

---

**(2003) 09 NCDRC CK 0035**

**In the National Consumer Disputes Redressal Commission**

SRI SIDDHESHWAR SAHAKARI SAKHAR KARKHANA LTD.

APPELLANT

Vs

RAMKRISHNA KASHINATH WANKAR

RESPONDENT

---

**Date of Decision :** 23-09-2003

**Acts Referred:**

**Citation :** 2004 1 CPJ 362 : 2004 1 CPR 617 : 2004 2 CLT 155

**Hon'ble Judges :** M.S.Rane , V.K.Data J.

**Final Decision :** Appeals allowed

---

**Judgement**

1. ADVOCATE Mr. S.V. Ujalande for appellant undertakes to file his appearance during the course of the day. Respondent not present although being duly served.

2. WE are proceeding to dispose of both these appeals with a common order. The appellant herein are common in both the appeals and they have filed two separate appeals in common order passed by the District Forum Solapur on 31.3.1998 in both the complaints.

As stated the respondents/original complainants are not present although duly served.

3. AS we notice that the consumer dispute being the subject matter of the appeals herein are dragging on since 1991, initially before the District Forum till 1998, and thereafter before this Commission. AS statute mandates speedy disposal of the consumer disputes, we are proceeding to dispose of these appeals with common order on perusal of the material available in the appeal paper book and on hearing the learned Advocate for appellants. We also perused the impugned order of this appeal and related records such as pleadings of the parties in the consumer dispute before the District Forum.

4. THE complainants filed the complaint with a case and grievance that they being farmers engaged in cultivation of sugarcane and the appellants are the Orgl. O.P. (in short Sugar Factory) and they used to sell sugarcane to the appellant sugar factory. It is further case of the farmers that there was an understanding and arrangement between them to the effect that the sugar

factory would make arrangement to remove sugarcane from their respective fields and carry the same to its factory for the purpose of crushing. It is the case of the complainants that despite this specific arrangement and understanding for the reasons best known to the factory it failed to act in accordance with the arrangement/understanding and remove the sugarcane for purpose of crushing to the sugar factory, which they i.e. complainants had sold to it.

5. ON these facts the complainants filed complaints alleging deficiency against the sugar factory and claiming damages.

6. IT is noticed that the sugar factory appeared and contested the claim of the complainants on various grounds. IT denied liability or deficiency as such. Sugar factory asserted that since the complainants are its members and since the sugar factory is registered under the Maharashtra State Co-operative Factories Act, 1961, alleged dispute being the subject matter of this complaint would not be amenable within the jurisdiction of Consumer Fora. Instead suit has to be filed before the Co-operative Court.

District Forum, however, did not find the objection raised to be acceptable and proceeded to allow the claim of the complainants and awarded certain amount as specifically mentioned in the operative clause of the order. As stated appeals have been filed against the said order.

7. ACROSS the learned Advocate for appellant made reference to the judgment of the National Commission in the case of *The Chairman, Hutatma Kisan Ahir Sahakar Sakhar Karkhana v. Anandrao Nivruthi Khot*, reported in 2002 CTJ 401, wherein the fact-situation was obtained as in the matter herein and such is identical and the National Commission has held the complainants being sellers of the goods viz. sugarcane and deficiency in service alleged by them against the sugar factory being ancillary to the transaction of sale of sugarcane and as such would not fall in the category of consumer dispute. So holding the National Commission proceeded to dismiss the same. We would make in reference to the judgment of National Commission in another case viz. *Shakti Sugar Mills Ltd. v. Shridhar Sahu & Ors.*, reported in II (1999) CPJ 4 (NC)=1999 CCJ 1434, where also the National Commission has taken the same view as in the case of *Hutatma Kisan's* case (*supra*).

8. THE ratio of the judgments of National Commission as above, would be applicable in all force to the matters herein and, therefore, appeals filed herein have to be allowed and the complaints filed by the complainants have to be dismissed. Hence the following order. ORDER 1. Appeal Nos. 855 and 856/1998 in Complaint Nos. 195 and 174/1991 are allowed. 2. Complaint Nos. 195 and 174/1991 consequently stands dismissed. 3. However, no order as to cost. 4. Officer to furnish copies of the order to the parties.

Appeals allowed.