

SPECIAL BENCH

**STATE CONSUMER DISPUTES REDRESSAL COMMISSION,
PUNJAB, DAKSHIN MARG, SECTOR 37-A, CHANDIGARH.**

First Appeal No.487 of 2015

**Date of institution : 07.05.2015
Date of decision : 05.09.2016**

Sanjeev Goyal aged about 37 years son of Sh. Ashok Kumar
Resident of H.No.148, Phase-1, Model Town, Near TV Tower,
Bathinda.

.....Appellant/Complainant

Versus

1. District Water Testing Laboratory(Tech. Mission), PWD
Public Health Branch, Head Water Works, Bhagu Road, Bathinda
through its Chemist/In-charge.

2. The Executive Officer, Office of Superintending Engineer
Punjab water Supply and Sanitation Department, Division No.3,
Bhagu Road, Near Model Town Gurudwara, Phase-1, Bathinda.
Manager.

.....Respondents/Opposite Parties

**First Appeal against the order
dated 01.04.2015 passed by the
District Consumer Disputes Redressal
Forum, Bathinda.**

Quorum:-

**Hon'ble Mr. Justice Gurdev Singh, President.
Mrs. Surinder Pal Kaur, Member.**

Present:-

**For the appellant :Sh.MadanLal, Representative
For the respondents :Sh.Amrit Lal Bansal,
(Lab)Chemist**

MRS. SURINDER PAL KAUR, MEMBER

ORDER

The appellant/complainant has preferred this appeal

against the order dated 01.04.2015 passed by the District Consumer Disputes Redressal Forum, Bathinda (in short "the District Forum") in Consumer Complaint No.472 dated 04.08.2014, vide which the complaint filed by him was dismissed.

2. The brief facts, stated in the complaint, are that complainant is member of Grahak Jago. He always provide social services to the general public. On 16.07.2014, he had taken 1.25 Ltr water from RO, Mandi Chowk, Goniana and on the same day Opposite Party No.1 had received the sample of 1 ltr for testing in the laboratory. Vide receipt No.2327, Opposite Party No.1 charged Rs.100/-, as testing fee. On 17.07.2014, Opposite Party No.1 had given a wrong report no.DWTL/Bti/393/ 2014, with remarks "water is potable". Opposite Party No.1 had tested only 15/16 tests out of 44 tests as per norms of BIS Standard Tests. Opposite Party has not tested Residual, free Chlorine, Sulphide, Copper Mercury, Total Arsenic, Cyanide, Lead, Zinc, Aluminium, Boron, Ammonia, Barium, Silver, Nickel, Phenolic Compound, Chloramines, Trihalomethanes, Radioactive Materials, Mineral Oil, Pesticides etc. Thus Opposite Party No.1 failed to test the water as per norms of BIS Standard and the report of potable water is illegal, unconstitutional, inoperative, null and void, without 44 testing and against the norms of BIS Standard. Opposite party No.1 cheated and committed fraud with the complainant and had also been exploiting the general public. He further averred that the complainant several times requested the opposite parties that they should take the sample again for testing the water in the lab and provide the report of water potable after making 44 tests as per norms of BIS standard otherwise, they should refund the above said amount. He also requested the opposite parties that if there was no arrangement/machine for conducting all the tests as per BIS

standard then they should delete the word "Potable Water". But Opposite Parties did not give any response. The above said act of the Opposite Parties amounts to unfair trade practice and deficiency in service on their part. Therefore, he filed the complaint before the District Forum seeking following directions against them

- i) to pay Rs.50,000/- as compensation for mental tension and harassment ;
- ii) to pay Rs.10,000/- litigation cost;
- iii) to supply the report of potable water after 44 lab tests as per norms of BIS standard otherwise to refund the above said amount and also delete the word water potable if there was no arrangement/machines to all the test as per norms of BIS standard.

3. The complaint was contested by the opposite parties by filing a joint written reply. They pleaded that Report No. DW/TL/Bti/393/2014 dated 17.07.2014 is legal and valid and based upon physical, chemicals and bacteriological tests only. Sample of water was tested according to the specification of potable water, as per Bureau of Indian Standards: BIS 10500 1991. The tests had been conducted, as per the facility provided by the State Government and fee had been charged accordingly. They informed the complainant that only those tests were conducted, which were mentioned in the test report and those tests were sufficient to know the quality of potable water. There is no complaint against the water being supplied to general public at large through RO and same water was got tested by the complainant. He never approached them after getting the alleged report. The complainant is residing at Bathinda, but it is strange that he was using the water being supplied at Goniana Mandi. The complainant has no locus standi to file the present complaint. The

complainant has no cause of action against them. District Forum has no jurisdiction to entertain and decide the complaint. Complaint is bad for non-joinder and mis-joinder of necessary parties as they are working under the control of State Government but the same has not been impleaded as necessary party. There was no unfair trade practice and deficiency in service on their part. They prayed for the dismissal of the complaint with cost.

