

(1996) 10 NCDRC CK 0018

In the National Consumer Disputes Redressal Commission

RABI LOCHAN MONDAL

APPELLANT

Vs

STATION SUPERINTENDENT, BISHNUPORE

RESPONDENT

Date of Decision : 10-10-1996

Acts Referred:

Citation : 1997 1 CPC 562 : 1997 1 CPJ 313

Hon'ble Judges : A.K.Bhattacharyya , Sunil Kanti Kar , S.Dutta J.

Final Decision : Cases transferred

Judgement

1. THE instant revisional application has been filed before us for the 3rd time, first time Revision No. S.C. 344/8/96 was moved against order of refusal dated 23.5.96 in P.C. No. 5/96 to hear any matter in absence of nomination of the 3rd Member to constitute a Bench of the District Forum whereby we had already observed that two Members in absence of 3rd Member can validly hold sitting and validly pass order if the order is passed concurrently but in case of disagreement between two Members difficulty may arise. Accordingly, it was directed to dispose of the complaint-petition within one month. THEREafter, the District Forum heard the matter passed an interim order dated 8.8.96 by which it was directed the complainant to deposit the entire amount of the disputed bill for which second revision registered S.C. Case No. 357/R/96 was moved against the said interim order passed by the District Forum, Bankura, whereby the said interim order dated 8.8.96 was set aside by consent of the parties and the case was remanded back to the District Forum with direction to dispose of the complaint case within 15 days as per order dated 27.8.96 of this Commission.

2. THE instant third revision case has come before against the order dated 19.9.96 passed by the District Forum, Bankura which is same and akin to that of the order dated 23.6.96 to the effect that the matter will be taken up for hearing after nomination of the third Member of the Forum and the same is signed by both the Members. . It is surprising to note that the President of the District Forum, Bankura as an ex-officio of a District Judge is the President-Member of the Forum. So atleast we can expect him to have his judicial temperament and

judicial competency to understand the provisions of law as well as the order dated 2.8.96 passed in S.C. CaseNo.344/ R/96 by this Commission. If the lower Forum does not regard higher authority the District Forum should feel its far reaching effect and consequence in heirarchy of judicial system. To be more specific when the President of the Forum acts as a District Judge and passes any order or decree reversing the order or decree of the lower Subordinate Court and if the lower Subordinate Court in disregard of the order of Superior Court acts otherwise then how rule of law would prevail in the land. We, however, condemn the actions of the learned District Forum, Bakura overthrowing the order of this Commission which is superior Forum than District Forum in the system of Consumer Disputes Redressal Agency.

However, as per prayer of the complainant the three cases being P.C. 1/96,5/96 and 7/ 96 pending before the District Forum, Bakura be transferred to second unit of Calcutta District Forum for adjudication of the dispute involved in the said cases.

3. THE District Forum, Bankura is advised to forward the case records of the said three cases No. P.C. 1/95, P.C.5/96 and P.C.7/96 at an early date on receipt of this order. A copy of this order be sent to the Registrar, High Court, Calcutta and to the Judicial Secretary, Writers Building, Calcutta-1 for information and taking necessary action. Justice A.K. Bhattacharji, President-It is most unfortunate that inspite of our categorical opinion that the non-filling of the vacancy of one Member of the District Forum does not invalidate an order passed in a consumer proceeding the learned President of the Bankura District Forum persists in his obstinate opinion that the proceeding cannot be taken up until the nomination of the third Member. He has evidently failed to notice the specific provisions of Section 29A and Sub-section (2) of Section 14 of the Consumer Protection Act, 1986. What is more, he has chosen to ignore the direction of the Commission in this regard. This has created a judicial embarrassment compelling the affected party to seek a transfer of the case for adjudication to another Forum. The attitude taken by the President of the Forum is deprecated. Cases transferred.