

STATE CONSUMER DISPUTES REDRESSAL COMMISSION,  
UTTAR PRADESH, LUCKNOW.

APPEAL NO.2341 OF 2008

(Against the judgment/order dated 12.11.2008 in Complaint Case  
No.65/07 of the District Consumer Forum, Ghaziabad)

Smt. Shyama Rani

...Appellant

Versus

Uttar Pradesh Rajya Audhyogik Vikas Nigam Ltd.

.....Respondent

BEFORE:-

HON'BLE MR. JUSTICE BHANWAR SINGH, PRESIDENT.

HON'BLE MR. CHANDRA BHAL SRIVASTAVA, MEMBER.

For the Appellant : Sri Alok Singh, Advocate.

For the Respondent : Sri Umesh Chandra Pandey, Advocate.

Dated : 24.5.2011

JUDGMENT

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

Heard Mr. Alok Singh assisted by Mr. Navin Kumar Tiwari, learned counsel for the appellant and Mr. Umesh Chandra Pandey, learned counsel for the respondent.

This appeal has arisen out of the judgment dated 12.11.2008 by virtue of which the appellant's complaint was dismissed on the ground that there was no relationship of 'consumer' and 'service provider' between the parties on the date of the complaint being filed. The reasoning of the District Consumer Forum does not seem to be sustainable for the reasons that may be disclosed hereinafter.

The complainant applied for an industrial plot measuring 500 Sq. meters and deposited a sum of Rs.1,22,500.00 as the price of the said plot. The UPSIDC instead of allotting the plot of the required size allotted a bigger plot of 600 Sq. meters and asked for the escalated price. ~~Whereas~~ At the initial stage of the application for allotment being moved by the complainant the rate of the industrial plot was Rs.930.00 per Sq. meter. However, in less than 17 days of the application being moved the price was escalated with the enhancement of the rate from Rs.930.00 per Sq. meter to Rs.1,150.00 per Sq. meter. The UPSIDC was requested by the complainant vide her letter dated 17.1.2001 that she was not

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financially strong so as to afford a bigger plot of 600 Sq. meters and therefore, asked for a smaller plot of 450 Sq. meters. The said size of the plot was not available and, therefore, her money was refunded as she had prayed for refund of the money in case the allotment of a small plot was not possible. The deficiency in service lies on the part of the respondent when it allotted a bigger plot of 600 Sq. meters instead of 500 Sq. meters as prayed for. In this context, it is significant to note that in the registration scheme 2000, as is evident from perusal of the application form, paper No.41, the sizes of the plots which were available for allotment were mentioned as follows:-

- 1- 500 Sq. meters
- 2- 1250 Sq. meters
- 3- 1800 Sq. meters
- 4- 2400 Sq. meters
- 5- 4000 Sq. meters
- 6- Above 4000 Sq. meters

As is apparent the deficiency was two fold- first of them being that the prayer of the complainant for allotment of 500 Sq. meters was ignored despite the fact that under the scheme floated by the respondent, plots of 500 Sq. meters were available and secondly, the prayer of a bigger size i.e. 600 Sq. meters, a size which was not offered for allotment under the scheme had been allotted. In this way, the UPSIDC committed a deficiency in service.

When the complainant filed her representation dated 17.1.20

The Director did not comply with our order nor he has filed any affidavit. However, Smt. Sharmila Patel, the Assistant Manager of the U.P. Industrial Development Corporation has mentioned in para 2 of her affidavit that the plot of 500 Sq. meters was not available and, therefore, <sup>he was</sup> she/allotted a plot of 600 Sq. meters. However, this communication was not made to the complainant in writing in 2001 i.e. at the relevant time and it was a serious deficiency on the part of the respondent. As a matter of fact, the scheme of allotment of plots in the 'Tronika City Scheme' was floated on the basis of 'first come first serve' and the allotment was made on the basis of the application with certain negotiations across the table. When in 2001 sale or allotment of 600 Sq. meters plot was not offered, the very allotment was contrary to the scheme and it was all the more deficient as the complainant has not asked for allotment of that size of plot. It was in these circumstances that she was forced to pray for a different size of plot i.e. 450 Sq. meters. Subsequently, the UPSIDC floated the same scheme in the same city and offered all sizes of plots i.e. 250 Sq. meters, 300 Sq. meters, 450 Sq. meters, 600 Sq. meters, 800 Sq. meters and 1000 Sq. meters. The authorities of the UPSIDC were not fair with the complainant as she was never informed in writing that 500 Sq. meters plot was not available. Again the authorities were not on the right track when the allotment of a bigger size of 600 Sq. meters was made, even though this size of plot was not offered for sale under the scheme. Infact, it would have been very simple to reject the application of the complainant if her request for allotment of 500 Sq. meters plot <sup>could not be met out</sup> ~~had been rejected~~ on the ground that the said size of plots were not available. In this way, the complainant's application was not dealt with in accordance with the terms and conditions of the scheme and this was a serious deficiency on the part of the authorities of the respondent.

Accordingly, this appeal succeeds and it is allowed. Her complaint for allotment of a plot of either 500 Sq. meters or smaller plot which is available under the scheme at present is allowed with a

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direction to the UPSIDC to reconsider her request and issue orders, accordingly.

The costs shall be easy.

  
(JUSTICE BHANWAR SINGH)  
PRESIDENT

  
(CHANDRA BHAL SRIVASTAVA)  
MEMBER

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