
(2004) 03 NCDRC CK 0087

In the National Consumer Disputes Redressal Commission

REGIONAL TRANSPORT OFFICER, MEENAMBAKKAM

APPELLANT

Vs

C. BABU

RESPONDENT

Date of Decision : 19-03-2004

Acts Referred:

Citation : 2005 3 CPJ 346

Hon'ble Judges : A.Raman , R.Vanaroja J.

Final Decision : Petitions dismissed

Judgement

1. A common order was passed by this Commission on 13.2.2004 in the appeals A.P. Nos. 680/2000, 55/2001 and 111/2001. The operative and decretal portion of the award is as follows: "In the result, we accept the appeal A.P. No. 55/2001 and A.P. No. 111/2001 and dismiss A.P. No. 680/2000. We modify the order of the lower Forum directing the 3rd opposite party (the appellant in A.P. 680/2000) to pay a sum of Rs. 50,000/- in all to the complainant with interest at 6% from the date of seizure viz., 28.8.1998 till realization. The amount awarded herein shall be paid within two months failing which it will carry 9% interest. As observed by Their Lordships, the amount shall be paid from the public funds immediately. The Transport Commissioner or the concerned Secretary to Government would take necessary steps to recover the said amount from the person who was responsible for this unpardonable behaviour. The 3rd opposite party-appellant in A.P. No. 680/2000 shall pay the cost of Rs. 250/- each to the appellants in A.P. No. 55/2001 and A.P. No. 111/2001. Time for compliance of the order 2 months."

2. NOW, the petition in C.M.P. No. 326/2004 in A.P. No. 680/2000 has been filed by one R. Shanmugam to implead him as a necessary party to C.M.P. No. 325/2004. C.M.P. No. 325/2004 has been filed by the appellant in A.P. No. 680/2000 to clarify the common order made in the appeal A.P. Nos. 680/2000, 55/2001 and 111/2001. According to the petitioner in C.M.P. No. 325/2004 during the period of issuing R.C. book and registering of the vehicle namely 3.8.1996 to 30.11.1997, one C. Shanmugam was working as the Regional

Transport Officer, Meenambakkam and that during the time of seizing of the vehicle of the complainant one R. Shanmugam was working as incharge of Regional Transport Officer. Therefore, the present petition filed seeking clarification as to who is responsible for the incident so that the Department can take decision in that regard and proceed further against the person who is responsible. The complaint has been filed mainly because of the seizure of the vehicle by the Regional Transport Officer, Meenambakkam. The vehicle was seized on 28.8.1998. The vehicle was purchased by the complainant by availing financial assistance from the 1st opposite party. Necessary forms were all signed by the complainant and handed over to the financier/dealer. The vehicle was registered and registration No. TN-22-C-8484 was allotted. The vehicle was seized on the ground that the R.C. Book was not produced for verification. Ex. A6 is the letter by the Regional Transport Officer, Meenambakkam, calling upon the complainant to produce the R.C. book. The complainant informed the regional Transport Officer that the road tax token/R.C. were with the financier. The vehicle was registered and assigned the registration number as already pointed out. Along with the cost of the vehicle a sum of Rs. 477/- was collected towards comprehensive insurance, Rs. 1,750/- towards life-time road tax and Rs. 373/- towards registration fees and incidental charges were remitted. On the date when the vehicle was purchased, the dealer received the payment towards comprehensive insurance and remitted the amount on the very next day. The tax was paid on 24.12.1996 on which date registration charges were also paid. The vehicle was registered and assigned the Regn. No. TN-22-C-8484. What remained was only the handing over of the R.C. Book for which the necessary requisition had been signed by the complainant authorising the same to be delivered to the financier or the dealer as the case may be. The whole thing took a bizarre turn because of the fact that the number being a fancy number had been promised to certain other persons who had paid the money for the same. Therefore, when that person who had paid the necessary fees for obtaining the fancy number did not get it and when it was found that the complainant had been riding the vehicle with the said fancy number, then the authorities woke up to the imbroglio and took steps to mend the situation and the steps taken by them instead of bringing about an improvement, worsened the situation. The vehicle was seized with the result that the complaint happened to be filed. Now, in that context, the lower Forum accepted the complaint and directed the opposite parties to pay a sum of Rs. 1,50,000/- to the complainant towards purchase of a new motorcycle and as compensation for the hardship undergone by the complainant. Aggrieved by the same, the above 3 appeals were preferred and this Commission while modifying the order passed by the lower Forum reduced the amount payable to the complainant to Rs. 50,000/- and held the 3rd opposite party responsible and directed the 3rd opposite party alone to pay the same thereby absolving the other opposite parties namely the financier, the dealer and the service outlet. Now, in that background, we have to see whether these two petitions can be entertained at all.

