

(1992) 02 NCDRC CK 0016

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

AREA MANAGER,
TELECOMMUNICATION

APPELLANT

Vs

N.P.MEHTA

RESPONDENT

Date of Decision: Feb. 13, 1992

Citation: 1993 3 CPJ 1524

Hon'ble Judges: S.A.Shah , R.K.Shah J.

Final Decision: Appeal dismissed with costs

Judgement

1. THIS is an appeal by the Telephone Department against the order of the District Forum, Kachchh at Bhuj. The respondent is an original complainant who is subscriber of telephone No. 22930 and 86270 at Adipur. According to the complainant the telephone No. 86270 installed at his residence is not giving proper services. According to the complainant the telephone services catered by the appellant at Adipur is very defective inasmuch as at the time when the complaint was filed it was working one sided i.e. the subscriber can telephone from his telephone but he will not be able to receive it from outside. Even if the subscribers receive telephone calls from outside it will be so low that they will not be able to understand anything. Though Adipur and Gandhidham are in one Municipality and calls from Gandhidham to Adipur and Adipur to Gandhidham are considered to be local calls, there are two exchanges, one at Gandhidham and another at Adipur. The Adipur exchange is very old and defective and is not giving satisfactory service at all. The complainant has produced affidavit of so-many subscribers who have supported the case of the subscriber complainant.

2. THE complainant argues before us that the appellant is taking the same bi-monthly rent as is taken for Gandhidham and other places whereas the services are so deteriorated that the Department cannot charge more than half the charges because they are providing one way service. THE complainant had many grievances against the judgment of the District Forum also but since he has not appealed we have not permitted him to raise further contentions. THE complainant wanted to tell us that the services have become so bad, it is practically no service at all.

Mr. Jayant Patel, learned Advocate appearing on behalf of the Appellants has strenuously argued that they are providing the services equally to all and there is no discrimination against the respondent/complainant. According to Mr. Patel assuming that there is some complaint regarding deficiency of service, the Department is suffering from stringency of finance and cannot afford to instal new machinery. In short, Mr. Patel wanted to say that we have to accept what is available. In the instant case, we are unable to accept the argument of Mr. Patel. The telephone service is monopolised by the Central Government. No private agency is permitted to instal telephone communication without their licence. If they offer the services and charge the same rent as is charged at other places, a consumer would naturally expect efficiency in service. Assuming for the sake of argument that the Department is suffering from financial stringencies, the Department should charge less or may not instal the services at all till they are in a position to provide efficient services. Mr. Patel consistently argued that he is not accepting any deficiency in service and based his argument on assumptions.

Considering the affidavit filed by so many persons and the record, we do not find any error in the judgment of the District Forum. The evidence on record clearly suggests that there is some deficiency in services. The only question is as to what relief the Court could provide in the circumstances. The District Forum has not awarded any damages. No cross appeal has been filed. Therefore question of awarding damages does not arise. However if we consider the definition of deficiency it becomes very clear that if the instrument does not work both ways efficiently it would amount to deficiency in service and for that either the damages can be awarded or the other side can be directed to return some portion of the charges. The District Forum has expressed the hope that in due course the Telephone Department will improve the services. We also are of the same opinion that the Department should take all possible measures to see that the services are improved to the satisfaction of the subscribers and that too, within reasonable time. We do not find any error committed by the District Forum. Therefore we confirm the order of the District Forum.

3. EVEN though the District Forum has not awarded any damages, the Department has filed an appeal with the result that the complainant respondent has to come from Kachchh to Ahmedabad and has to incur expenses for himself as well as his representative. Therefore he is entitled to the cost. ORDER

The appeal is dismissed with cost. The order of the District Forum is confirmed. The cost is quantified at Rs. 500/-. The appellants will pay cost of respondent within four weeks. Appeal dismissed with costs.