

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

REVISION PETITION NO. 4894 OF 2012

(Against the Order dated 19/10/2012 in Appeal No. 1283/2008 of the State Commission Haryana)

1. CHAUDHARI ASHOK YADAV

S/o Shri Manohar Lal R/o Vill Bhandore P.O Punsika
Tehsil

REWARI

HARYANA

.....Petitioner(s)

Versus

1. REWARI CENTRAL COOPERATIVE BANK &
ANR.

Through its Managing Director, Rewari, Tehsil

REWARI

HARYANA

2. National Horticulture Board,
85 Industrial Area, Sector-18

GURGAON

HARYANA

.....Respondent(s)

BEFORE:

HON'BLE MR. JUSTICE J.M. MALIK, PRESIDING MEMBER

HON'BLE MR. VINAY KUMAR, MEMBER

For the Petitioner : MR. SIDDHARTH MITTAL

For the Respondent : NEMO

Dated : 08 Feb 2013

ORDER

JUSTICE J.M. MALIK 1. Chaudhary Ashok Yadav, the complainant, mortgaged 10 acres of land for the project establishing fruit garden, under the Scheme of National Horticulture Board Respondent 2/OP1 with the Rewari Central Co-operative Bank, Rewari, Respondent No.1/OP2 and in order to avail financial assistance to the tune of Rs.25 lakh, the project was submitted with the Respondent No.1. The complainant contacted Sh.D.P.Singh of National Horticulture Board, Gurgaon, OP1. OP2 informed the complainant that the amount would be sanctioned and after sanctioning of the said amount, the project profit report should be submitted to the OP1/Respondent No.2 for the grant of subsidy to the tune of 20% of the financial assistance. The project was sent to NABARD and the NABARD sanctioned 14.19 lakh for implementation of the project. After disbursement of the loan by the Bank, Respondent No.1/OP2, the project profit was sent to Respondent No.2/OP1 for consideration of subsidy on 26.07.2005. However, OP1 refused the subsidy to the complainant on his loan. The complainant approached the National Horticulture

Board, Respondent No.2, for grant of subsidy but the Board did not consider his case. The complainant/ petitioner filed a case before the District Forum that there was deficiency in service. 2. Respondent No.2/OP1 did not appear before the District Forum and as such, it was proceeded against ex-parte. Respondent No.1/OP2 contested this case. The District Forum allowed the complaint and directed the OPs to pay the subsidy to the complainant along with interest @ 9% p.a. from the date of filing of the complaint till final realization. Litigation expenses in the sum of Rs.2,000/- were also granted in favour of the complainant. 3. Aggrieved by that order, Respondent No.1/OP2 approached the State Commission. The State Commission vide its order dated 19.10.2012 accepted the appeal and dismissed the complaint. 4. In the revision petition, we have heard the counsel for the petitioner/complainant. He vehemently argued that his main contention was that he could not get the subsidy because of delay. He contended that this is a matter of contract and the petitioner/complainant is, therefore, a consumer There was delay of 10 months on the part of OP2. He has invited our attention to the judgment of the District Forum. Relevant extract from Para 7 of the said judgment, runs as follows:- Whereas letter Ex.OP5 placed on record by Opposite party No.2, reveals that loan amount of Rs.14.19 lakh has been sanctioned and a sum of Rs.6.70 lakh was already disbursed. NHB has been requested to supervise the work carried on the complainant either by way of survey or otherwise so that subsidy be provided as per rules in time. This letter is dated 13.09.2004. The letters placed on record by the opposite parties as well as the complainant are sufficient enough to convince us that subsidy was to be provided by opposite party No.1 if the project file of the complainant is sent to the opposite party No.1 in time but the same was not on 26.07.2005 after a period of near about 11 months after half of the loan amount was disbursed 5. The learned counsel for the petitioner vehemently argued that he is not asking for subsidy, but the main ground is that of delay. 6. We do not agree with the learned counsel for the petitioner. The complaint itself in Para Nos. 8, 9, 11, mentions about the subsidy. The District Forum also came to the conclusion that subsidy was not given due to delay. The principal question is that of grant of subsidy. The order passed by the learned State Commission is supported by authorities, which clearly go to show that the subsidy offered to be paid is not service as defined in Consumer Protection Act, 1986. Consequently, the petitioner/complainant is not a consumer The State Commission has referred to the order of this Commission reported in Himachal Weavers Pvt. Ltd. Vs. Himachal Pradesh Financial Corporation & Ors., III (1993) CPJ 267 (NC). He has also referred to two authorities of the orders passed by the State Commission. Consequently, the revision petition filed by the petitioner/complainant is lame of strength, therefore, the same is hereby dismissed. Nothing will debar the petitioner/complainant from seeking relief from another forum or the civil court, as per law. The petitioner/complainant can seek support from the celebrated authority in Laxmi Engineering Works Vs. P.S.G. Industrial Institute (1995) 3 SCC 583.

.....J

J.M. MALIK

PRESIDING MEMBER

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VINAY KUMAR

MEMBER