(1995) 02 NCDRC CK 0030

In the National Consumer Disputes Redressal Commission

State Bank of India APPELLANT

Vs

DHARAMDAS PAL RESPONDENT

Date of Decision : 14-02-1995

Acts Referred:

Citation : 1995 1 CPR 832 : 1995 2 CPJ 237 : 1997 1 CPC 114

Hon'ble Judges : V.Balakrishna Eradi , S.S.Chadha , R.Thamarajakshi J.

Final Decision : Appeal disposed of

Judgement

1. THIS appeal arises out of the Order of State Commission, West Bengal dated 1st December, 1992.

2. THE facts as given in the complaint in nutshell are these. Complainants obtained agricultural loan from the State Bank of India in the month of December, 1986 to the tune of Rs. 10,000/- except one of the Complainants Shri Mukul Pal who obtained agricultural loan to the tune of Rs. 8,000/-. THE Complainants had pledged their gold/ornaments as security for the due repayment of their respective loans. As per the allegations in the complaint, the production from the land for the years 1987, 1988 and 1989 had been seriously affected. It was claimed that the Complainants are entitled to the relief under the Agricultural and Rural Debt Relief Scheme, 1990 sanctioned/formulated by the Central Government. THE Complainants had submitted the requisite bad crops certificate issued by the concerned Government Authority, namely, by the Principal Agricultural Officer of the area and also from the Block Development Officer of the concerned area namely B.D.O. (Memari-II). THE said certificates show that the Complainants suffered severely so far as the produce of agricultural crop is concerned in the years 1986 to 1989. THE case of the Complainants is that under the said scheme of the year 1990 the Complainants are entitled to be exempted from paying the said agricultural loan amounts as per the directions framed by the Central Government on the ground of damage and loss in yearly agricultural scheme and produce. The Bank served notices to the Complainants to liquidate loan amount failing which the gold/ornaments

would be liquidated. On the receipt of the notices from the Bank, the Complainants filed the complaint and prayed for an interim order of injunction staying the operation of the notices and from taking any steps to recover the loan amount and also claimed Rs. 3,00,000/- as compensation and damages.

The State Bank of India raised pleas, inter alia, that the Complainants were not the consumers within the meaning of the word as defined under the Consumer Protection Act as they have not hired any service, that the relationship between the Opposite Party and the Complainants is that of the nature of the Creditor and Debtor and under the contract, the Opposite Party had made advance on interest to the Complainants, that the contract was restricted only to the extent of giving the money and return of the same alongwith interest thereon by the Complainants, and that the said scheme of 1990 does not form part of the contract between the Complainant and the Opposite Parties. On merits it was pleaded that mere are two pre-requisites to cover any of the Complainants under the said scheme of 1990. The first pre-requisite is that the loan must have been obtained on or after 1st of April, 1986 and the instalment of the term loan falling due on or after April, 1986 and the second pre-requisite is that a certificate be obtained from the State Government concerned to the effect that the particular village to which the borrower belongs, has experienced bad crop in terms of annewary system. It was only subject to these two conditions being made that the relief to the eligible borrowers was to be provided.

3. THE matter was heard on 1st December, 1992 by the State Commission and the Orders under appeal were passed. THE State Commission in its laconic order does not at all refer to the respective versions of the parties before it or to the material existing on the record or to the appreciation of the material arid does not even notice any submissions made by the parties. THE State Commission says that "the matter is heard at length and the documents are examined by us. On perusal of the record and submissions made by the learned Advocates we direct....". THEn the relief is granted. The procedure for the disposal of the complaint by the District Forum has been laid down in Sections 13 and 14 of the Consumer Protection Act, the provisions of which are made applicable to the proceedings before the State Commission by virtue of Section 18 of the Act. The procedure to hold summary enquiry is laid down in Section 13. If, after the proceedings conducted under Section 13, the District Forum or the State Commission is satisfied that the goods complained against suffer from any of the defects specified in the complaint or that any of the allegations contained in the complaint about the services are proved, it is only then that any order to the Opposite Party directing him to do one or more of the specified things in Section 14 can be made. The District Forum or the State Commission has to record the finding, inter alia, that any of the allegations contained in the complaint about service are proved. The decision, therefore, has to set out the specific allegations contained in the complaint about the deficiency in service, the evidentiary material in support of it and whether it is established or not. The Redressal Forums may not be Civil Courts but certainly they are quasi-judicial agencies

established under the Act and the functions that are being discharged by them under the Act are quasi-judicial. Every quasi-judicial order must be supported by reasons. It is a fundamental principle that the decision of an authority, judicial or quasi-judicial, rests not upon mere suspicion or surmises or conjectures but upon legal grounds established by legal testimony. In the case of Consumer Disputes Redressal Forums, the judgment must set out the points in dispute and a decision on those points supported by some reasons. These reasons may not be detailed, but it must give some indications to show how the mind of the Redressal Forum acts, especially in those cases where an appeal is provided. The decision must indicate that the Redressal Forum has applied its mind to the allegations contained in the complaint, its defence and to the material on record in support of it and how it reached its conclusion. It is, therefore, necessary to set out some reasoning as will make clear how it reached that conclusion.

4. THE order under appeal is bereft of any reason or any finding of the existence of a consumer dispute or any satisfaction of any deficiency of service on the part of the Opposite Party. THE order under appeal is hereby set aside and the case is remanded to the State Commission for de novo decision in accordance with the observations made herein and in accordance with law. Appeal disposed of.

