

(2024) 02 NCDRC CK 0009

National Consumer Disputes Redressal Commission

Case No: Revision Petition No. 355 Of 2019

Superintendent Of Post Offices &
Anr

APPELLANT

Vs

Pramil Kumar Panda

RESPONDENT

Date of Decision: Feb. 9, 2024

Acts Referred:

- Consumer Protection Act, 1986 - Section 21(b)
- Consumer Protection Act, 2019 - Section 58(1)(b)

Hon'ble Judges: Avm J. Rajendra, Avsm Vsm (Retd.), Presiding Member

Bench: Single Bench

Advocate: Gigi C. George, Vedant Kumar Mund

Final Decision: Dismissed

Judgement

Avm J. Rajendra, Avsm Vsm (Retd.), Presiding Member

1. This Revision Petition No. 355 of 2019 challenges the impugned order of Orissa State Consumer Disputes Redressal Commission, Cuttack ('the State Commission') dated 08.08.2018. Vide this order, the State Commission dismissed C.D.A.No.977 of 2004 and affirmed the order of the District Consumer Disputes Redressal Forum, Nuapada ('the District Forum') dated 13.08.2004.

2. Brief facts of the case, as per the Complainant, are that he purchased Indira Vikas Patra (IVP) on different dates amounting to Rs. 6,50,000/- The IVPs were lost on 15.6.2003 and Station Diary entry dated 15.6.2003 was made at Jayapatna Police Station regarding loss of the VPs. The IVPs could not be traced. Complainant approached the Postal authorities for payment of maturity value of the IVPs. Since no action was taken for payment, complaint was filed before the District Forum by the Complainant seeking

the OPs for payment of the maturity value of the lost IVPs.

3. In reply, the OPs resisted the complaint and asserted that as per Rule 7(2) of Indira Vikas Patra Rules, 1986 if a certificate lost, stolen, mutilated, defaced or destroyed will not be replaced by any Post Office. The OPs denied their liability to pay for the lost VIPs.

4. The learned District Forum vide order dated 13.08.2004, allowed the complaint and directed the Opposite Party as under:

"1) The Opposite Parties are directed to pay the matured amount of the IVPs worth of Rs.6,50,000/- (Rupees Six Lakhs and Fifty Thousand) only mentioned in the complaint petition after obtaining an indemnity bond in favour of the OPs by the Complainant within 45 days from the date of Judgment.

2) In the above circumstances, Parties to bear their own cost."

5. Being aggrieved by the impugned order, the Petitioners filed an Appeal before the State Commission. The learned State Commission, vide order dated 08.08.2018 observed as follows:

"In assailing the impugned order learned counsel for the appellants strenuously contends that the impugned order is unsustainable in view of provision under Rule 7(2) of the Indira Vikas Patra Rules, 1986 and the decision of the Hon'ble Supreme Court in Central Govt. of India vrs. Krishna Ji Parvetesh Kulkarni 2006 STPL 7058 SC. It is contended that IVP is like a currency note and in case it is lost, stolen, mutilated, defaced or destroyed beyond recognition, it is the holder thereof who is responsible for the same and the Postal Department is not liable to pay the maturity value.

Per contra, learned counsel for the respondent/ complainant submits that Rule 7(2) of the IVF Rules, 1986 simply prohibits replacement of lost certificates. There is no rule prohibiting payment of maturity value subject to filing of indemnity bond. It is contended that in the Post Master, Post Office vrs. Shahnaz Khan rendered in R.P. No. 1718 of 2007 on 9.7.2015, Hon'ble National Commission, New Delhi upon reference to the decision of the Hon'ble Supreme Court in Central Govt. of India vrs. Krishna Ji Pawetesh Kulkarni (Supra) has pointed out that though duplicate IVPs cannot be issued, the maturity value can be paid subject to filing of indemnity bond.

