

(1999) 12 NCDRC CK 0027

In the National Consumer Disputes Redressal Commission

VIVEK HATCHERIES (P) LTD.

APPELLANT

Vs

GURMAIL SINGH

RESPONDENT

Date of Decision : 23-12-1999

Acts Referred:

Citation : 2000 1 CLT 639 : 2000 2 CPJ 104 : 2001 1 CPC 511

Hon'ble Judges : H.S.Brar , Jasbir Singh , Davinder Kaur Bhamrahs J.

Final Decision : Appeal dismissed

Judgement

1. BRIEF factual position as taken from the record of this case is that the complainant is carrying on business of poultry farming. On 14.10.1997 the complainant contacted respondent No. 2, Kulwant Singh, who is agent/ representative of respondent No. 1, who is supplier of broiler chicks and booked an order with respondent No. 2 for supply of chicks @ Rs. 9/- per chick at his poultry farm. He paid Rs. 7,000/- in advance at the time of booking on 14.10.1997 to respondent No. 2, who issued the receipt of the above said amount and assured the complainant on behalf of respondent No. 1 to supply the chicks on 14.10.1997. Respondent No. 1 supplied chicks on 21.12.1997 with the assurance that the chicks supplied were broilers.

2. THE complainant started feeding and caring the chicks supplied as per the assurance of the respondent No. 1 and spent huge amount for feed, labour, upbringing which includes electricity consumption, water consumption charges for upbringing the chicks. But their growth rate was very poor. THE average weight of a broiler should have been 1250 grams in 45 days in case of broiler chicks, but the chicks supplied by the respondents was weighing only 250 grams in 45 days time. THE respondents were approached and were asked about the poor growth rate of the chicks and were asked to inspect the poultry farm. THE respondents visited his poultry farm but declined to compensate. It is further, alleged in the complaint that the complainant and other poultry farmers made a complaint to the Deputy Commissioner, Nawan Shahr on 19.1.1998 for examining the chicks supplied by respondent No. 1 from the appropriate

authority of the Animal Husbandry, Nawan Shahr. Deputy Director, Animal Husbandry examined the chicks at the poultry farms of the complainant as well as of the others and submitted his report to the Deputy Commissioner on 27.2.1998. As per this report, it was ascertained that the chicks supplied to the poultry farms were not broilers but were male cockerels, photostat copy of the report of the Deputy Director, Animal Husbandry, Nawan Shahr was also attached with the complaint. This complainant has also filed an affidavit supporting the particulars given in the complaint. Reply was filed on behalf of respondent No. 2. He has admitted that he was approached by the complainant for supplying the broiler chicks and the receipt of Rs. 7,000/- was issued and after the payment was received by him (i.e. respondent No. 2). It was further submitted in the reply that the payment so received was sent to respondent No. 1, M/s. Vivek Hatcheries. Other facts alleged in the complaint were denied by respondent No. 2. That reply is also in the form of affidavit filed by Kulwant Singh, respondent No. 2. Reply was also filed by respondent No. 1. In para No. 1 of the reply, it has been stated that respondent No. 2 was dismissed from service by respondent No. 1 on 17.11.1997 due to non-performance of duties and due to misconduct. It is then alleged in the reply that this decision was also published in the newspaper, the Indian Express, Chandigarh Edition. It is further submitted in the reply that in these circumstances the respondent No. 2 was not entitled for booking and delivery of the chicks and thus it may be taken that the replying respondent did not supply chicks to the complainant. It alleged in the reply that the complaint has been filed for the purpose of extorting money by the complainant on the instigation of and in collusion with respondent No. 2. It was also stated in the reply that the date of booking of chicks was 20.12.1997 and the alleged supply was made on 21.12.1997 by respondent No. 2. Thus, it is showed that the chicks could not be supplied by respondent No. 2 within a day as the distance between the poultry farm and head office of respondent No. 1 was about 300 k.m. and chicks could not be prepared and supplied on the same date. After hearing the learned Counsel for both the parties and going through the record, the District Forum held that respondents/opposite parties were guilty of supplying wrong chicks to the complainant which were never desired, which amounted to negligence and inefficiency in service on the part of the respondents. THE District Forum, thus, ordered that Rs. 5,000/- be awarded as compensation to the complainant by the opposite parties. In this appeal, against the order of the District Forum, similar objections which were taken before the District Forum have been repeated. We have heard the representative of the appellant and have gone through the record. We do not find any infirmity in the order of the District Forum. There is no evidence on the file which could prove that respondent No. 2, Kulwant Singh, representative of the respondent No. 1 was removed from his service on 14.10.1997 when the order was placed by the complainant for supply of the broiler chicks. Even this fact is not fortified from the record that on the day of supply of chicks on 10.12.1997, the respondent No. 2 Kulwant Singh was not in the service of respondent No. 1. It has not been stated in the reply as to on which date services of respondent No. 2 were dispensed with by respondent No.

1. A reference has been made to public notice published in the Indian Express, Chandigarh Edition. If anything can be made out from this notice is that it is dated 8.1.1998 i.e. much after the supply of the chicks was made by respondent No. 2. This objection of respondent No. 1 that respondent No. 2 was not authorised to supply the chicks to the complainant as he was turned out of service by them is thus, without any foundation. This objection thus only needs rejection. It shall, thus, be taken that the supply of the chicks was made to the complainant by respondent No. 2 on behalf of respondent No. 1. It has been found as a fact by the District Forum after taking into consideration the report of Deputy Director of Animal Husbandry as well as the other evidence on the file that instead of supplying broiler chicks only cockerels were supplied by the respondents to the complainant. There is no cogent evidence on the file to the contrary. Cockerels certainly weighed much less and were of inferior quality as compared to broiler chicks. Complainant had demanded the broilers but he was supplied cockerels instead. It amounts to unfair trade practice also on the part of the opposite parties. The opposite parties were also found to be deficient in performing service to the complainant. In these circumstances, we are not inclined to interfere with the order of the District Forum, which is hereby affirmed. This appeal is consequently dismissed with costs, which are quantified at Rs. 1,000/-. Appeal dismissed.