

(1996) 06 NCDRC CK 0024

In the National Consumer Disputes Redressal Commission

RAJASTHAN STATE ELECTRICITY BOARD

APPELLANT

Vs

Ramrikh Vyas

RESPONDENT

Date of Decision : 13-06-1996

Acts Referred:

Citation : 1996 2 CPC 568 : 1996 2 CPJ 245 : 1996 3 CPR 15 : 1997 1 CLT 426

Hon'ble Judges : DAVID ANNOUSSAMY , A.VEERAPANDIAN J.

Judgement

1. THESE are appeals by all the three parties in the case.

2. A complaint was filed by the Appellant in A. No. 20/95 stating the following facts which are gatherable from the complaint and from the letter dated 30.10.93 that the complainant has written to the District Telecom Manager (Second opposite party) and which is appended to the complaint. The complainant wanted to contact his sister urgently at Madurai. He went to the public booth for STD belonging to the first opposite party. He gave the number to be called to the person incharge. The Number was 46457. As per the complainant a wrong number was called which he quotes as 44768 or so. Therefore, the call was discontinued and his number was called afresh. Thereafter he received two bills the details of which are produced below : - 1st Bill SI. No 0083 Date 30.10.93 Time 15.42.22 Dial No. 045246457 Tariff 04 Secs. 0027 Charge Rs. 0010.00 Sc 00 Total Rs. 0010.00 2nd Bill SI. No. 0084 Date 30.10.93 Time 15.46.26 Dial No. 045246457 Tariff 04 Sees. 0060 Charge Rs. 0020.00 Sc. 00 Total Rs. 0020.00 The contention of the complainant is that for the first call he owes only Rs. 8.25 and not Rs. 10/- as per the following calculation. One unit being four seconds 27/4 will make seven units. Each unit costing @ Rs. 1.25 he should have been asked to pay only Rs. 8.25 and not Rs. 10/-. Similarly for the second call lasting 60 seconds he had to pay only for 15 Units, say Rs. 18.75 and not Rs. 20/-. Therefore, he asked the District Forum to issue a direction to the first opposite party to refund the excess amount collected and compensation for damages for the reputation of the complainant from the second opposite party on account of the disrespect shown to him when he

pointed out the error in the bill.

He also stated that in view of the Consumer Welfare Fund having been duly constituted, the Forum should direct the second opposite party to collect from all the STD Booths the unauthorised collections made and remit them to the Fund and report the same to the District Forum within the stipulated time".

3. AFTER hearing the parties the District Forum found that there was excess collection of one unit per call and came to the following finding. "Since the STD booth operators have been charging on calls as per their own programme in the computer whereby every consumer was made to pay for one call extra and the second opposite party has directed them to switch over to Electronic Charge Indicators with call monitors operating on 16 Khz pulse as early as on 12.1.93, it is clear that in Pondicherry all STD Booths have been collecting extra charges from customers for every call made in their STD booths. The second opposite party admits that it is incorrect and states that to eliminate the wrong charging they have instructed to instal 16 khz pulse from the Electronic Exchange. Therefore it is clear that in Pondicherry consumers have been made to pay excess charges all this period till they switched over to the correct system. The second opposite party allowed such metering and billing which is wrong and detrimental to the consumers interest. Therefore, it is the duty of the second opposite party to rectify the same". On the basis of the above finding the Forum gave the following directions: (1) The first opposite party therefore is directed to refund the excess amount collected by him from the complainant i.e. Rs. 2.50 and also to pay Rs. 500/ - as compensation to the complainant for the faulty services because of which the complainant has been put to mental agony and has been driven to this Forum to seek his remedy. The first opposite party is also directed to pay Rs. 100/ - as cost to the complainant. 2(a) Hence, directions are given to the second opposite party to evaluate from each STD booth the excess charges made by them from the consumers during the period they had the old system, collect that amount from them and remit the same to the Consumers Welfare Fund duly constituted and notified and report the same to this Forum. 2(b) They shall also take immediate steps to ensure that all STD Booths have switched over to the Electronic Charge Indicators with call Monitors operating on 16 Khz pulse from the Exchange and ensure that there is no excess metering charge by any one of them and report the same to this Forum. This shall be carried out within 45 days from the date of receipt of this order.

