(2003) 12 NCDRC CK 0029

In the National Consumer Disputes Redressal Commission

USHA BAVEJA APPELLANT

Vs

STEEL AUTHORITY OF INDIA Limited RESPONDENT

Date of Decision : 23-12-2003

Acts Referred:

Citation : 2004 3 CLT 667 : 2004 3 CPJ 431

Hon'ble Judges : Rumnita Mittal , Mahesh Chandra J.

Final Decision : Appeals partly allowed

Judgement

1. THESE six appeals have been filed under Section 15 of the Consumer Protection Act, 1986 (hereinafter referred to as ''the Act'') against a common order dated 22.1.1998, passed by District Forum-II (South), in Complaint Case Nos. 118/97, 119/97, 120/97, 121/97 and 122/97. All the five cases were disposed of by a common order by the District Forum. The dispute in all the cases is the same and hence all the six appeals are being decided by this common order.

2. THE facts relevant for the disposal of these appeals are as follows: All the complainants are holders of equity shares of the respondent-Steel Authority of India Limited. THE respondent had declared dividend of 0.60 p. per equity share in the Annual General Meeting held on 26.9.1995. However, the dividend warrants were not issued to the appellants despite several reminders. THE appellants demanded the dividend amount with interest and filed separate complaints before the District Forum. However, the complaints were dismissed by the learned District Forum on the ground that no deficiency has been proved against the respondent. THE learned District Forum also imposed a cost of Rs. 250/- on the complainant in each case under Section 26 of the Act as it found the complaints to be frivolous and vexatious. Aggrieved by this order of the District Forum, the complainants have filed these appeals challenging the order dated 22.1.1998. The case of the respondent before the District Forum was that they had issued dividend warrants to the appellants within 42 days from the date of the Annual General Meeting. However, when they were informed by the

appellants that the dividend warrants had not been received by them, the respondents checked up their record and found that the dividend warrants sent to the appellants were not received back undelivered in their office. Hence the respondent agreed to issue duplicate warrants of due amount to each of the appellant and requested the appellants to submit an indemnity bond on the approved format on plain paper. However, the appellants failed to furnish the required indemnity bond and hence duplicate dividend warrants were not issued.

We have heard both the parties in detail and have carefully considered the material on record. The facts are not disputed. It is admitted by the respondent that the appellants are holders of equity shares and that dividend of 0.60 p. per equity share was declared in the Annual General Meeting held on 26.9.1995. It is also not disputed that the dividend warrants were issued by the respondent to the appellants but according to the appellants they were not received by them. The appellants informed the respondent about it and the respondents asked the appellants to submit indemnity bond on plain paper so that duplicate dividend warrants can be issued. The appellants, however, refused to do so and asserted that they were not bound to submit indemnity bond. Considering the adamant attitude of the appellants before before the Forum in not submitting the indemnity bonds, the District Forum dismissed the complaint as the default was on the part of the appellant and there was no deficiency on the part of the respondent. The appellants have filed a certificate from Gupta, Sachdeva and Co., Chartered Accountants, certifying that duplicate dividend warrants can be issued in lieu of unreceived/unreleased dividend warrants after establishing the title of the claimant without production of any indemnity bond where the amount of the dividend warrant is not more than Rs. 2,500/-, as per Rule 6, Sub-rule (5) of the Companies Unpaid Dividend (Transfer to General Revenue Account of the Central Government) Rules, 1978, which reads as under: "Notwithstanding anything contained in Sub-rules (3) and (4), the Registrar of Companies may, where the amount claimed is not more than Rs. 2,500/-, and the claimant establishes his title to the money claimed to his satisfaction, issue an order sanctioning the payment of the amount due to the claimant without production of the indemnity bond referred to in Sub-rule (4)."

3. IT is relevant to note that before making the payment the claimant has to establish his title to the money claimed to the satisfaction of the Registrar of Companies. In the instant case since the dividend warrants were not received back undelivered by the respondents, it was necessary to establish the title of the claimants and for this purpose the respondent demanded indemnity bond. An indemnity bond is a consumer friendly instrument which enables the claimant to obtain duplicate cheque or dividend warrant. From the document on record it is apparent that the respondent demanded the indemnity bond on plain paper. However, the appellants refused to submit any indemnity bond without any ground. The adamant attitude of the appellants led the District Forum to hold that it was the appellants who were responsible for non-issue of duplicate dividend warrants and there was no deficiency on the part of the respondent.

There appears no infirmity in the finding of the learned District Forum on this account. Hence the District Forum was justified in dismissing the complaints as no deficiency was proved against the respondent and the appellants were themselves responsible for delay in issue of duplicate dividend warrants. Hence we do not find any force in all the appeals. However, the order of the District Forum to impose cost of Rs. 250/- each of the appellants cannot be sustained and hence this part of the order has to be set aside. There are no sufficient grounds to give a finding that the complaint is frivolous and vexatious. In view of the above all the appeals are partly allowed. As regards the finding of learned District Forum regarding the submission of indemnity bond and issue of duplicate dividend warrants is concerned it is sustained. However, the cost of Rs. 250/- imposed on the appellants in each case is set aside. The respondents, however, are directed to issue duplicate dividend warrants in favour of the appellants on submission of indemnity bond as required under rules. All the six appeals are disposed of in above terms. A copy of this order be placed in all the six appeals. Appeals partly allowed.