There has been a fumbling resulting in the seizure of the vehicle without being aware that the fancy number is to be assigned to a person who has applied for it and paid for it and the said number has been assigned to the complainant's vehicle at the time of registration and thus it opened up the pandoras box. According to the averments made in the affidavit from 3.8.1996 to 30.11.1997 one C. Shanmugam was the Regional Transport Officer. It is also stated that from 1.12.1997 to 17.2.1999 one R. Shanmugam was the Regional Transport Officer. The date of registration of the vehicle is 22.12.1996. On that day, C. Shanmugam was the Regional Transport Officer. He has failed to issue the R.C. Book. On that day, the fancy number 8484 had been assigned and given to the vehicle purchased by the complainant. C. Shanmugam was not diligent in noting that the fancy number had already been promised to be assigned to a third party by name Ayyadurai who had paid the necessary fees for the fancy number. Therefore, there is carelessness and dereliction of duty on the part of C. Shanmugam as well. As a result of not issuing of R.C. book to the complainant, the seizure has been done by R. Shanmugam. Since, we have held that the seizure of the vehicle is illegal and bad in law, it follows that R. Shanmugam would be also liable.

3. A letter was sent by the 4th opposite party Ramkay Agencies about this to the Transport Commissioner on 23.9.1998. The Transport Commissioner directed the Regional Transport Officer, Meenambakkam, to take necessary action by making suitable endorsement on the letter. This letter must have been received by R. Shanmugam. But, he has not taken any action. In such circumstances, we do not find why there is room for doubt on the part of the petitioner. The direction is issued to the Transport Commissioner or the concerned Secretary to take necessary steps to recover the said amount of Rs. 50,000/- from the person who was responsible for this unpardonable behaviour. Therefore, they have with them the necessary records, the particulars, etc., to decide the matter. As we pointed out earlier, the crux of the complaint is based upon the act of seizure and the act of seizure had thus opened up a vista of mystery. Therefore, when the act of seizure has been found to be unacceptable, arbitrary and illegal, there is no necessity for issuing any clarification since the order speaks for itself. The Department has got all the necessary particulars and materials for proceeding against both C. Shanmugam and R. Shanmugam as well. In that regard, this Commission cannot give any instruction or direction or clarification since it would amount to holding a further inquiry into the matter and a departmental inquiry at that.

4. THE petition filed by R. Shanumgam to implead him as a party to C.M.P. 325/2004 is misconceived. When he has not been arrayed as a party either in the complaint or in the appeal, there is no room for the petition who is only a third party to push himself into the fray. THE petitioner would allege that certain records have been suppressed and they are trying to make him a scapegoat. He would contend that the non-issuance of the R.C. Book to the complainant was committed only during the tenure of C. Shanmugam. He would also allege that

he sent several reminders to the then Regional Transport Officer C. Shanmugam and there was no response. He also says that in the particular register, the necessary information regarding the registration number, particulars of file number, fee particulars, tax particulars, were not entered and all these happened during the tenure of C. Shanmugam and that since he came to know on the perusal of the record that Babu was using his motor cycle all along without valid R.C. and with the registration number reserved to Ayyadurai, he seized the vehicle and, therefore, it is necessary that he should be made a party so that he can adduce proof to show that it is C. Shanmugam, who is the guilty party. This is not the Forum nor the stage when this Commission can go into the question, Of the two who is liable? If this petition is allowed, it would amount to travelling far far beyond the ambit of the Act. If there were suppression of material, it is not known why all these things were not brought out in the version filed by the later Regional Transport Officer, Meenambakkam, when he was arrayed as one of the opposite party. Further, when the matter was before the High Court, they did not choose to file any counter to the effect that it was a mistake committed by one or the other Regional Transport Officer. Therefore, sitting as we do now after delivering the verdict and more than a month ago in this case and at this stage to allow this petition would amount to derailing the entire process that had culminated in an award. Therefore, this petition is totally misconceived. It is neither the task of the Commission nor the desire of the Commission to apportion the responsibility at this stage. The Consumer Forum was approached because of the seizure of the vehicle. If this present petition is allowed, it would amount to permitting the petitioner herein to question the finding arrived at by this Commission or in other words it would but provide an opportunity to the petitioner in a way to show that the order passed by this Commission is erroneous since he cannot be held guilty of the act of seizure. Further, when the Forum as well as the Commission has held that the act of seizure is wrong by allowing this petition, we would be only giving an opportunity to the 3rd opposite party or anyone on his behalf to come and say that the seizure is not illegal. For the petitioner herein in so many terms says that he was only complying with the order of the higher authorities and that as there were no valid documents such as registration certificate and insurance certificate, he exercised the right to seize the vehicle. Thus, we would be only giving an opportunity to the petitioner to justify his act which would amount to nullify the order passed by this Commission holding the seizure as illegal. Therefore, in any view of the matter, this petition cannot be entertained. Hence, this petition has to be dismissed. It is always open to the petitioner if and when any departmental inquiry or action is initiated against him to show that he is not responsible in any manner or that he was neither negligent nor committed any act of dereliction. He cannot now seek the aid of this Commission to come for his defence indirectly by filing this petition. The Commission has directed the Government only to take necessary steps to recover the amount from the person who was responsible for the same. Therefore, it is always open to the petitioner to show that he was either factually or legally not responsible, if and when any action is directed against him. His

attempt now to make this Commission a mouthpiece of his defence cannot be encouraged. Hence, both the petitions deserve to be dismissed. In the result, both the above two petitions are dismissed. But, in the circumstances, there is no order as to costs. Petitions dismissed.