

(2024) 11 NCDRC CK 0001

National Consumer Disputes Redressal Commission

Case No: Revision Petition No. 1097, 1098 Of 2022

Bhagwati Devi Bais & 2 Ors

APPELLANT

Vs

Prakriya Prabhari (Process
In-Charge) & Anr

RESPONDENT

Date of Decision: Nov. 19, 2024

Hon'ble Judges: A. P. Sahi, President Member; Bharatkumar Pandya, Member

Bench: Division Bench

Advocate: Anis Ur Rehman, Trivikram Nayak

Final Decision: Allowed

Judgement

Justice A.P. Sahi, President

1. These two revision petitions arise out of a dispute regarding claim of indemnification for supply of non-standard and uncertified soya bean seeds by the respondents. The claim as set out was that the petitioners in RP/1097/2022 purchased 2.10 quintals of soya bean seeds for sowing on 7 acres of land. The complainant in RP/1098/2022 made similar allegations, where they alleged to have purchased 5.40 quintals of soya bean seeds for sowing on 18 acres of land. It is in this background that the claim of indemnification was made and reliance was placed on several documents including the Panchnamas that were prepared during inspection by the Rural Agricultural Extension Officer which supported the claim of the loss, certifying that the soya bean seeds did not germinate in spite of having been appropriately sown by the petitioners. This was also followed by other documents but the District Commission relying on certain revenue records came to the conclusion that the complainants had failed to establish the linkage of sowing of the soya bean seeds on the plots of land that belonged to the complainants. The Commission held that since the complainants could not establish over which plot numbers they had cultivated their soya bean crops, the claim was not

entertainable. The revenue records relied on according to the order of the Commission related to and reflected the crops of paddy, lentils and other crops but not of soya bean. It was held that since the revenue records did not indicate the existence of soya bean cultivation as alleged, hence the claim was not admissible.

2. Aggrieved, the petitioners filed appeals before the State Commission. Vide order dated 27.06.2022, the appeals were summarily dismissed at the admission stage itself. Hence, the present revision petitions.

3. Learned counsel for the petitioners contends that the petitioners had purchased the seeds about which there is no dispute. Further the said seeds were sent for testing by the Deputy Director Agriculture, District Kabirdham, Chhattisgarh and the report dated 02.07.2020 is on record which indicates that the seeds were found to be substandard. It is therefore urged that this fact of supply of substandard seeds was acknowledged and the price of the seeds was also reimbursed to the petitioners, but no compensation was paid with regard to the loss of crops which the petitioners had suffered on account of non-germination of substandard seeds supplied to them.

4. Learned counsel for the respondents has vehemently opposed the contentions raised and has urged that in the absence of any recording of the sowing of the soya bean seeds and the description of the area of the land over which it was sown, there was no occasion for the complainants to have filed the complaints. Learned counsel has emphasized that neither the name of the persons who were involved in the agricultural operations nor the description of the tractor or the name of the driver or any other document to evidence the actual cultivation was filed, hence the factum of sowing of the seeds was not established. There is no expert evidence with regard to the alleged germination of the seeds or otherwise hence the complainants have failed to discharge their onus of proving their own case. It is further submitted that findings of fact have been recorded by both the fora below which ought not to have been disturbed in the exercise of revisional jurisdiction, which is for a limited purpose as held by the Apex Court in the case of **Rubi (Chandra) Dutta Vs. United India Insurance Company Limited**, (2011) 11 SCC 269 as followed later on in the case of **Rajiv Shukla Vs. Gold Rush Sales and Services Limited & Anr.**, (2022) 9 SCC 31.

5. We have heard learned counsel for the parties. There is no doubt about the legal proposition of the scope of a revision as indicated by the Apex Court in the judgments referred to above. Nonetheless, if there is a perversity or failure to exercise jurisdiction or any other irregularities, the same is amenable to the revisional jurisdiction of this Commission. This is also reflected from the judgments that have been cited at the bar.

6. It is an admitted position that the soya bean seeds in the quantities referred to by the respective complainants/ petitioners had been purchased for being sown. The fact that the seeds were tested and were found to be of substandard quality is established

and is evident from the inspection document dated 02.07.2020. A dispute had been raised about the details of the land over which this cultivation was carried out and the revenue records relating thereto.

7. So far as the extent of land and the sowing process or the details thereof are concerned, it has been specifically pleaded by the complainants that they had purchased seeds in the quantities referred to hereinabove and the testing was carried out. This therefore proves that the soya bean seeds had been purchased for cultivation. The Field Inspection Officer/ Inspector visited the respective sites, whereafter reports were submitted, which are in the shape of Panchnama duly signed by those who were present on the spot including the petitioners. The Panchnama recording that the soya bean seeds did not germinate is dated 30.06.2020 and is at page 46 of RP/1097/2022. A similar Panchnama in respect of the complainants in the other revision petition (RP/1098/2022) has been filed and is on record. These Panchnamas clearly indicate that the soya bean seeds had not germinated.

8. The second set of Panchnama in RP /1097/2022 by the same Rural Agricultural Extension Officer is at page 54 of the paper book which records the area of the land but indicates the crops of Urad and Moong coupled with Arhar which are all varieties of lentils. The said report is of 03.08.2020, a similar Panchnama is available on record in RP/1098/2022 of the same date indicating the area of the land and the fact that paddy was sown. Consequently, both the Panchnamas are in continuity with each other and do not contradict the fact that the soya bean seeds had been purchased for the respective areas at the rate of 30 kg per acre and therefore 7 acres of land stated to have been utilized by the petitioner in RP/1097/202 and about 18 acres of land by the petitioner in RP/1098/2022. These documents were very much on record and were backed up by ample material which could not be disputed by the respondents/ opposite parties.

