

(1993) 09 NCDRC CK 0019

In the National Consumer Disputes Redressal Commission

R.K.INDUSTRIES

APPELLANT

Vs

DIRECTOR OF INDUSTRIES

RESPONDENT

Date of Decision : 27-09-1993

Acts Referred:

Citation : 1994 1 CPC 447 : 1994 1 CPR 516 : 1994 3 CPJ 325

Hon'ble Judges : S.S.Dewan , R.L.Gupta J.

Final Decision : Complaint dismissed

Judgement

1. THE complainant, M/s. R.K. Industries, Abohar through its proprietor, Smt. Suman Setia has filed this complaint under Section 17 read with Section 12 of the Consumer Protection Act, 1986 (for short "the Act") against the opposite-parties.

2. IN short, the complainant's case is that the complainant-industry started functioning in the year 1989 and it was carrying on the business of cotton ginning. It is alleged that the complainant-industry was registered with the opposite-parties under the head "Small Scale INdustry" and that as per provisions of the Central Outright Grant of Subsidy Scheme, 1971 and as per the State Capital Subsidy Scheme, 1987, the complainant applied to the opposite-parties for the grant of 15% State Subsidy and 10% Central Subsidy after the completion of all the formalities and on 27-1-1989, the opposite party No. 2 forwarded the case of the complainant for sanction to the opposite party No.1. It is further alleged that on 5-4-1989, the opposite-party No. 1 issued a letter to the complainant that an amount of Rs. 25,899/- had been sanctioned as Central Subsidy and directed it to get the same after completing the formalities. The case of the complainant is that it represented the opposite-parties that a claim of Rs. 4,55,797/- as subsidy should have been sanctioned to it being 10% of the total project and as to why Rs. 25,899/- was sanctioned to it. According to the complainant, it made repeated requests to the opposite-parties for disbursing the remaining amount of subsidy, but there was no response from their side and hence, it made a complaint before the Commission, seeking direction to the

opposite-parties to pay Rs. 10 lacs as damages for the loss caused by the negligence of the opposite-parties. On notice being issued, the opposite-party No. 1 controverted the allegations of the complainant and raised a preliminary objection that the grant of subsidy by the State/Central Governments for industrial unit to be set up in the selected backward areas is not a "service" within the meaning of its definition in Section 2(1)(o) of the Act.

We have heard the learned Counsel for the parties and perused the record with requisite care. The primal question to be determined is, whether the purely concessional grant of Central/State subsidy as an incentive to industry, would be a "service" at all under the Act or that the complainant by any stretch of imagination would come within the ambit of a "consumer". It is the firm stand of the opposite-parties that on the admitted factual position, the Central subsidy is not at all a "service" nor could the complainant hire such a service or pay any consideration, therefore, to come within the pale of the consumer jurisdiction. It is submitted by the learned Counsel for the opposite-parties that the subsidy is a pure bounty and a concession and there arises no legal right to such a subsidy nor can the same be awarded by way of compensation. There appears to be substance in his contention. The object of the Subsidy Scheme floated by the Central or State Governments is to provide an incentive for industries to set up their units in the backward areas of the country in order to promote the development thereof. This subsidy is purely in the nature of concession or an incentive intended to facilitate the developmental activities, which have lagged relatively behind other more advanced ones, is some-what manifest. Inevitably, the grant of this subsidy is in the discretion of the Central Government and it is disbursed through the concerned State Governments and their Industries Departments. There is no inflexible vested right in any one to lay claim thereto, is manifest from the scheme which is temporary in nature and is extended from time to time.

3. THE word "Service" has been defined in Section 2(1)(o) of the Act, which reads as follows :- (o) "service" means service of any description which is made available to potential users and includes the provision of facilities in connection with banking, financing, insurance, transport, processing, supply of electrical or other energy, board or lodging or both, entertainment, amusement or the purveying a news or other information, but does not include the rendering of any service free of charge or under a contract of personal service;"

The plain reading of Section 2(1)(o) of the Act would show that a "subsidy" is not in terms one of the many services expressly incorporated in the definition. It is surely neither banking or financing or insurance etc. Nor can one even remotely during such a Central bounty or concession within the concept of a "service" as such. It cannot be held that a Central Subsidy intended for the development of the backward areas and granted as an incentive and concession to industry can be labeled as hiring out of service by either the State or the Central Government and that no one can claim a legal vested right to a subsidy

because the same is disbursed through a tortuous process of approval by the respective Industries Department of the States and the financial sanction of the Central Government.

4. IN the light of the aforesaid discussion, we hold that the grant of subsidy by the Central/State Governments for industrial units to be set up in the selected backward areas is not a "service" within the meaning of its definition under the Act. If that is so, this complaint cannot be entertained by this Commission. In the result, the complaint is dismissed. Under the circumstances of the case, we direct the parties to bear their own costs. Complaint dismissed.