4. The parties produced evidence in support of their respective averments before the District Forum, which after going through the same and hearing the learned counsel on their behalf, dismissed the complaint, vide order under appeal.

5. We have heard Mr. Madan Lal, representative of the complainant and Mr. Amrit Lal Bansal, Laboratory Chemist on behalf of the opposite parties and have carefully gone through the record of the case.

6. It was submitted by the representative of the complainant that, Opposite Party No.1 had conducted only 15/16 tests out of 44 tests as per the norms of BIS Standard and had not tested Residual, free Chlorine, Sulphide, Copper Mercury, Total Arsenic, Cyanide, Lead, Zinc, Aluminium, Boron, Ammonia, Barium, Silver, Nickel, Phenolic Compound, Chloramines, Trihalomethanes, Radioactive Materials, Mineral Oil, Pesticides etc. District Forum committed an illegality by ignoring the report no.DWTL/Bti/393/ 2014 which was issued by the Opposite Party No.1 with remark "Water is Potable". Without conducting all the tests as per BIS standard opposite party No.1 cannot make a remark in the report that "water is potable". This act of the Opposite Party No.1 amounts to unfair trade practice. He prayed for acceptance of the appeal and setting aside the impugned order.

7. On the other hand Sh. Amrit Bansal, Representative of Opposite Parties submitted that the report No.DWTL/BTI/393/2014 dated 17.07.2014 Ex.C-3/A is legal and valid in all respect. The report was detailed one and the conclusion was based on physical, chemicals and bacteriological tests only. It was also submitted that the tests were conducted for which the facility was available with opposite party No.1 as provided by the State Government and the fee had been charged accordingly. There was no deficiency in service on the part of the opposite parties. He prayed for the dismissal of the appeal with costs.

8. The test report of water (Ex.C3) was based on physical, chemicals and bacteriological tests only whereas, norms of BIS standard prescribed 44 tests for potable water. Opposite Party No.1 had conducted only 15/16 tests out of 44 tests as per the norms of BIS Standard and had not tested Residual, free Chlorine, Sulphide, Copper Mercury, Total Arsenic, Cyanide, Lead, Zinc, Aluminium, Boron, Ammonia, Barium, Silver, Nickel, Phenolic Compound, Chloramines, Trihalomethanes, Radioactive Materials, Mineral Oil, Pesticides etc.

9. Potable water means, water which is fit for drinking. Opposite parties had not tested other chemical particles. The site which is designed and developed by Debtte Touch & Tohmatsu India Pvt. Ltd, on the basis of Contents Provided by Department of Water Supply & Sanitation Punjab was proved as ExC3/A. It is specifically mentioned under the head of

Water Quality Monitoring and Surveillance:

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IV. Strengthening of Water Testing facilities:

At present there is a central water testing laboratory at Patiala in addition to district level laboratories at Bathinda, Ferozepur, Amritsar. In order to provide testing facilities nearest to the water supply schemes, water testing laboratories have been set up at all the 20 district headquarters as well as at seven other divisional head quarters i.e. Pathankot, Rajpura, Anandpur Sahib Abohar, Fazilka, Malout & Batala. These labs check quality of water according to specifications for potable water as per Bureau of Indian Standards: BIS-10500-1991.

10. It is fact that the laboratory where the water was got tested by the complainant falls under Bathinda District. Opposite Parties were bound to test the water as per norms of BIS Standard. Opposite Party No.1 had conducted only 15/16 tests out of 44 tests as per the norms of BIS Standard. Without conducting all the tests as per the norms of BIS standard Opposite Party No.1 had issued a report that "water is potable". The act of the Opposite Party No.1 amounted to deficiency in service. Opposite Party No1 cannot write word "water is portable" in the report without conducting all the tests as per norms of BIS Standard. Therefore, findings recorded by the District Forum cannot be sustained and are liable to be set aside.

11. The appeal is allowed and while setting aside the order of the District Forum the Opposite Party No.1 is directed to supply the report to the complainant of potable water after conducting 44 lab tests as per norms of BIS standard and failing that to delete the word "water is potable" in the report Ex.C-3 and also to refund Rs.100/-, as testing fee. Further, Opposite parties are directed to pay Rs.2,000/- as compensation for the harassment and agony suffered by the complainant and Rs 1100/- as litigation expenses jointly and severally. The above said amounts are to be paid by the Opposite Parties within 30 days of the receipt of the

copy of the order and failing to pay interest on that amount at the rate of 9% per annum from the date of complaint till the realization thereof.

12. The arguments in this appeal were heard on 21.07.2016 and the order was reserved. Now, the order be communicated to the parties as per rules.

13. The appeal could not be decided within the statutory period due to heavy pendency of court cases.

**(JUSTICE GURDEV SINGH)
PRESIDENT**

**September 5th, 2016
SK**

**(SURINDER PAL KAUR)
MEMBER**

