

HARYANA SEEDS DEVELOPMENT CORPN. LTD.

v.

SADHU AND ANR.

FEBRUARY 18, 2005

[RUMA PAL AND C.K. THAKKER, JJ.]

*Consumer Protection Act, 1986—Error of law and jurisdiction by lower fora—Effect of—Complaint by farmers against Seed Development Corporation alleging poor germination of seeds—Complaints allowed by District Forum and State Commission—Report of the Expert Committee—National Commission also allowed the complaints but observed the report to be ambiguous and not clearly exonerate the Corporation—On appeal, held: Reading the report of the Expert Committee in its entirety, it is clear that the Expert Committee was satisfied that variation in the condition of crop could not be attributed to the quality of seeds but to other factors—Word 'not' was not inserted in the report unauthorisedly—Therefore, report neither ambiguous nor vague but clear and definite—Hence, lower fora committed error of law and jurisdiction—Complaints liable to be dismissed and compensation granted to be refunded—Constitution of India, 1950—Article 136.*

**Respondent - farmers purchased seeds of wheat from the appellant - State Seeds Development Corporation and sowed them in their fields but germination of seeds was very poor. Respondent filed a complaint seeking compensation. Agriculture Officers issued certificate to the effect that the seeds were of sub-standard quality and germination was poor. Both District Forum and State Commission allowed the complaint. Corporation constituted an Expert Committee which submitted the report that variation in the condition of the crop may not be attributed to the quality of seed but it may be due to other factors viz. high salt concentration, brackish water, moisture content at the time of sowing, sowing method and soil physical conditions etc. National Commission even though observed that the report of the Expert Committee was ambiguous and did not clearly exonerate the Corporation but giving the benefit to the complainant, upheld the orders of District Forum. Hence the present appeal.**

**Respondent-complainant contended that the complaints were allowed**

A after considering the evidence on record and perusing both the reports; that the National Commission was right in observing that the report of the Expert Committee was ambiguous inasmuch as though it stated in the operative part of the report that variation in condition of the crop could be attributed to the quality of the seeds, the word 'not' was added subsequently either to favour the Corporation or to cause prejudice to farmers; and that this Court should not interfere with the orders passed and directions issued.

B Appellant-Corporation contended that the lower fora committed error of law and of jurisdiction by not considering the report of Expert Committee in its proper perspective; that the National Commission erred in observing that the report was ambiguous; and that the word 'not' was very much there in the report and also in the certified copy, and could not be said that it was inserted subsequently.

Allowing the appeal, the Court

D HELD : Reading the report of the Expert Committee in its entirety, it is clear that there was no unauthorized insertion of the word 'not' in the report of the Expert Committee. The Expert Committee was satisfied that variation in the condition of crop was not and could not be attributed to quality of seeds but to other factors. Hence, it cannot be said that the word "not" was inserted either to favour the Corporation or to cause prejudice to the farmers. Therefore, National Commission was not right in observing that at the most, the report could be said to be ambiguous. It was neither ambiguous nor vague but was clear, definite and specific. In no uncertain terms, it stated that variation in the condition of crop could not be attributed to quality of seeds but to other factors.

F [186-G-H; 187-A-B]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1308 of 2005.

G From the Judgment and Order dated 26.8.2003 of the National Consumers Disputes Reddressal Commission, New Delhi in R.P. No. 2332 of 2003.

D.P. Singh and Sanjay Jain for the Appellant.

H K.S. Rana, Dr. V.P. Appan, N.Raja Raman and F.S. Chauhan for the Respondents.

The Judgment of the Court was delivered by

**THAKKER, J.** Leave granted.

The present appeal is filed by the Haryana Seeds Development Corporation Ltd. ('Corporation' for short) against the order passed by the District Consumer Dispute Redressal Forum, Kaithal, confirmed by the State Consumer Disputes Redressal Commission, Haryana, and also confirmed by the National Consumer Disputes Redressal Commission, New Delhi.

