

(1998) 03 NCDRC CK 0005

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION**Case No:** None

BIBHU PRASANNA PARIJA

APPELLANT

Vs

Orissa State Housing Board

RESPONDENT

Date of Decision: March 17, 1998**Citation:** 1998 3 CPJ 290**Hon'ble Judges:** P.C.Misra , Mrinalini Padhi J.**Final Decision:** Complaint disposed of

Judgement

1. THE complainant in this case has prayed for redressal of his grievances for deficiency in service on the part of opposite parties. Pursuant to an advertisement published in "THE Samaj" dated 25.11.1986 by the Orissa State Housing Board inviting application for allotment of houses to be built by them in Cuttack Town at Patpur for persons of different income groups. THE complainant applied for the H.I.C. category of house. THE said advertisement required that security deposit of Rs. 2,000/- is necessary to be given by applicants for H.I.C. houses. By a Bank draft dated 11.12.1986 for Rs. 500/- and another dated 12.12.1986 for Rs. 1,500/- in favour of the Orissa State Housing Board, the complainant deposited the earnest money as required in the advertisement. He also submitted his application complying with all requirements, but no house was allotted in his favour nor any reply was given to him as to when the house will be made available. THE complainant wrote a letter to the Housing Board on 8.6.1992 to inform him as to when the house will be allotted, but there was no response to the same. According to the complainant, there has been escalation of price in construction materials and also in labour for which the house was given to him for Rs. 1,50,000/- and he would be required to spend Rs. 3,00,000/- to have a house of that type. He has claimed compensation of Rs. 3,62,000/- as per the details given in paragraph-13 of the complaint petition.

2. THE Housing Board filed a show cause denying the allegations made in the complaint petition. It was mentioned that the application invited by the advertisement in the news paper was not for providing houses, but to know the demand of the people of the locality where after decision was to be taken by the Board as to whether or not they would take up the scheme. It has been further stated that in view of the response to the said advertisement, the proposal for construction of houses in the locality which was known as Patapur Scheme was dropped. 507 applicants including the complainant who have deposited earnest money of Rs. 2,000/-, each were refunded the amount and all the applicants received the amount without objection. It is asserted that the complainant received the amount sent to him on or about 5.6.1993. THE opposite party also alleged that the said amount of Rs. 2,000/- was sent through registered post on 26.11.1991 in the address given by the complainant in his application, but the cheque was returned back to Orissa State Housing Board on 6.12.1991 as the complainant was not found in the said address. THEy denied their liability to pay any compensation as the scheme itself was dropped, after due consideration by the Housing Board. Pursuant to an advertisement it was meant to test the demand of the locality for houses for which the complainant cannot claim either for allotment of houses or any compensation for non-allotment of houses.

We have heard both parties at length. It is not disputed that the complainant filed his application alongwith the Bank draft for Rs. 2,000/- as security money on 12.12.1986. In view of the emphatic assertion of opposite party giving all details, we do not think it appropriate to disbelieve their stand taken in the show cause that the same was sent back by a cheque on 26.11.1991 which was returned back to the sender not being delivered to the addressee as the addressee was not found in that address. The complainant has given a copy of the letter said to have been sent by him on 8.1.1992 to the Secretary of the Housing Board which as per the copy was received by the Housing Board on 8.1.1992. In the show cause filed by the opposite parties there is no denial to the aforesaid assertion. We therefore take it that the said order was duly delivered in the office of the opposite parties and no action appears to have been taken on that letter. In the said letter, the complainant had given his address as Register, Civil Court, Cuttack. From his letter referred to above it appears that even by 8.6.1992 the complainant was not made aware that the scheme has been dropped and therefore there is no scope of allotment of house in his favour. It was therefore expected that the Orissa State Housing Board after receipt of the said letter should have immediately sent the earnest money to him in the address mentioned in the said letter. Instead the money was returned on 6.6.1993 nearly five months after the institution of the case.

From the advertisement made in the news papers, a copy of which has been annexed to the show cause as Annexure-A we find that it clearly mentioned that applications were being invited to assess the demand of the people for houses in the locality mentioned therein which obviously was for the purpose of assessment

as to the demand of the people so that the Housing Board will take a decision as to whether they would take up such schemes. In the show cause, no date has been given as to when the scheme was brought. When the last date for filing of applications was fixed 25.12.1986, the number of intending applicants could be known by that date. If the scheme was dropped, the decision should have been taken soon thereafter and the applicants should have been informed about it so that they would not have been awaiting for allotment of houses for a indefinite period. Even accepting the case of opposite parties, the refund of security money to the complainant was made on 26.11.1991 which is nearly five years after the deposit of the security money. The cheque sent by the Housing Board was received back by them on 6.12.1991 as the complainant was not available in the address given in his application. Whatever that may be, the complainant had written a letter on 8.6.1992 which was duly received by the Housing Board whereafter the amount would be sent to the complainant in the address given in their letter, but no action whatsoever was taken thereafter. Money ultimately returned to the complainant on 5.6.1993 when the opposite parties received notices from this Commission about the institution of the case. When the scheme was abandoned, the complainant cannot claim for allotment of houses, but his security money of Rs. 2,000/- which he deposited by way of Bank draft on 12.12.1986 remained with the opposite parties till 26.11.1991 when the amount is alleged to have been sent to the complainant. It has already been stated that the said cheque could not be delivered to the complainant as he was not available in the address given and therefore the opposite parties could not be blamed quite for the period from 26.11.1991 till 8.6.1992 when the complainant wrote to the Housing Board giving his present address. Non-payment of the money to the complainant thereafter is without any justification. Since the security money has already been refunded to the complainant, we direct that interest at the rate of 12% per annum on Rs. 2,000/- deposited by the complainant from 12.12.1986 till 26.11.1991 and from 8.6.1992 till the date of payment, that is, 5.6.1993 to be calculated and paid to him within a month from the date of receipt of the order. We do not think in the facts and circumstances of the case, the complainant is entitled to any compensation which is accordingly disposed of with the aforesaid observation. Complaint disposed of.