
(2016) 10 NCDRC CK 0072

In the National Consumer Disputes Redressal Commission

Case No : 1604 of 2015

THE SECRETARY, DISTRICT HORTICULTURAL PRODUCE
GROWERS CO-OP. MARKETING & PROCESSING SOCIETY LTD.

APPELLANT

Vs

NAGAPPA & ORS.

RESPONDENT

Date of Decision : 27-10-2016

Acts Referred:

Citation : 2016 4 CPR 437

Hon'ble Judges : D.K. Jain, M. Shreesha

Advocate : Chinmaya Deshpande

Final Decision : Petition disposed

Judgement

1. This group of 11 Revision Petitions have been preferred by the Secretary, District Horticultural Produce Growers Coop. Marketing & Processing Society Ltd., questioning the correctness and legality of the common order dated 26.9.2014 passed by the Karnataka State Consumer Disputes Redressal Commission, Bangalore (for short "the State Commission") in group of Appeals filed by the Complainants, National Seeds Corporation Ltd and the present Petitioner, the dealer of the seeds manufactured by the National Seeds Corporation, Opposite Parties No.6 and 2 respectively. By the impugned order, while allowing the Appeals (Appeals No.2546/2011 - 2548/2011, 2551/2011 and 3157/2011 - 3163/2011) filed by the Complainants and the Appeals (Appeals No.3183/2011 - 3193/2011 and 413/1012) filed by the present Petitioner together with the Department of Horticulture and dismissing the Appeals (Appeals No.445/2012 - 455/2012 and 505/2012) filed by the manufacturer, (National Seeds Corporation) against the orders, all dated 19.7.2011, passed by the District Forum, Dharwad in Complaints No.14/2011, 187-194/2011, the State Commission has directed the Petitioner as well as the Agriculture Department, Dharwad to pay to the Complainants, jointly and severally compensation at the rate of Rs.35,000/- per acre with interest at the rate of 6% p.a. from the date of institution of the Complaints till realization on account of low yield of the potato seeds supplied by

the Petitioner to the Complainants.

2. In the first instance, the District Forum, while holding that there was deficiency in service on the part of the manufacturer as well as the dealer in supplying potato seeds to the Complainants, which were not suitable to the Dharwad District climate, had directed all the Opposite Parties to pay to the Complainants different amounts, as stated in its order, within one month with a default stipulation of payment of interest @ 6% p.a. from the date of the order till realization, if the said amount was not paid within one month from the date of receipt of a copy of the order.

3. On 24.8.2016, when the Petitions came up for motion hearing, while granting time to the Petitioners to place on record the report dated 18.10.2010, on which reliance had been placed by the fora below to arrive at the afore-noted conclusion, we had directed the Counsel to seek instructions as to the quantum of the Compensation, which would be payable to each of the Complainants in terms of the impugned order. In deference to the said order, learned counsel has placed before us the details of the amounts payable to each of the Complainants in terms of the impugned order, which vary between 35,000/- and 1,15,000/-, which in any case, cannot be said to be very large, when compared with the loss suffered by the Complainants on account of low or no yield of potato crop.

4. We have heard learned counsel appearing for the Petitioner at some length.

5. The main contention of learned counsel is that the Petitioner was only a supplier of the seeds, manufactured by National Seeds Corporation and therefore, if at all the right quality of the potato seed had not been supplied to the Complainants, resulting in lesser yield, the fault lay at the door of the manufacturer, for which lapse, the dealer could not be made liable. Additionally, the final directions in the penultimate paragraphs of the impugned order are self-contradictory. It is pointed out that a conjoint reading of the said paragraphs would show that while allowing the Appeals preferred by the Complainants, the State Commission has fastened the liability for payment of the compensation on the Petitioner and the Agriculture Officer, and at the same time, in the next paragraph it has allowed the Appeals preferred by the Petitioner, whereby they had contested the liability fastened on them by the District Forum, and thus, exonerating them from any kind of liability towards the Complainants. It is urged that the directions in the said two paragraphs need clarification.

6. Having carefully perused the impugned order, with reference to the material on record, we are of the view that in so far as the question of supply of seeds, unsuitable for the Dharwad District, is concerned, having regard to the object for which the Petitioner Co-operative Society had been formed; the fact that the manufacturer also happens to be a Public Sector Undertaking, expected to be fully alive to the requirements of the farmers, as also the fact that the concurrent finding of fact recorded by both the Fora below, relating to the deficiency in service, is based on the report of an expert, namely, Dr.K. Ramachandra Naik,

opining that the seeds supplied to the Complainants were defective, resulting in low germination and low yield, we are not inclined to interfere with the said finding, more so, when the said finding is challenged as being perverse. Hence, the said finding is affirmed.

7. However, in so far as the question about the confusion with regard to the liability for payment of the compensation awarded by the State Commission to the Complainants is concerned, we find substance in the contention of the learned Counsel. Having carefully perused the directions, in the three concluding paragraphs, we agree with the learned Counsel that having allowed the Appeals preferred by the Petitioner, the direction in the immediately preceding paragraph, making it liable for payment of the amount of compensation awarded in favour of the Complainants, is incongruous, particularly, when the Appeals filed by the National Seeds Corporation, questioning the validity of the direction issued by the District Forum, have been dismissed.

8. In that view of the matter, we are of the opinion that the matter needs to be remitted to the State Commission for clarification on the question as to which of the Opposite Parties in the Complaint is liable to pay compensation to the Complainants. However, in our view, since we have affirmed the finding by the Fora below on the question of deficiency in service on the part of the Petitioner and the manufacturer and consequent award of compensation, it is unnecessary to issue notice to the Complainants, which would otherwise cause unnecessary harassment to them and extra-financial burden on the Petitioner.

9. In view of the above, the Revision Petitions are partly allowed; the impugned order is set aside to the aforesaid limited extent and the Appeals are restored to the Board of the State Commission for clarification on the directions issued by it in the penultimate paragraphs, regarding discharge of liability towards the Complainants. The State Commission shall clearly specify as to which of the Opposite Party(s) is liable to pay to the Complainants, the compensation awarded in their favour.

10. The Petitioner/its counsel shall appear before the State Commission on 5.12.2016 for further proceedings.

11. Needless to add that if it is felt that the necessary clarification cannot be issued without hearing other parties, it will be open to the State Commission to issue notice to them, save and except to the Complainants.

12. Since the Complaints were filed as far back as in the year 2011, we request the State Commission to pass appropriate orders on the afore-noted aspect of the matter as expeditiously as possible and in any case, not later than three months from the date of receipt of a copy of this order.

13. All the Revision Petitions stand disposed of in the above terms.