Learned counsel for the respondent also placing reliance on decision of the Hon'ble High Court of Orissa in the Post Master General, Sambalpur and another vrs. Miss. Sanjukta Hota 2018 (1) ILR CUT 99 submits that the Postal authorities being instrumentality of the State, should not adhere to technicalities and should pay maturity value of IVPs which is found to have lost, destroyed or damaged.

Having heard the learned counsel for the parties and upon perusal of the materials on record, as pointed out by the learned District Forum in the impugned order, it appears that the complainant examined appellant No. 2 as a witness and said witness categorically stated in his deposition that the complainant purchased the disputed IVPs. Therefore, it has to be decided as to whether a direction can be made by the Consumer Fora for payment of maturity value of the IVPs to a person who claims to have purchased the same. In this context, learned counsel for the appellant has relied upon the decision of the Hon'ble Supreme Court in Central Govt. of India vrs. VIS. Krishna Ji Parvetesh Kulkarni (Supra). The said decision has been referred to by the Hon'ble National Commission in Post Master, Post Office vrs. Shahnaz Khan (Supra) and it has been held at Paragraph 12 and 13 as follows:-

"We may, note that vide its order dated 14.07.2009 passed in the case of Union of India & Ors Vs. Ajay Kumar Tatiya (R.P.No.685 of 2009), this Commission has dismissed the revision petition filed by the Union of India challenging the order of the State Commission upholding the order of the District Forum accepting the complaint on the ground that the point under consideration in the case of Krishnaji Parvetesh Kulkarni (Supra) was different. In this context, it may be appropriate to reproduce the observations of this Commission in Ajay Kumar Tatiya's case in which the National Commission while dismissing the revision petition of the Union of India and upholding the order of the State Commission observed thus:-

Counsel for the petitioner relying upon judgment of the Supreme Court in Central Government of India & Ors. us. Krishnaji Parvetesh Kulkarni - (2006)4 SCC 275 contends that an IVP is akin to an ordinary currency note. It bears no name of the holder. Just as a lost currency note cannot be replaced the question of replacing a lost IVP does not arise. Rule 7(2) of the Indira Vikas Patra Rules, 1986 makes the position clear that the duplicates of IVPS cannot be issued.

Point in the said case was different. We respectfully agree with the view taken by the Supreme Court that duplicate IVPs cannot be issued but the maturity value can be ordered to be paid subject to issuance of the Indemnity Bond. If any person comes forward claiming the maturity amount by producing the original IVPs, then the petitioner would have the right to recover the same from the respondent on the basis of the Indemnity Bond given by him. In this process no loss would be caused to the petitioner. Petitioner cannot be allowed to enrich itself at the cost of the poor investor, specially when the interest of the petitioner is being fully protected. Dismissed.

13. We are of the considered view that the judgment of this Commission in the case of Ajay Kumar Tatia (supra) is fully attracted to the facts and circumstances of the present case. Thus, we find that the view taken by the District Forum and the State Commission is in line with the view taken by this Commission in the case of Ajay Kumar Tatia (supra). We also agree with the State Commission that interest cannot be paid to the complainant from the date of maturity as claimed by her keeping in view her contributory negligence in the matter. We therefore, uphold the impugned order and dismiss the revision petition with no order as to costs."

In the present case also direction has been made in the impugned order for payment of maturity value of the IVPs on submission of indemnity bond. There's no direction for issuance of duplicate IVPs.

In the decision of the Hon'ble High Court in Post Master General, Sambalpur and another yrs. Miss. Sanjukta Hota (Supra) also the order passed by the Trial Court and First Appellate Court directing the Postal Authorities to pay the maturity value of the destroyed IVPs was upheld. In the aforementioned circumstances, we have no hesitation to hold that the learned District Forum has not committed any illegality in directing payment of maturity value of the lost IVPs to the respondent/complainant. We find no cogent reason to interfere with the impugned order.

In the result, the appeal is dismissed."

