

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION NO.1386 of 2017

ORDER: (per SK,J)

This writ petition was filed with the following prayer:

'It is therefore prayed that this Hon'ble Court may be pleased to issue a writ or order/s more particularly one in the nature of Writ of Certiorari, to call for the records pertaining to F.A.Sr.No.3246/16 and set aside the order dated 23.11.2016 as illegal, arbitrary and unconstitutional and consequently direct the Hon'ble State Commission to entertain the appeal filed by the petitioner vide F.A.Sr.No.3246/16 and pleased to pass such other order/s as this Hon'ble Court may deem fit and proper in the circumstances of the case.'

Respondents 1 to 7 were shown as not necessary parties in terms of the amendment petition in WPMP No.13044 of 2017 filed in this writ petition which was ordered on 19.04.2017. Respondent No.8 is deemed to have been served as substituted service was effected upon her through publication of notice in Hindu English News Paper and Andhra Jyothi Telugu News Paper having circulation in Hyderabad. Respondent No.9, despite service of notice, did not choose to enter appearance before this Court.

Heard Sri V.Venkata Mayur, learned counsel for the petitioner.

By the impugned order dated 23.11.2016, the Telangana State Consumer Disputes Redressal Commission, Hyderabad, dismissed the appeal filed by the petitioner on the short ground that he had failed to comply with the requirements of remitting the statutory amount.

Sri V.Venkata Mayur, learned counsel, states that the petitioner sought enlargement of time to make the said deposit but without considering his plea for such enlargement of time, the Commission straightaway dismissed the appeal. He would further submit that the petitioner is now in a position to make the deposit of the statutory amount within one week.

As the petitioner himself seems to have been mulcted with liability by the order dated 26.04.2016 passed by the District Forum-III, Hyderabad, in C.C.No.447 of 2012, he is entitled to have his appeal heard on merits. There is, no doubt, some amount of delay on his part with regard to making the remittance of the statutory amount, but each case would have to be considered on its own merits. In a deserving case, a party cannot be denied his right to be heard only on the ground that he failed to make the deposit within the stipulated time and when his application for enlargement of such time is pending. In the impugned order, we find that the Commission did not record as to why the petitioner's plea for enlargement of time was unworthy of acceptance. We are therefore of the opinion that the petitioner should be permitted to maintain the appeal against the order passed by the District Forum-III, Hyderabad.

The writ petition is accordingly allowed setting aside the order dated 23.11.2006 passed by the Telangana State Consumer Disputes Redressal Commission, Hyderabad. The petitioner shall make the remittance of the statutory amount within one week from the date of receipt of a copy of this order and thereupon, re-present his appeal papers. In the event the same are found to be in order, the Commission shall consider the appeal on its own merits and in accordance with law.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR,J

T.AMARNATH GOUD,J

Date:26.10.2017

GJ