

(2005) 10 NCDRC CK 0023

In the National Consumer Disputes Redressal Commission

SATISH KUMAR

APPELLANT

Vs

Hutchison Essar Telecom Ltd

RESPONDENT

Date of Decision : 05-10-2005

Acts Referred:

Citation : 2005 4 CPJ 376 : 2006 1 CLT 251

Hon'ble Judges : J.D.KAPOOR , MAHESH CHANDRA J.

Judgement

1. MAIN grievance of the appellant against the impugned order dated 15.4.2005, passed by the District Forum, whereby the complaint of the appellant seeking compensation of Rs. 5,00,000 on account of deficiency in service on the part of the respondent in not re -activating the mobile telephone for 21 days in two intermission was dismissed is that the District Forum has not taken into consideration the allegation for which he had adduced sufficient proof that the telephone was firstly re -activated after 9 days after receiving the payment of the cash card and again after 13 days.

2. WE have perused the impugned order and find that the District Forum had dismissed the complaint of the appellant on the ground that the original activation of the telephone was made on 13.7.2004 and it was reactivated on 21.7.2004 and it appears that some fault might have occurred between 13.7.2004 to 21.7.2004 and since it was temporary intermission service no harassment was caused attracting Rs. 5,00,000 as compensation. May be the amount of compensation sought by the appellant was on the much higher side but the allegation of the appellant that the non -activation of the telephone for 21 days in two stretches should have been considered in the light of the provision of Consumer Protection Act, 1986 rendering the provider of service liable for compensation as to the loss or injury suffered by the consumer if there is negligence on the part of the OP. The deficiency in service as defined under Section 2(1)(g) of the Act means: any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been

undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service.

3. IN our view the contentions of the appellant have not been considered in the right perspective and the District Forum appears to be persuaded more by the amount of compensation sought by the appellant than by the factual aspect of the matter. There is no need to issue notice to the respondent as we are sending back the matter to the District Forum for deciding it afresh.

4. IN the result, the appeal is allowed, impugned order is set aside. The appellant shall appear before the District Forum on 10.11.2005 for the aforesaid purpose. Bank Guarantee/FDR, if any, furnished by the appellant be returned forthwith.

5. A copy of this order as per the statutory requirements be forwarded to the parties free of charge and also to the concerned District Forum and thereafter the file be consigned to Record Room. Appeal allowed. -