

**Tejender Singh Vs. Commandant, the Sikh Regimental Centre and anr.**

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**Court :** Jharkhand

**Decided On :** Aug-30-2005

**Reported in :** AIR2006Jhar28; [2005(4)JCR471(Jhr)]

**Judge :** Altamas Kabir, C.J. and; R.K. Merathia, J.

**Acts :** [Consumer Protection Act, 1986](#) - Sections 2(1); Specific Relief Act

**Appeal No. :** W.P. (C) No. 2905 of 2004

**Appellant :** Tejender Singh

**Respondent :** Commandant, the Sikh Regimental Centre and anr.

**Advocate for Def. :** M.M. Prasad, Adv.

**Advocate for Pet/Ap. :** Sumit Gadodia and; J.J. Sanga, Adv.

**Judgement :**

ORDER

1. This writ application has been filed by one Tejender Singh against the order dated 26th March, 2004 passed by the State Consumer Disputes Redressal Commission, Jharkhand, Ranch!, dismissing his appeal, being No. 69 of 2004, and affirming the order passed by the District Consumer Forum, Hazaribagh.

2. The respondent No. 1 as the Commandant of the Sikh Regimental Centre in the Ramgarh Cantonment, appears to have entered into an agreement with the writ

petitioner herein on 15th February, 2001 for providing Cable T.V. network facilities in the Sikh Regimental Centre for its Officers, J.C.O. and other civilians. In terms of the contract entered into between the writ petitioner and the respondent No. 1, the writ petitioner was to provide such services and in lieu thereof he would be entitled to collect monthly subscription from the connection holders. It was agreed that the writ petitioner would collect Rs. 250/- by way of security deposit from each connection holder, which would be refundable upon discontinuance of the connection. One of the other terms and conditions of the agreement was that the writ petitioner would charge Rs. 100/- per month as monthly subscription from the connection holder. The other conditions mentioned in the contract relates to the manner in which the contract was to be implemented.

3. Admittedly, the cable connection was discontinued by the writ petitioner, upon which the respondent No. 1 filed a complaint before the District Consumer Disputes Redressal Forum, Hazaribagh. During the course of the matter, one Mach-hender Lal, who was one of the monthly subscribers, was added as a complainant and ultimately by an order dated 16th January, 2004, the District Consumer Forum directed the writ petitioner herein to refund within one month to the complainants jointly or severally the security amount of Rs. 50,000/- only alongwith Rs. 10,000/- as compensation and litigation cost. It was also directed that if the order is not complied with the prescribed period and interest of 10% per annum will be payable from the date of the order till payment of the awarded amount of Rs. 50,000/-.

4. The writ petitioner thereupon filed an appeal before the State Consumer Disputes Redressal Commission, Jharkhand, Ranchi and the said appeal was numbered as 69 of 2004, which was also disposed of on 26th March, 2004 upon confirmation of the order passed by the District Forum, as mentioned hereinabove. Being aggrieved by the said order, the writ petitioner has moved the instant writ application.

5. Appearing in support of the writ application, Mr. Sumit Gadodia urged mainly one point i.e. that the provisions of the [Consumer Protection Act, 1986](#), are not applicable to the facts of the instant case. In support of his submission, Mr.

Gadodia firstly referred to the definition of the expression 'service' as used in Section 2(1)(o) of the [Consumer Protection Act, 1986](#), which is reproduced herein below :

'Service' means service of any description which is made available to potential users and includes the provision of facilities in connection with banking, financing, insurance, transport processing, supply of electrical or other energy, board or lodging or both, entertainment, amusement or the purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service.'

From the said definition, Mr. Gadodia tried to point out that a contract of personal service would not be implemented either under the provisions of the [Consumer Protection Act, 1986](#), or under the provisions of the Specific Relief Act. It was his definite case that the writ petitioner was merely an agent of the respondent No. 1, who, in fact, was the service provider to the various persons within the Sikh Regimental Centre, who had been enjoying the benefit of cable network. Mr. Gadodia submitted that the distinction between the expression 'contract of personal service' and 'contract for personal service' was rather well-settled and had been considered by the Hon'ble Supreme Court in the case involving India Medical Association v. V.P. Shantha and Ors., reported in (1995) 6 SCC 561, wherein it has been observed in paragraph 40 that a contract of personal service is not a service within the meaning of Section 2(1)(o) of the Consumer Protection Act, whereas a contract for services which denoted the rendering of professional and technical services would entail the performance of such professional or technical services, which is not subject to the detailed direction and control but would enable the provider of such service to use his own knowledge and discretion. Mr. Gadodia tried to convince us that having regard to the above and in view of the specific definition of the expression 'service' in the [Consumer Protection Act, 1986](#), the contract entered into between the petitioner and the respondent No. 3 could not be enforced within the meaning of the aforesaid Act.

6. Opposing the writ application, Mr. Prasad drew our attention to the fact that from the contract itself it would be clear that the writ petitioner was the service provider

and that the terms and conditions included in the contract would indicate that he would be entitled to collect subscription and security money for the subscribers. In fact, a membership card has been brought to our notice from which it would appear that the services regarding cable network was being provided by Durga Star T.V. which admittedly is the Concern of the writ petitioner.

7. In such circumstances, we see no reason to interfere with the order passed by the State Consumer Forum, but we also extend the time for refunding the security amount of Rs. 50,000/- as also Rs. 5,000/- by way of compensation and litigation cost to the respondents within one month from date, failing which the amount will carry interest at the rate of 10% per annum thereafter till payment of the same.

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