The facts of the case in which a complaint was filed by Sadhu Singh S/o Kehar Singh may briefly be stated. The said complaint was filed by Sadhu Singh resident of village Dhundwa against Dhundwa Cooperative Credit & Service Society and also against the Haryana Seeds Development Corporation (appellant herein) before the District Forum Kaithal *inter alia* alleging that he had purchased seeds of wheat from Dhundwa Cooperative Credit & Service Society and Haryana Seeds Development Corporation. He had sown them in his field. After about 15 days, he noticed that germination of seeds was not up to standard but was "very much poor". He, therefore, made complaints to D.C. and D.D.A., Kaithal whereupon a certificate was issued by Circle Agriculture Officer, and Agriculture Development Officer, Kalayat on 6th December, 2001, stating therein that germination of seeds was found to be poor and the seeds were of sub-standard quality. According to the complainant, he suffered a loss of price of seeds, labour charges for preparation of land, of sowing seeds, irrigation costs, loss of crop and also mental torture. He, therefore, prayed that the respondents may be directed to pay compensation. Similar was the case of other complainants.

Notices were issued to the respondents pursuant to which they appeared and filed their replies. Respondent No.1 Dhundwa Cooperative Credit & Service Society, in its reply stated that the complaint was not maintainable against it. According to the said respondent, it purchased the seeds from the Corporation. It was contended that the complainant had purchased seeds for selling wheat in Grain Market and thus the purchase was for commercial purpose. He, therefore, could not be said to be 'consumer' within the meaning of the Consumers Protection Act, 1986 (hereinafter referred to as 'the Act'). It was also alleged that loss said to have been caused to the complainant was shown to be excessive. The complaint was, therefore, false, frivolous and liable to be dismissed.

The Corporation also filed a reply contending that the complainant had

- A no *locus standi* as he had no cause of action to file such complaint. He also could not be said to be 'consumer' as seeds were purchased for commercial purposes. According to the Corporation, disputed and complicated questions of fact and law were involved which could not be decided in a summary manner in the Consumer Forum and the complainant should approach a civil court.
- B On merits, it was contended that germination of seed would depend upon several other factors such as, climate - condition, type of soil, water and irrigation facilities, quality of fertilizer, etc. The complainant could not show that the crop had suffered due to poor germination of seeds. According to the Corporation, seeds were duly certified by the Haryana State Seeds Agency, a Government undertaking which objectively decided that seeds were in conformity with prescribed standard. The complainant had, therefore, no cause and the complaint was liable to be dismissed.
- C

The District Forum accepted the claim of the complainant and held the appellant liable. It relied upon the report of the Civil Agriculture Officer and Agriculture Development Officer, Kalayat and observed that it was "crystal clear that the germination of the seeds was very poor".

D According to the District Forum, due to low yield of crop, the complainant suffered financial loss as well as physical harassment. He was, therefore, entitled to compensation as mentioned in the order. Accordingly, the complaint was allowed and the appellant herein was directed to pay compensation to the complainant within thirty days of the order failing which proceedings would be initiated in accordance with Section 27 of the Act. Similar directions were given in other complaints.

E

Being aggrieved by the order passed by the District Forum, the appellant approached the State Commission. By a cryptic and virtually non-speaking order, the State Commission dismissed the appeals. Against that order, the appellant approached the National Commission. It was argued that the Consumer Forum had no jurisdiction in the matter as the complainant was not consumer and he had purchased seeds for commercial purposes. Moreover, seeds were certified by certification agency to be of proper quality and report of Expert Committee ruled out poor germination and hence the grievance was unjustified.

F It was also submitted that the District Forum ought to have followed the procedure laid down in clause (c) of sub-section (1) of Section 13 of the Act by sending a sample to appropriate laboratory and by obtaining a report. Since it was not done, the order passed by the District Forum and confirmed by the State Commission was not valid.

G

H

The National Commission, however, dismissed revisions observing that the Consumer Forum had jurisdiction in the matter and the farmers did not grow crop for commercial purposes. It also observed that there were two reports on record, one by the Circle Agriculture Officer and Agriculture Development Officer, Kalayat and the other by the Expert Committee. The report of the Expert Committee at best was ambiguous and did not clearly exonerate the Corporation. According to the National Commission, in the circumstances, benefit ought to go to the complainant and as the benefit was given by the District Forum and State Commission, the orders passed by them could not be said to be illegal. Revisions were accordingly dismissed.

