

(1996) 05 NCDRC CK 0009

In the National Consumer Disputes Redressal Commission

ROHINI GROUP OF THEATRES

APPELLANT

Vs

V Gopalakrishnan

RESPONDENT

Date of Decision : 06-05-1996

Acts Referred:

Citation : 1996 2 CPJ 1 : 1996 2 CPR 264

Hon'ble Judges : V.K.MEHROTRA , BANARSI DAS J.

Judgement

1. NO one is present for the complainants. Sri S.N. Misra, Deputy District Health Education -cum -Information Officer, Allahabad, is present on behalf of the Chief Medical Officer, Allahabad.

2. THE complainants, who claim to be registered medical practitioners, have, in a complaint running into ten paragraphs, averred that unethical and improper practices in the matter of medical treatment by quacks was prevailing in Allahabad District which, according to them, was resulting in prejudicial effect upon the population and several deaths every day but appropriate action was not taken by the authorities. The complainants also say that they had approached the Allahabad High Court through a writ petition (NC). 36882 of 1991) for relief which was decided by a Division Bench on April 2, 1992. A copy of that judgment has been filed with the complaint in which the High Court directed that if the petitioners (complainant before us) had made or make any representation to respondent 1 and 2 in the writ petition, (State of U.P. through Health Secretary and Chief Medical Officer, Allahabad), the representations shall be disposed of in accordance with law as early as possible and that if any complaint/F.I.R. was lodged with the Competent Authority to punish the quacks under Section 15(3) of Indian Medical Council Act, 1956 then the same will be proceeded with in accordance with law by the Competent Authority expeditiously. The complainants also say that after the decision of the writ petition they were advised that in case they had suffered any loss they could approach the State Commission for it. This statement is made in paragraph 9 though in the immediately preceding paragraph -8 of the complaint it has been stated that when the question of

compensation was raised before the High Court by their Counsel the Honble Judges constituting the Bench observed that the complainants would have to be approach the Civil Court in the first instance for that relief.

3. IN the present petition the first complainant (Ganesh Singh Chauhan) has claimed a total compensation of rupees fifteen lakhs twenty -five thousand, out of which rupees five lakhs have been claimed for professional loss; rupees ten lakhs for mental agony and rupees twenty -five thousand for going to Court and expenses incurred in connection with correspondence. The second complainant (Raghuraj Singh Chauhan) has claimed a compensation of rupees seventy lakhs fifteen thousand, out of which rupees fifty lakhs have been claimed towards professional loss; rupees twenty lakhs for mental agony and rupees fifteen thousand for correspondence and going to Court. On the allegations made in the complaint itself it is obvious that the matter, as presented, is outside the purview of the Consumer Protection Act, 1986. To us it appears clear that even though, according to the complainants themselves, the Honble Judges constituting the Bench which decided the writ petition filed by the complainant had observed that the complainants should approach the Civil Court in the matter the complainants approached the State Commission as they were not in a position to pay the Court fee involved and were advised by the concerned lawyers to lodge the claim before the Commission. The mere fact that going to Civil Court required payment of Court fee cannot be a ground, as has been put forward in the complaint by the two complainants for coming before the State Commission or for that matter before a District Forum constituted under the Act.

4. THE nature of relief claimed in the complaint shows utter disregard for reasonableness on the part of the complainants. We have no doubt that such inflated claims have been put forward only on account of the fact that no Court fee is payable for proceedings under the Act. The complaint is not only frivolous but it appears to have been filed with a view to harass the opposite parties impleaded in it. Such complaints are not to be encouraged and, in fact, the tendency on the part of complainants of filing such complaint should be curbed to avoid overloading of the docket of the infrastructurally deficient State Commission which is, even otherwise, highly overloaded due to a large number of orders emanating from more than sixty District Forums existing in the State being brought before the Commission in hund reds every month in the form of appeals and revisions etc. We are constrained to observe that inspite of repeated suggestions made in that regard to the Central Government no ostensible steps have so far been taken to amend the Act to enable appointment of more members in State Commissions and permitting constitution of Benches to deal with the overloaded docket of the Commission. The problem is specially acute in a State like Uttar Pradesh where more than sixty District FORA are functioning and four additional FORA for four districts have already been sanctioned by the State Government and requests for additional FORA have already been received from a number of districts where pendency of cases is unduly large. In the circumstances of the present case we feel that the complainants should be made

to pay exemplary costs. We fix the costs at Rs. 5,000/ - (Rupees five thousand) for payment whereof both the complainants will be jointly and severally liable.

5. LET a copy of this order be sent to the complainants by post and made available to the opposite parties in accordance with Rules. A copy shall also be sent to the Chief Secretary of the State of U.P. and to Joint Secretary, In -charge of Consumer Affairs in the Ministry of Civil Supplies, Consumer Affairs and Public Distribution of the Central Government for such action as is necessary at an early date if there is any seriousness on the part of the State and Central Governments to ensure relief to consumers in the State of Uttar Pradesh.

6. THE complaint is dismissed as aforesaid