

RESERVED

State Consumer Disputes Redressal Commission
U.P., Lucknow.

Appeal No.597 of 2012

✓ Dharmendra Singh Chauhan (Advocate),
S/o Late Sri Raj Bahadur Singh Chauhan,
R/o Mohalla Kunwarganj, Kasba Tilhar,
District Shahjahanpur. ... Appellant.

Versus

1- Chief Engineer, Electricity Department,
Mandhyanchal Vidyut Vitran Nigam Ltd.,
Bareilly Zone, Bareilly.

2- Executive Officer,
Nagar Palika Parishad/ Nagar Nigam,
Tilhar District Shahjahanpur.Respondent.

Present:-

- 1- Hon'ble Sri A.K. Bose, Presiding Member.
- 2- Hon'ble Smt. Bal Kumari, Member.

Sri Dharmendra Singh Chauhan, the appellant.
Sri M.N. Misra, Ld. Counsel for the respondent.

Date 13.9.2013

Per Sri A.K. Bose, Member.

JUDGMENT

Aggrieved by the judgment and order dated 29.2.2012 passed by the Ld. District Consumer Disputes Redressal Forum, Shahjahanpur in Complaint Case No.221 of 2011, the appellant has preferred the instant appeal under Section 15 of the Consumer Protection Act, 1986 (Act No.68 of 1986) on the ground that the judgment


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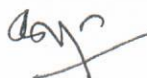
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and order is arbitrary, perverse and is bad in the eye of law. The Ld. District Forum failed to appreciate the facts, circumstances and evidence on record and passed the impugned judgment against all settled principles of law, justice and fair play. It has, therefore, been prayed that the appeal be allowed and the impugned judgment and order dated 29.2.2012 be set aside otherwise the appellants will suffer irreparable loss.

We have heard the learned counsel for the appellants and have gone through the records.

From perusal of the records, it transpires that the appellant Sri Dharmendra Singh Chauhan is an Advocate by profession and lives in Mohalla Kunwarganj, Kasba Tilhar, District Shahjahanpur where about 1200 families reside. However, there is no electric connection in the village. Those who live near the road side have obtained legal/illegal connections[✓] from the main line passing by ^{the} highway. Due to non-availability of the electricity lives of the villagers have become miserable. The appellant moved various applications before ~~the~~ various authorities but all fell in deaf ears. He also filed a writ petition before the Hon'ble High Court bearing No.55756 of 2010 and subsequently, filed a contempt^{petition} bearing No. writ C-53741 of 2011. Yet the respondents failed to provide electricity connection in his village, therefore, he filed a complaint case bearing No.221 of 2011 before the Ld. DCDRF, Shahjahanpur which was decided on 29.2.2012 and the following order was passed:-


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"परिवाद सं0221/11 धर्मेन्द सिंह चौहान बनाम श्रीमान मुख्य अभियन्ता विद्युत विभाग मध्यांचल विद्युत वितरण निगम लि0 काटजू मार्ग बरेली मंडल बरेली आदि स्वीकार किया जाता है विपक्षी सं01 को आदेशित किया जाता है कि वे परिवादी द्वारा आंकलन की सम्पूर्ण धनराशि जमा करने के उपरान्त दो माह के अंदर नियमित रूप से विद्युत वितरण सुनिश्चित करें। परिवादी 15 दिन में आंकलन की सम्पूर्ण धनराशि विद्युत विभाग को अदा करे। परिवाद का व्यय उभयपक्ष अपना-अपना वहन करेंगे "

Aggrieved by this judgment and order, the appellant Dharmendra Singh Chauhan has preferred the instant appeal.

Before we proceed further, we deem it proper to quote the order of the Hon'ble High Court dated 16.9.2011 passed in writ C No.53741 of 2011 which runs as follows:-

"The petitioner has contended before us that though the electricity is to be distributed to various consumers but as because the poll has been installed on the land of the petitioner, he has been called to deposit a sum of Rs.87,777.00. On the other hand, learned counsel appearing for the respondents has contended before this Court that this is an estimate on their part but the same is not directed to be paid by the petitioner alone, but by all consumers. Against this background, we are of the view that the matter will require to be heard and disposed of by the Consumer Grievance Redressal Forum on the basis of application of the petitioner to be made within a period of seven days from the date of obtaining a certified copy of the order and the Forum, in turn, will call upon the appropriate representative of the Electricity Department



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and representative of the Nagar Nigam and Gram Panchayat and will finalise the issue as per clause 4.6(f) of the UP Electricity Supply Code, 2005 in their presence within a period of one month thereafter. With the above directions, the writ petition is disposed of at the stage of admission, however, without imposing any cost."

From perusal of the order of the Hon'ble High Court, it transpires that the appellant Dharmendra Singh Chauhan was directed to move before the Consumer Grievance Redressal Forum for proper relief and the dispute between the parties was to be finalized as per the provision of clause 4.6 (F) of the UP Electricity Supply Code, 2005. Admittedly, the appellant did not move before the Consumer Grievance Redressal Forum but preferred to file a complaint case before the District Consumer Disputes Redressal Forum, Shahjahanpur. The Consumer Grievance Redressal Forum and District Consumer Disputes Redressal Forum are not the same but two different entities/authorities. The Consumer Grievance Redressal Forum has been constituted under the Regulation 3 of the UP Consumer Grievance Redressal Forum and Electricity Ombudsman Regulations, 2007 whereas the Consumer Disputes Redressal Forum has been established under Section 9(a) of the Consumer Protection Act, 1986. It may also be observed here that the appellant Sri Dharmendra Singh Chauhan, Advocate is not a consumer as defined under Section ^b2(i)(d) of the Consumer Protection Act. There is nothing on record to show that he is a consumer of electricity and there was some deficiency in service on


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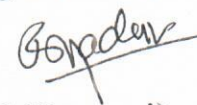
the part of the respondent/Electricity Department. Admittedly, the appellant wants electricity connection ^{for the whole village.} He was directed to take proper steps vide letters No.2967 dated 30.8.2011 and 3482 dated 6.11.2011 but he has not taken any steps in pursuance of the same. The appellant not being a consumer is not entitled to get any relief under the Consumer Protection Act. He ^{has} ~~is~~ not even complied with the order of the Hon'ble High Court. The Forum below had taken all these facts into consideration before passing the impugned judgment. There is no illegality or irregularity in it and, therefore, we are not inclined to interfere in the same. Consequently, the appeal deserves to be dismissed.

ORDER

The appeal is dismissed and the judgment and order dated 29.2.2012 passed by the Ld. DCDRF, Shahjahanpur in Complaint Case No.221 of 2011 is confirmed.

No order as to costs. Copy of this judgment be made available to the parties, as per rules.


.. 13.9.2013
(A.K. Bose)
Presiding Member


(Smt. Bal Kumari)
Member