We have heard learned counsel for the parties. The learned counsel for the appellant did not contend that the Consumer Forum had no jurisdiction as seeds were purchased for commercial purposes as urged before the lower fora. It was, however, submitted that an error of law and of jurisdiction was committed by the District Forum, State Commission and National Commission in not considering the report of Expert Committee in its proper perspective. According to the counsel, the report which was placed on record clearly revealed that variation in the condition of crop could not be attributed to quality of seeds but to other factors, viz. high salt concentration, brackish water, moisture content at the time of sowing, long dry spell, etc. It was also submitted that neither the District Forum nor the National Commission considered the said report keeping in view the fact that it was prepared by an Expert Committee. The National Commission was in clear error in observing that the report was ambiguous. The counsel, therefore, submitted that all the orders deserve to be set aside by dismissing all the complaints.

The learned counsel for the complainants, on the other hand, supported the orders. It was submitted that after considering the evidence on record and perusing both the reports, complaints were allowed and the appellant was directed to pay compensation. It was also submitted that the National Commission was right in observing that the report of the Expert Committee was ambiguous inasmuch as though it stated in the operative part of the report that variation in condition of the crop could be attributed to the quality of the seeds, the word "not" was added subsequently by someone. This Court, in the circumstances, may not interfere with the orders passed and directions issued.

On behalf of the respondent No.2 Dhundwa Society, the learned counsel submitted that the said Society was neither necessary nor proper party as no

A final directions had been issued against the said respondent by the District Forum. It ought not to have been made party respondent in the present appeals.

Having considered the rival contentions of the parties, in our opinion, all the appeals deserve to be allowed and the orders passed by the District Forum, confirmed by the State Commission and the National Commission deserve to be set aside. From the record it is abundantly clear that the appellant had constituted an Expert Committee. The said committee had undertaken the exercise of inspection of seeds sold to farmers. It conducted field inspection and detailed report had been prepared. The Committee observed that crop condition varied from "satisfactory to excellent". It further observed that the reason for variation was other than the quality of seeds. The Committee stated:

"Hence the variation in the condition of crop in the same lot of seed at different fields may not be attributed to quality of seed but the other factors including high salt concentration, Brackish Water, Moisture content at the sowing time, sowing method and soil physical conditions, which also play a major role in germination of seed and crop stand."

In the operative part, the Committee concluded ;

"It may be concluded that variation in the condition of the *crop may not* be attributed to the quality of seed but it may be due to other factors including water quality used for irrigations, long dry spell, salt accumulation in surface layer, sowing methodology, moisture content at the sowing time and soil physical condition."

What was contended before the National Commission was that the word "not" was not found in the report of the Expert Committee but it was inserted unauthorisedly. The learned counsel for the appellant stated that the word "not" was very much there in the report and in the certified copy also, it was present. Hence, it could not be said that it was inserted subsequently. But even otherwise, looking to the report as a whole, we are satisfied that there was no unauthorised insertion of the word "not" in the report. Reading the report in its entirety, it is clear that the Expert Committee was satisfied that variation in the condition of crop was not and could not be attributed to quality of seeds but to other factors. Even the earlier part referred to by us makes the position clear. Hence, the contention that the word "not" was

inserted either to favour the Corporation or to cause prejudice to farmers cannot be accepted. We are, therefore, of the opinion that the National Commission was not right in observing that at the most, the report could be said to be ambiguous. In our view, it was neither ambiguous nor vague but was clear, definite and specific. In no uncertain terms, it stated that variation in the condition of crop could not be attributed to quality of seeds but to other factors. A  
B

In the light of the report of Expert Committee, the complaint was liable to be dismissed and the Commissions committed an error of law and of jurisdiction in allowing it. C

For the foregoing reasons, in our opinion, the appeal deserves to be allowed and is hereby allowed. The orders passed by District Forum, State Commission and National Commission are hereby set aside and the complaint is ordered to be dismissed. In the facts and circumstances of the case, however, there shall be no order as to costs. D

On 18th August, 2004, this Court directed the appellants to deposit 50 per cent of the principal amount. By a subsequent order dated 8th October, 2004, the money deposited was ordered to be invested by the Registry in fixed deposit account in a Nationalised Bank for a period of six months in the first instance. The said deposit was to be renewed till the disposal of the appeal. In view of the fact that the appeal is allowed the said amount may now be refunded to the appellant. Ordered accordingly. E

N.J.

Appeal allowed.