

(1994) 08 NCDRC CK 0010

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

CESC Ltd.

APPELLANT

Vs

RAM PRASAD DAS

RESPONDENT

Date of Decision: Aug. 16, 1994

Citation: 1994 3 CPJ 355

Hon'ble Judges: A.K.Bhattacharjee , Sunil Kanti Kar , S.Dutta J.

Final Decision: Appeal dismissed

Judgement

1. THIS is an appeal against an order dated 12.4.94 passed by the Calcutta District Forum in C.D.F. Cases Nos. 3436 to 3457 of 93 and 3486 to 3487 of 93. In the aforesaid cases a group of complainants at different premises filed complaints that although they had applied for electric connection to the C.E.S.C. Ltd. the said Co. did not agree to grant any electric connection and to instal new meters on certain grounds. In short the complainant's objection to the grant of electric connection to the complainants was that the complainants were actually beneficiaries of the previous meter holders who were in arrear of charges for electricity to the tune of Rs. 81,605.13 P. The C.E.S.C. Ltd. further contended that the complainants were liable to clear up the arrears in respect of the previous meters and that unless this was done they were not entitled to new electric meters. The C.E.S.C. also contended that the appellants were not consumers within the meaning of the Consumer Protection Act, 1986 and that the C.D.F. could not grant any relief under the said Act. On a consideration of the cases put forth by both the parties, C.D.F. had rejected the contentions of the C.E.S.C. Ltd. and held that the complainants were consumers under the Act and that they were not liable for the arrears due from previous consumers. Accordingly the District Forum ordered that the C.E.S.C. should provide a new meter to each of the complainants within one month after observing all necessary formalities."

2. THE C.E.S.C. Ltd. is the appellant here. THEy have reiterated the contentions which were raised before the C.D.F. and have stated in their Memo of Appeal that the points raised by them were not properly decided by the District Forum. THEy have also stated that they should be given an opportunity to establish that the applicants for new meters were beneficiaries of the old consumers who were in arrear of a huge amount of electric charges.

The main point of argument on behalf of the applicant is that the O.P.-complainants were not the consumers. In this respect they have relied on a decision of the Karnataka State Consumers Disputes Redressal Commission reported in II (1991) CPJ 455 (Ahmed Ul-Haq v. Asst. Engineer, K.E.B. Chamarajannagar & Ors.). In the aforesaid case the complainants had filed a registration fee of Rs. 50/- and had deposited a sum of Rs. 12,470/- being three months minimum deposit. The Karnataka State Commission held that the aforesaid deposit of money could not be treated as consideration for hiring the services of the Karnataka Electricity Board. Accordingly it was held that complainant was not a consumer and accordingly the complaint was dismissed.

Another case of the Tamilnadu State Commission reported in II (1992) CPJ 761 (Consumer Protection Council, Tamilnadu v. The Chairman, Electricity Board & Anr.) had also been brought to our notice. In this case the Tamilnadu State Commission had held an opposite view. The view of the Commission in the said case was that the complainant therein was a potential user. Under Section 2(1)(d)(ii) of the Consumer Protection Act a person is a consumer who hires any service for consideration which has been paid or promised or partly paid or partly promised. On the basis of this definition it was held by the Tamilnadu State Commission that a person who applies for electric connection has to pay the necessary charges after the connection is given and therefore he is a person who has hired the services of the O.P. for consideration which is promised. In the instant appeal the complainants had prayed for new meters separately to the C.E.S.C. Ltd. The Company conducted inspection at site and gave offer to the complainants for depositing the initial cost of Rs. 60/- each. But ultimately connection was refused on the ground that arrears left by the previous consumers have not been paid by the complainants.

3. WE have considered the views of the two different State Commissions cited above. If it is accepted that an applicant for electric connection becomes a consumer only

after the line has been installed and not before that, certainly In applicant for new connection can never be a consumer and in that case no relief can be available from the Electric Supply Co. by any applicant for new connection. Certainly that cannot be the aim of the Act which tends to protect the Consumer from the deficiency of a giver of service. Under Section 2(1)(c) of the Act "Service" means service of any description which is made available to potential users and includes the provision of facility in connection with banking, financing insurance, supply of electrical and other energy by simply filing an application does not automatically becomes a consumer. But if such application is duly processed and the electric company shows its willingness to accept the deposit on its merits or sets the process in motion in any plausible way does it not indicate a "service" which is intended to be hired? In our opinion it does and any other interpretation would positively frustrate the intention of the Act.

As regards the submission that the new applications are in fact beneficiaries of the old consumers the same is not *prima facie* proved from the records supplied. The applicants have a new entity and there is nothing to suggest that they were beneficiaries of the old consumers. The Ld. Advocate for the appellant submits that they should be given an opportunity to prove that they were such beneficiaries. But having regard to the facts of the case we do not think that it would be expedient to reopen the case on that account. The Electric Company is expected to get the security deposit from the consumers and if there is any arrear the same should be dealt with under the terms of Agreement executed with the company. Hence, we do not think that the appellant should be given further chance to adduce evidence to prove that the present applicants have any liability to pay off the debts of the old consumers. It will make the present disputes an unwieldy one and invite civil disputes within the Consumers Forum necessitating complicated evidence which is actually not within the scope of a summary proceeding. In the result we see no merit in this appeal which is accordingly dismissed. The order of the Calcutta District Forum is hereby confirmed. Appeal dismissed.