6. The learned counsel for the Petitioners reiterated the grounds in the Revision Petition and asserted that the Complainant had not produced even a single document to support his claim like Xerox copy of certificate, Income Tax Returns of relevant years, any bank withdrawal statement for the relevant time, any Diary maintained by him showing the same that he had invested such a huge amount for purchasing the Indira Vikas Patra from the Petitioners except the false words uttered from the amount of the complainant. He sought the impugned orders of the lower fora be set aside. He has relied upon the following judgments:

(a) Central Government of India & Ors. Versus Krishna Ji Parvetesh Kulkarni, 2006 STPL 7058 SC;

(b) The Superintendent of Post Office, Bolangir Division, Bolangir, Odisha Vs. Chhagan Lal Jain, Civil Appeal Nos.1894-1895 of 2020, decided on 02.03.2020 by the Hon'ble Supreme Court.

7. The learned Counsel for the Respondent/Complainant argued in support of the impugned orders passed by the learned District Forum and the State Commission.

8. I have examined the pleadings and associated documents placed on record, including the reasoned orders of the learned District Forum and the learned State Commission and rendered thoughtful consideration to the arguments advanced by the learned Counsels for both the parties.

9. The learned District Forum issued a well-reasoned order based on evidence and arguments advanced before it. The learned State Commission, after due consideration of the pleadings and arguments, determined that no intervention is warranted on the District Forum's order. This was primarily because direction has been made in the impugned orders for payment of maturity value of the IVPs on submission of indemnity bond. There is no direction for issuance of duplicate IVPs. This order is now under challenge at the revision stage.

10. It is a well settled position in law that the scope for Revision under Section 21(b) of the Consumer Protection Act, 1986 and now under Section 58(1)(b) of the Consumer Protection Act, 2019 confers very limited jurisdiction on this Commission. In the present case, there are concurrent findings of the facts and the revisional jurisdiction of this Commission is limited. After due consideration of the entire material, I do not find any illegality, material irregularity or jurisdictional error in the impugned Order passed by the learned State Commission warranting our interference in revisional jurisdiction under the Act. I place reliance on the decision of the Hon'ble Supreme Court in the case of '**Rubi (Chandra) Dutta Vs. M/s United India Insurance Co. Ltd.**, (2011) 11 SCC 269.

11. In addition, Hon'ble Supreme Court in '**Sunil Kumar Maity vs. SBI & Anr.** Civil Appeal No. 432 OF 2022 Order dated 21.01.2022 observed as follows:-

"9. It is needless to say that the revisional jurisdiction of the National Commission under Section 21(b) of the said Act is extremely limited. It should be exercised only in case as contemplated within the parameters specified in the said provision, namely when it appears to the National Commission that the State Commission had exercised a jurisdiction not vested in it by law, or had failed to exercise jurisdiction so vested, or had acted in the exercise of its jurisdiction illegally or with material irregularity. In the instant case, the National Commission itself had exceeded its revisional jurisdiction by calling for the report from the respondent-bank and solely relying upon such report, had come to the conclusion that the two fora below had erred in not undertaking the requisite in-depth appraisal of the case that was required."

12. Similarly, in a recent order the Hon'ble Supreme Court in '**Rajiv Shukla Vs. Gold Rush Sales and Services Ltd.** (2022) 9 SCC 31 has held that:-

As per Section 21(b) the National Commission shall have jurisdiction to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any State Commission where it appears to the National Commission that such State Commission has exercised its jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity. Thus, the powers of the National Commission are very limited. Only in a case where it is found that the State Commission has exercised its jurisdiction not vested in it by law, or has failed to exercise the jurisdiction so vested illegally or with material irregularity, the National Commission would be justified in exercising the revisional jurisdiction. In exercising of revisional jurisdiction the National Commission has no jurisdiction to interfere with the concurrent findings recorded by the District Forum and the State Commission which are on appreciation of evidence on record.

13. Based on the deliberations above, I do not find any merit in the present Revision Petition and the same is, therefore, Dismissed.

14. Keeping in view the facts and circumstances of the present case, there shall be no order as to costs.

15. All pending Applications, if any, also stand disposed of accordingly.