

(2003) 11 NCDRC CK 0053

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

MOHAMMED ZUBER

APPELLANT

Vs

State Bank of India

RESPONDENT

Date of Decision: Nov. 25, 2003

Citation: 2004 1 CPC 186 : 2004 1 CPJ 1 : 2004 2 CLT 107

Hon'ble Judges: K.S.Gupta , Rajyalakshmi Rao , B.K.Taimni J.

Advocate: Altaf Hussain , Nilofar Qureshi

Final Decision: Dismissed

Judgement

1. THIS complaint has been filed by Mr. Mohammed Zuber, Managing Director of Effective Publications, Indore against State Bank of India, SSI Branch, Indore, Madhya Pradesh alleging deficiency in service.

2. BRIEF facts of the case are : Mr. Mohammad Zuber is the Managing Director of a publication company. In order to increase the business Mr. Zuber had submitted a request for term loan of Rs. 30 lakhs and Rs. 28 lacs for working capital to State Bank of India. The project report along with all the other documents were handed over to the Bank and the complainant was awaiting reply from the Bank approving his loans. In this connection, the complainant was constantly in touch with Shri Majumdar, who is the Manager of the Indore Branch. In order to participate in tenders for supply of election materials during the elections in Madhya Pradesh and Rajasthan and since the complainant's Company had a good experience of screen printing and supplying of election material and since the complainant had good relations with various political parties and leaders he had requested the Bank to accept the project at an early date so that he could participate in the tenders. On

23.9.1998 the complainant submitted a letter to supplier of machines who were ready to supply the same and in anticipation of approval from the Bank for the said loans the complainant had started paying advance Bank drafts to the Machine Supplier M/s. Meera Graphics so that there would not be any further delay.

It is alleged that on 5.10.1998 Shri Majumdar had informed that the required sanction for the amount that has been asked by the complainant need to go to head office and it would take further 8 to 10 days. It is alleged by the complainant that various queries of correspondence has been exchanged between the complainant and the Bank. The Bank informed the complainant on 3.2.1999 that a proposal was under active consideration. The complainant contended that from 5.10.1998 to 27.4.1999 which is six months the complainant has been visiting Shri Majumdar who was holding the charge of the Chief Manager of the Branch and yet there was no progress on the sanction of the loans. Complainant had written another letter on 1.6.1999 for an early sanction of the loan amount and again on 11.6.1999 he had informed the Bank that he received an order for supply of election material for Parliament election, worth 50 lakhs of rupees and additional orders of Rs. 50 lacs agreed to be given to him and that it would require loan at an early date. It is further alleged that Madhya Pradesh Text Book Corporation, Bhopal had invited tender for four crore text books and that he was not able to participate in the said tender. He further contended that his competitive companies with no facilities of having done such works were also getting orders whereas he who had the necessary experience and space of 6550 sq. ft. for installation of machines and with good contacts with publishers and sellers he was unable to expand his business. Further on 22.9.1999, the Deputy General Manager vide his letter No. CAC/KCH/351 had admitted in that letter that SSI Branch, Indore has delayed for long and expressed his regret and said that the reply to other reasons and queries would be given later. The complainant alleged that he had never received reply as yet. Finally, after such a long anguish waiting the Bank has intimated vide letter SSI/Misc./98/256 dated 3.2.1999 that the Bank's decision will be intimated by the end of February, 1999. After that Bank rejected the proposal without giving any reasons.

Aggrieved by this irresponsible behaviour of the Bank for inordinate delay in handling the proposals and due to irresponsible behaviour of Shri Majumdar, that he had lost crores of business and having paid part money to the suppliers who co-operated with him for 18 months, he is also put to loss.

3. THE complainant filed the complaint before office of the Banking Ombudsman, Madhya Pradesh, Bhopal and the same was not considered. By letter dated 19.5.2000 they have replied to his complaints "In this connection your above case has been taken by us with the concerned bank's branch who has forwarded their comments/reply in the matter which after scrutiny has been placed before worthy Ombudsman who has opined that in terms of the Banking Ombudsman Scheme, 1995, this office does not interfere in the business decisions of the bank. THEREfore, the complaint against the above bank is not maintainable.

The complainant claimed Rs. 1,11,25,00,000/- with interest up to the date of decision of the Bank and for costs and any other relief. This complaint has been filed on 25th August, 2003 in the National Commission. On 1.9.2003 the learned Counsel was given time to examine the issue as to maintainability of this complaint after amendment of definition of "consumer" as given in Section 2(1)(d) w.e.f. 15.3.2003. The learned Counsel Mr. Altaf Hussain for the complainant submitted that complainant's case falls within the explanation appended to Section 2(1)(d) which runs thus : "for the purposes of this clause, "commercial purpose" does not include use by a person of goods bought and used by him and service availed of by him exclusively for the purposes of earning his livelihood by means of self employment"

4. IT is argued by the learned Counsel for the complainant that Shri Mohammad Zuber is a Managing Director of a publishing company which is owned by him and run with the help of few members. We have gone through the complaint and contents of the prayer and detailed version of the complainant regarding the tenders that were being floated. Although it is pleaded that this was the purpose of earning livelihood and self employment we are unable to accept this plea considering the kind of large scale business he was carrying for the purpose of earning profit. In our considered view this complaint cannot come within the purview of the said explanation of amended definition of consumer.

The complainant is, thus, not a consumer and the complaint deserves to be dismissed as not maintainable. In case, the complainant chooses to file a suit for the relief claimed in complaint, it can claim the benefit of Section 14 of the Limitation Act to exclude the period spent in prosecuting this complaint while computing the period of limitation prescribed for such a suit in view of the decision in Laxmi Engineering Works v. PSG Industrial Institute, II (1995) CPJ 1 (SC)=(1995) 3 SCC 583. In view of the above discussion, the complaint is dismissed. Complaint dismissed.