(2005) 07 NCDRC CK 0039

In the National Consumer Disputes Redressal Commission

Surji Devi Lohia APPELLANT

Vs

S B I Mutual Fund RESPONDENT

Date of Decision : 04-07-2005

Acts Referred:

Citation : 2005 4 CPJ 244

Hon'ble Judges : V.K.AGRAWAL , VEENA MISRA , R.S.AWASTHIS J.

Judgement

1. THIS is an appeal under Section 15 of the Consumer Protection Act, 1986 (the Act) directed against the order passed by the District Consumer Disputes Redressal Forum, Rajnandgaon, (hereinafter referred to as the District Forum for short) against the order passed by the District Forum in Complaint No. 183/2000 dismissing the complaint.

2. THE grievance of the complainant is that he invested Rs. 1,00,000 in S.B.I. Magnum Sector Fund Umbrella (IT) on 29.2.2000 by depositing the amount with the Rajnandgaon Branch of the State Bank of India. The said mutual fund is one of the various schemes under which investors are invited to invest. It is further contended that as per the rules framed by SEBI the letter of allotment and statement of account is to be furnished to the investor within 42 days of the date of deposit of the invested amount. Statement of account furnished to the investor on 18.5.2000. But no mention was made of the allotment in the same. Another statement of account was furnished to the investor on 2.6.2000 in which the details of allotment were included. Thus, he was deprived of exercising the option of resale or Switch over of the said units between the period of 43rd day of investment and 2.6.2000 when the second statement was received by him. Compensation @ 2% per month from 29.2.2000 to the date of payment is prayed for as compensation along with the cost of the complaint etc. Complainant has filed her own affidavit along with the letter of offer. Respondent No. 2 has in reply stated that the necessary statement of account containing the particular of the units allotted could not be furnished because of the closure of accounting of the company. It is stated that Messrs Computronics Financial

Services Ltd. have been appointed Registrar of the scheme. It is also contended that the earlier Registrar Messrs Karvy Consultants Ltd. are liable for the delay. It is admitted that there was a delay of 30 days in despatch of account statement but it was caused for want of sufficient staff and workload. A copy of the offer letter is also filed on record. Learned Counsel for the appellant assailed the impugned order.

3. THE letter of offer states that the allotment is assured to all applicants. It also states that the dividend warrants will be distributed within 42 days. It was submitted on behalf of the appellant that the SEBI rules provide for furnishing of statement of accounts within 42 days of application however nothing was produced to support this contention. In view of the admission by the respondent 2 /OP 2 regarding the delay in furnishing of account only points for consideration are as to whether there is a deficiency in service and if so, what should be the compensation.

4. IN view of the letter of offer the statement of account along with dividend is to be furnished within 42 days of allotment. It is noted that the appellant/ complainant could not have exercised his right of redemption/transfer/switch over without the said statement. Therefore, the respondents are certainly deficient to that extent. As regards the amount of compensation no material as to the loss suffered is on record although compensation @ 2% per month has been claimed. But the appellant/complainant certainly was put to inconvenience by the delay as discussed above. In our opinion the District Forum has erred in appreciating the facts and the material on record in the proper perspective. Therefore, in view of the above discussion the impugned order can not be affirmed and is set aside. The appeal succeeds and the complaint is allowed. In our opinion an amount of Rs. 5,000 deserves to be awarded to the complainant.

5. THEREFORE , the respondents are directed to pay Rs. 5,000 (Rs. five thousand only) to the appellants as compensation with interest @ 9% from the date of complaint within 2 months from the date of this order. In case of default the above amount will carry interest @ 12% Appeal allowed.

