

(2017) 03 NCDRC CK 0083

In the National Consumer Disputes Redressal Commission

Case No : 528 of 2017

UTTAR HARYANA BIJLI VITRAN NIGAM

APPELLANT

Vs

KAZANA RAM@KAZANA

RESPONDENT

Date of Decision : 14-03-2017

Acts Referred:

Consumer Protection Act, 1986, Section 21(b) - Jurisdiction of the National Commission

Citation : 2017 2 CPR 356

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

Advocate : Vivek Gupta

Judgement

1. By this Revision Petition, under Section 21(b) of the Consumer Protection Act, 1986 (for short "the Act"), Uttar Haryana Bijli Vitran Nigam Limited, impleaded as Opposite Parties No. 1 and 2 in the Complaint under the Act, calls in question the correctness and legality of the order dated 14.07.2016, passed by the Haryana State Consumer Disputes Redressal Commission, Panchkula (for short "the State Commission") in First Appeal No. 1072 of 2015. By the impugned order, the State Commission has dismissed the Appeal, preferred by the Petitioner herein. In effect, the order dated 09.11.2015, passed by the District Consumer Disputes Redressal Forum, Kaithal (for short "the District Forum") in Complaint Case No. 4/15, preferred by the Respondent/Complainant, alleging deficiency in service on the part of the Petitioner in not releasing the tube-well connection to him, stands affirmed. By the said order, while partly allowing the Complaint, the District Forum had directed the Petitioner to refund the excess amount of 57,500/- received from the Complainant, besides a lump-sum compensation of 2,200/- on account of harassment, litigation costs etc. The said directions were to be complied within a period of 30 days, failing which the Petitioner was directed to pay to the Complainant interest @ 8% p.a. from the date of the order till payment.

2. By depositing the security amount of 1,250/-, against Receipt No. 89 dated 02.07.2012, the Complainant had applied for a tube-well connection with the

Petitioner Nigam. Despite several requests, the Nigam did not release the said connection to the Complainant, more so, when such connections had been released to the similarly placed persons, junior to the Complainant. In the said background, alleging deficiency in service on the part of the Petitioner Nigam on the said count, the Complainant preferred the afore-noted Complaint before the District Forum.

3. Upon contest and appreciation of the evidence adduced before it, the District Forum, as noted above, partly allowed the Complaint and issued the afore-noted directions to the Petitioner Nigam.

4. Aggrieved the Petitioner Nigam unsuccessfully carried the matter further in Appeal to the State Commission. Hence, the present Revision Petition.

5. It is pointed out by the Office that the Revision Petition is barred by limitation, inasmuch there is a delay of 120 days in filing the same. An Application, praying for condonation of the delay, has been filed along with the Revision Petition. In paragraphs 3 ? 8 of the said Application, the Petitioner has furnished the following explanation: "3. That the Hon?ble State Commission decided the matter on 14.07.2016 and Petitioner received the copy of the impugned judgment on 02.08.2016 and after receive the copy of impugned judgment, Petitioner sent the file to the Legal Remembrancer, Panchkula for the legal opinion.

4. After to examine the record, the Legal Remembrancer, Panchkula advised the Petitioner to file Revision Petition before the Hon?ble National Commission.

5. After to get the legal opinion from the Legal Remembrancer, Panchkula, file of the above mentioned case was sent to Ld. Advocate General Office, Chandigarh for the appointment of advocate to defend the case before Hon?ble National Commission.

6. That the Ld. Advocate General appointed present counsel to defend the case. After the appointment of present counsel in December, 2016 file was sent to present Counsel at Delhi. After the scrutiny of the documents, counsel found some documents missing from the record and asked the Petitioner to provide those documents.

7. That in the month of January, 2017 the Petitioner provided these documents to present counsel and after that petition has been drafted and sent back to Petitioner for approval.

8. That the counsel received the Petitioner after the due approval from the Petitioner on 16.02.2017."

6. We have heard learned counsel for the Petitioner Nigam on the question of delay.

7. Bearing in mind the broad principles laid down in a catena of decisions by the Hon?ble Supreme Court, particularly its observations that when a Statute

provides for a particular period of limitation, it has to be scrupulously applied, as an unlimited limitation leads to a sense of uncertainty, we are of the opinion that the explanation furnished by the Petitioner is absolutely unsatisfactory and deserves to be out-rightly rejected.

8. Admittedly, the certified copy of the impugned order dated 14.07.2016 was obtained by the Petitioner Nigam on 02.08.2016. On receipt of the same, bearing in mind the limited period of 90 days, as provided under Regulation -14 of the Consumer Protection Regulations, 2005, the Petitioner was required to pursue the matter with some sense of urgency and file the Revision Petition within the said period. However, it has been filed only on 28.02.2017, with an inordinate delay of 120 days, over and above the aforesaid permissible period. The said delay is sought to be explained on the basis of off-repeated explanation to the effect that the file was sent to the Legal Remembrancer, and, on his advising to file the Revision Petition before this Commission, the file was sent to the Advocate General, who appointed the present Counsel in December, 2016; and the said Counsel, after completing the necessary formalities, ultimately filed the present Revision Petition, with the aforesaid inordinate delay. While the Application is conspicuously silent with respect of the date-wise developments, including movement of the file from one desk/office to another, taking place in the matter, evidently the Petitioner took four months in getting an Advocate appointed to defend its case. Though on the date, when the said Advocate had been appointed, the limitation period available for filing the Revision Petition was already over, at this stage too the Petitioner took more than a month in according its approval to the draft Revision Petition sent to it by the said Advocate. In view of the said facts, it is clear that the Petitioner did not show any seriousness in processing the matter expeditiously to ensure that the Revision Petition was filed within time.

9. In this view of the matter, we are of the opinion that the Petitioner Nigam has failed to make out a sufficient cause for condonation of inordinate delay of 120 days in filing the Revision Petition, which we are not inclined to condone, in the given facts and circumstances of the case.

10. Resultantly, the Revision Petition deserves to be dismissed as barred by limitation and is dismissed accordingly.