4. IN his appeal the complainant was mainly aggrieved by the fact that the District Forum did not advert to the fact that he was made to pay wrongly for the first call, which did not fructify. The first opposite party, that is to say the booth owner, contended that there was no excess charge levied etc. at all and that the finding of the District Forum in that respect was wrong. The second opposite party pointed out that the portion of the order (2)(a) directing him to collect from each STD booth the excess amount levied by them from the consumers for the period during which the old system was in force was wrong. The learned

Counsel for the second opposite party, the Government Pleader, also pointed out that the Consumer Welfare Fund has not yet been constituted and notified. He added that as far as the direction (2)(a) is concerned, steps have already been taken and that he filed an affidavit to that effect. Let us first take the question whether there was any additional charge levied by the booth owner or not ?

5. THE statement of facts of the complainant is very clear and he has placed reliance on the bills issued by the booth owner to the complainant. As far as the excess charge is concerned the fact of levying Rs. 1.25 in addition to the amount due is clearly established by the own bills of the booth owner. For instance, for the second call for 60 seconds there were only 15 units and each unit consists of 4 seconds. The total amount was only Rs. 18.75 and not Rs. 20/- as wrongly collected.

6. THE fact that the booth owner has collected an additional amount of Rs. 1.25 for both the calls is clearly proved. Therefore, the direction given by the District Forum to the booth owner to pay some amount of money towards compensation and costs does not warrant any interference, his appeal is to be dismissed. The second claim of the complainant is that since the telephone was operated by the booth owner himself has resulted in getting a wrong number, the charge for the same should be borne by the booth owner and not by the complainant. It is obvious that when the telephone is operated by the booth owner himself and when he does not get the correct number, it is for him to bear the charge, he cannot pass on the same to the consumer. But in this case the complainant himself is not very sure what was the number which was contacted first. He says 44768 or so. From the bills on which the complainant relies it is shown that the number contacted both the times is the same. Therefore, the fact that for the first time a wrong number was contacted by the booth owner is not established. The appeal of the complainant on this account is therefore, to be dismissed.

7. AS far as the direction given to the second opposite party to collect all the extra charges from all the booth owners for the past is concerned the same cannot be sustained for two reasons. Firstly, the complainant is not entitled to ask for such a relief. He can ask only for a compensation for himself. If he had in view the interest of all the customers who have been put to loss like him he should have persuaded one of the Consumer Associations to get impleaded in the case and to ask for such a prayer. Secondly, it would be indeed a time consuming effort for the Department to compute and collect the arrear amounts collected by all the booth owners and we agree with the learned Counsel for the Department that the operation is not feasible. However a lump sum amount could be collected for the malpractice whenever it was noticed after allowing the parties an opportunity of being heard. But for that purpose a Consumer Association should have impleaded itself. It is wondered why no Consumer Association has not espoused this daily grievance of the customers and allowed the malpractice to continue without redressal for such a long time. It is also wondered why the Department has not swung into action much earlier. We trust that the

department will be vigilant in future in checking the booth owners and preventing them from indulging in any kind of malpractices. With these remarks the portion 2(a) of the order has to be set aside.

8. IN the result, the Appeal No. 5/96 filed by the opposite party No. 1 is dismissed, so also the appeal filed by the complainant in A. No. 20/ 95. As far as the Appeal No. 14/95 filed by the second opposite party is concerned, it is partly allowed and the direction to collect the arrears and remit the same to the Consumer Welfare Fund is set aside. The remaining portion of the order is confirmed. The second opposite party should therefore, make the report to the District Forum as directed under 2(b) of its order. Appeal 5/96 dismissed, 20/95 dismissed and 14/1995 partly allowed.