

STATE CONSUMER DISPUTES REDRESSAL COMMISSION,
UTTAR PRADESH, LUCKNOW.

APPEAL NO.1189 OF 2003

(Against the judgment/order dated 29.3.2003 in Complaint
Case No.11/01 of the District Consumer Forum, Sitapur)

Uttar Pradesh Avam Vikas Parishad & another ...Appellants
Versus

Green Field School, SitapurRespondent

BEFORE:-

HON'BLE MR. JUSTICE BHANWAR SINGH, PRESIDENT.

HON'BLE MR. SYED ALI AZHAR RIZVI, MEMBER.

HON'BLE MR. RAMPAL SINGH, MEMBER.

For the Appellants : Mr. Manoj Mohan, Advocate.

For the respondent : Ms. Yogita Chandra, Advocate.

Dated : 26.2.2010

JUDGMENT

HON'BLE MR. JUSTICE BHANWAR SINGH, PRESIDENT (ORAL)

Mr. Manoj Mohan, learned Counsel for the appellant and Ms. Yogita Chandra, learned Counsel for the respondent are present.

This appeal arises against the judgment of March 29, 2003 of the District Consumer Forum, Sitapur whereby the appellant Parishad was directed to make repayment of Rs.2,00,000.00 alongwith interest @ Rs. 12% p.a. to the respondent/complainant. The appellant had forfeited the aforesaid money on the ground that the respondent failed to deposit the auction money of Rs. 20,20,000.00 in respect of the two halls at Panchwati Yojna, Sitapur. The complainant filed its complaint through its manager, Dr. Smt. Karuna Mishra with the averment that the auction bid of Rs.10,05,000.00 & Rs.10,06,000.00 in respect of the two halls had been escalated to Rs.10,10,000.00 each without any negotiation with her and she denied that she had ever authorised her officials Sri Madhusudan Dixit and Sri Girish Mishra who had participated in the auction proceedings on her behalf to enter into further negotiations.

It may be noteworthy that the auction of the two halls had taken place on January 24, 2000 and the highest bid for the two halls offered on behalf of the Green Field Schools was Rs.10,05,000.00 and Rs.10,06,000.00 respectively. According to the complainant Dr. Karuna Mishra, she did not receive any intimation about the acceptance of her

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bid nor there was any other communication to her. As a consequence, she conveyed to the authorities concerned that she was not interested in getting the two halls and she prayed for release of her earnest money. However, the Parishad cancelled the auction proceedings by its letter of December 8, 2000 on the ground that the complainant failed to pay the balance price of the auction bid and forfeited the amount of Rs. 2 lacs in deposit with it. Feeling aggrieved of the said forfeiture, the complainant preferred her complaint. The Forum below after having scrutinized the respective pleas of the two parties arrived at a conclusion that the forfeiture was not justified. Delay in taking decision had been attributed to the Parishad and this was termed to be as deficiency in service.

The submission of the respondent that the enhancement of the auction money was without any authority appears to be sustainable in the circumstances of the case. Sri Madhu Sudan Dixit and Sri Girish Mishra, the two officials of the complainant were simply directed to participate in the auction proceedings and no further. The record for further negotiation has not been produced before the Forum below nor it has been adduced in evidence before us. Dr. Karuna Mishra has stated on oath that she never authorised the aforesaid two persons to further negotiate the highest bid nor she had ever agreed to the Parishad's offer for escalation of the price. Further, it appears to be significant to note that there is no condition of the auction proceedings where under further negotiation would have been in accordance with the terms and conditions of the auction. Moreover, if at all any offer had to be made by or on behalf of the Parishad, a proper notice should have been sent to the Green Field School inviting its manager to hold proper negotiation on a specified date, time and place. No such procedure was adopted; rather, as it appears, the under-hand exercise had been taken recourse to by the unscrupulous officials of the Parishad. The mala-fide of the officials also smacks of the inordinate delay on the part of the Parishad in taking decision. Whereas auction was held on 24.1.2000 no action was taken upto June, 2000. Although the complainant has denied that the allotment letter of 6.6.2000 was ever received in its office, yet even if it is

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assumed for argument's sake that such a letter had been posted, a question arises as to why the matter was kept pending for 5 months. There being no explanation for this delay, the complainant's allegation of some unscrupulous element having made an endeavour to extract money cannot be ruled out.


Also, it is significant to note that the Parishad had not issued any show cause notice to the complainant before taking a decision for cancellation of the bid. In normal course an auction proceeding must be given finality within 30 days from the date of auction and unless there are cogent reasons to extend the time of taking decision, it is presumed that the auction proceeding becomes final. The Commissioner of the Housing Board was required to take a decision in case of a dispute but the Commissioner as recited in the allotment letter of June 6, 2000 did not pass any order nor the matter seems to have been placed before him. The Estate Officer took a decision of his own some 11 months after the date of auction, cancelled the proceedings and forfeited the money.

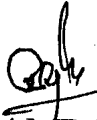
In our considered opinion, his decision is absolutely illegal as it was tainted with delay and it was issued without any authority. The token money as the Parishad has termed it could not be forfeited by the Parishad for the reasons disclosed above. Therefore, we do not find any merit in this appeal.

Accordingly, it stands dismissed with costs. The impugned judgment is hereby affirmed.

The amount in deposit with Forum below shall be released forthwith in favour of the complainant.


(JUSTICE BHANWAR SINGH)
PRESIDENT


(SYED ALI AZHAR RIZVI)
MEMBER


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(RAMPAL SINGH)
MEMBER