons in filing of the complaint petition. The appeal is, therefore, allowed in part to the extent indicated above. Appeal partly allowed.