9. In our considered opinion when there was sufficient material to establish the purchase of seeds and further that the seeds were sown but did not germinate, then the findings made by the District Commission about the nature of the crops sown from the revenue documents was an erroneous approach. The preponderate probabilities seem to have been missed by the fora below that the soya bean seeds that are subject matter of the claim, were definitely sown but did not germinate. It is not the case of the respondents that the agricultural plots in question were left uncultivated after the soya seeds failed to germinate. It is highly probable that on failure of germination, the complainant farmers could have gone for other crops that were recorded in the field survey of the revenue records that are also reflected in the second set of Panchnamas recorded above. A farmer is not expected to leave his land fallow or uncultivated after he witnesses a failure of germination of seeds of the crop he had sown. He will not compound his losses by brooding over it and will attempt to resurrect his humble

economy by a genuine effort to minimise future losses. This possibility appears to be a probability in the present case when the complainant has succeeded in establishing that the seeds were substandard. The fora below adopted a reverse process through an inference on the strength of revenue records and the status of other crops recorded to disbelieve the claim of failure of germination. This approach is clearly contrary to the evidence on record in as much as there is nothing to contradict the claim of purchase of the seeds and failure of its germination after being sown that is confirmed by the purchase documents, the Panchnama dated 30.06.2020 and other evidence that is on record. This firmly establishes that the seeds supplied were substandard and did not germinate. A paltry repayment for the substandard seeds cannot be adequate compensation for the loss suffered, had the farmers succeeded in harvesting a heavy paying cash crop of soya beans.

10. The fora below also missed to appreciate that if the soya seeds did not germinate, there was no occasion for the revenue record to reflect soya crops. Something that did not germinate after being evidently sown, cannot manifest itself by growth. The findings therefore suffer from this patent deficit as such the impugned orders suffer from serious irregularities on account of a gross omission to consider relevant facts in correct perspective that has resulted in perversity. This being illegal, is amenable to the revisional jurisdiction of this Commission.

11. A little about reliance on revenue entries needs reference. There is a presumption of the validity of revenue records that are official documents of record of rights and possession. It is not the case that the ownership of land or its possession is doubtful. What has been observed is about the entry of the different crops in the Khasra other than soya which the fora below have relied on to reject the claim. As indicated above the very foundation of the reasoning is incorrect as the failure of germination of the soya seeds after being sown was the issue, and not what other crops were reflected in the Khasra. The reference in the revenue records of crops is a field survey of the existing crops, and not of failure of seeds to germinate. This was not a failure of crops that had grown and did not yield profits. This incident was of substandard seeds having been supplied that admittedly failed to germinate. In such circumstances the entry of other crops in the Khasra does not contradict the sowing and failure of germination of soya seeds. The Revenue documents therefore have been misconstrued by the fora below to draw an inference which is unsustainable for the reasons above. The deficiency of supply of substandard seeds is confirmed for which the complainants deserve to be compensated.

12. The report of the Rural Agricultural Extension Officer as referred to above on all the occasions was therefore justified to establish the loss suffered and the fact of the soya bean seeds having been sown on the land available by the petitioners. Once this is established there was no violation or breach of any of the terms and conditions so as to

deny the complainants/ petitioners their legitimate claim of indemnification, there was no occasion for the District Commission to have inferred the lack of evidence of sowing of the seeds. The complainants were farmers and were owning land and as a matter of fact they had purchased the seeds which according to the reports discussed above had been found not to have germinated. Thus the extent of cultivation had been established which evidence have not been appreciated by the District Commission or even by the State Commission. This failure to exercise proper jurisdiction by adverting to relevant facts is perversity and we are therefore of the opinion that the assessment of the said evidence having been omitted by the respondents renders the impugned orders invalid. The complainants had alleged deficiency which came to be admitted by the opposite parties with regard to the supply of substandard seeds and therefore the complaints of the petitioners about the seeds having not germinated is proved. This deficiency in service therefore led to the loss to the farmers and this question therefore can be gone into in the exercise of revisional jurisdiction by this Commission. Consequently in both the petitions, it is clear that the seeds had been purchased and sown in the ratio of 7 acres and 18 acres respectively.

13. The question then is of quantum. The petitioners have claimed compensation at the rate of 30,000/- per acre on account of loss suffered by them due to the failure of the germination of the seeds and they having been deprived of the fruits of their labour in failing to have reaped the profits of prospective paying harvest of soya beans. However, to the extent learned counsel for the respondents is correct that they have not shown the actual expenses which may have been incurred by the petitioners for the agricultural operations. In the absence of any such details the entire claim made by the petitioners cannot be granted, which in our opinion deserves to be at the rate of Rs.15,000/- per acre. Additionally, the loss seems to be followed by utilization of the land for other crops as appears from the revenue records. The loss is therefore mitigated to that extent as the land appears to have been utilized after the failure of the germination of the seeds.

14. Accordingly, the claim of petitioners are allowed to the extent of loss of profits for 7 acres in RP/1097/2022, which comes to Rs.1,05,000/- and in RP/1098 for 18 acres to the tune of Rs.2,70,000/- together with interest @ 6% per annum from the date of the filing of the complaint till the date of payment.

15. Resultantly, both the revision petitions are allowed to the extent indicated above and the impugned orders passed by both the fora below are set aside.