

Vinod Kumar Dudeja Vs. Appolo Computers Pvt. Ltd. and Another

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Court : Delhi State Consumer Disputes Redressal Commission SCDRC New Delhi

Decided On : Apr-26-2001

Judge : Lokeshwar Prasad, President; Ms. Rumnita Mittal Member & Mr. S.P. Saberwal, Member

Appeal No. : Appeal No. A-1025 of 2001

Appellant : Vinod Kumar Dudeja

Respondent : Appolo Computers Pvt. Ltd. and Another

Judgement :

Lokeshwar Prasad, President:

1. The present appeal, filed by the appellant, under Section 15 of the Consumer protection Act, 1986 (hereinafter referred to as the Act), is directed against order dated 24.3.2001, passed by District Forum No. III in Complaint Case No. 443/2000 entitled Shri Vinod Kumar Dudeja v. Appolo Computers Pvt. Ltd. and Anr.

2. The facts, relevant for the disposal of the present appeal, briefly stated, are that the appellant has filed a complaint under Section 12 of the Act, before the District Forum, averring that the appellant had purchased a computer system on hire purchase basis from respondent No. 1 on 5.4.1999. It was stated that at the time of installation of the system it was noticed that the components, which were fitted inside the CPU, were without the original packing and certain items, which were to

be provided by the respondents free of cost, as per the agreement, had not been provided. The grievance of the appellant, in the complaint, filed by him, was that the system, soon after installation, started giving trouble and all the CPU components were replaced by the respondent on 27.7.1999. It was alleged that even after the replacement, the system continued to give trouble. In other words, the same was defective. It was stated that on the complaint of the appellant, the respondent changed the Mother Board of the system with an inferior quality Mother Board. The price difference between the two Mother Boards was approximately Rs. 4,000/-. The grievance of the appellant, in the complaint, in nutshell, was that in spite of innumerable complaints, lodged by the appellant, the respondent failed to rectify the defects in the system. The appellant filed the complaint, before the District Forum, with the prayer that direction be given to the respondents to change the parts as prayed and the appellant be also awarded damages and cost of litigation.

3. The claim of the appellant, in the District Forum, was resisted by the respondents and in the reply/written version, filed on behalf of the respondents, before the District Forum, the respondents took a preliminary objection to the effect that the appellant was not a consumer within the meaning of the Act. It was also stated that the system provided to the appellant contained delicate parts and the appellant had mishandled the same and therefore was not entitled to any claim. It was also the stand of the respondents that the appellant was supplied by the respondents a Pentium-II equipment in the computer and the said equipment was got converted by the appellant without the knowledge of the respondents to Pentium-III thereby causing damage to the system as a whole on account of change in configuration, for which, the respondents were not liable. On merits, it was stated that the respondents supplied a computer system. The allegations that the original components were not supplied and fitted, were specifically denied. It was stated that the machine (system) was supplied to the appellant against a price agreed to and accepted by the appellant. It was contended on behalf of the respondent that there was no deficiency in service and the complaint, filed by the appellant, was liable to be dismissed.

4. The learned District Forum, vide impugned order, has rejected the complaint, filed by the appellant.

5. Feeling aggrieved, the appellant has preferred the present appeal under Section 15 of the Act.

6. We have heard the appellant at length on the question of admission of the present appeal and have also carefully gone through the documents/material on record. On the basis of documents/material on record, it is apparent that the computer system in question was purchased by the appellant for commercial purposes (Internet Cafe Business, where customer has to pay charges on the basis of time utilization of system). During the course of arguments, we too, have put a specific query to the appellant on the above point and when confronted with the documents on record, the appellant admitted that the computer system, purchased by him, is being used for a commercial purpose. Since, the computer system, purchased by the appellant, is being used for a commercial purpose, the complaint, filed by the complainant, is not maintainable before a Redressal Agency, established under the Act because the appellant is not a consumer within the meaning of Section 2(1)(d) of the Act. In our above views, we stand fortified by two decisions of the Honble National Commission in cases *S. Pattabiraman v. SP. ST. Palaniappan*, 1986-94 Consumer 646 (NS) and *M/s. HCL Limited v. M/s. Krishna Nanu Naik and Sons and Anr.*, II (1993) CPJ 174 (NC). On the above ground alone, the complaint, filed by the appellant, before the District Forum, was not maintainable and the impugned order, dismissing the complaint, on the above ground, in our opinion, suffers from no infirmity so as to call for any interference by this Commission in exercise of its appellate powers. The present appeal, filed by the appellant is, therefore, devoid of substance. The same merits dismissal. Accordingly, the same is dismissed in limine with no order as to costs. However, the appellant is given the liberty to approach the appropriate Forum for redressal of his grievances, being raised by him, in the present appeal, if so advised.

The present appeal, filed by the appellant, stands disposed of in above terms.

Appeal dismissed.