



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2018

CORAM

THE HONOURABLE MRS.JUSTICE R.THARANI

C.R.P. (PD) (MD) No.908 of 2015

and

M.P. (MD) .No.1 of 2015

The Public Information Officer and Member,
Secretary/Director,
TRB Teacher Recruitment Board,
E.V.K.Sampath Maaligai, 4th Floor,
Chennai - 6. .. Revision Petitioner/Opposite Party

/Vs./

N.Arasakumaran .. Respondent/Complainant

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the *ex-parte* order, dated 05.04.2013 in Consumer Complaint No.20 of 2012 on the file of the learned District Consumer Disputes Redressal Forum, Karur.

For Petitioner : Mr.M.Karuppasamy, Government Advocate
For Respondent : No Appearance

ORDER

This Civil Revision Petition has been filed against the *ex parte* order, dated 05.04.2013, in Consumer Complaint No.20 of 2012 on the file of the District Consumer Disputes Redressal Forum, Karur.

2.The petitioner is the respondent in the Consumer Complaint No.20 of 2012. The respondent herein is the complainant.

3.The case of the complainant is that on 27.05.2012, the complainant appeared for the Economics Examination in Teachers Recruitment Board in Cheran Matriculation School at Vennaiimalai in Karur with Roll Number 10170080. On 25.06.2012, the complainant downloaded the TRB answer sheet (C) through Internet. The complainant had some doubts regarding question Nos.16, 103, 104, 76 and 28. The complainant sent a petition to the revision petitioner herein under the Right to Information Act asking explanation for notes for 3 questions and explanation for 2 questions without giving notes. On 27.07.2012, the petitioner herein sent a reply to the complainant. The petitioner herein



furnished 2 answers each for 3 questions and not furnished any explanation for other 3 questions. For questions 63, 77, 114 there was no answer given. Again on 30.07.2012, the complainant sent a petition under the Right to Information Act regarding the appointment on the basis of OC, BC, MBC and SC. It is also mentioned that no service benefits are available to MBC and SC candidates in Teachers Recruitment Board. Again on 14.08.2012, the complainant sent a petition to the petitioner herein under the Right to Information Act and no reply was received by the complainant. The complainant filed a petition before the Consumer Forum and the learned Consumer Judge awarded Rs.5,000/- towards compensation for deficiency of service and for mental agony and Rs.500/- towards cost of this complaint to the complainant.

4.The contention of the revision petitioner is that the respondent having not satisfied with the information furnished by the petitioner has filed a writ petition in W.P.(MD).No.11563 of 2013, before this Court seeking for a mandamus to award full marks for some questions and the writ petition is pending. It is further stated that the respondent has approached the Consumer Forum and the complaint was not maintainable as this respondent cannot be named as a Consumer. This petitioner is not rendering any service to the petitioner herein. The word 'Consumer' denotes a person who hires or avails of any service for a consideration which has been paid or promised or partly paid and partly promised. There is no promise on the part of the petitioner and no such consideration is paid by the respondent and the respondent is not a Consumer.

5.On the side of the petitioner, it is further stated that the word 'Service' as per the Consumer Act means service of any description which is made available to potential users and includes, but not limited to, the provision of facilities in connection with banking, financing, insurance, transport, processing, supply of electrical or other energy, board or lodging or both (housing construction), entertainment, amusement or the purveying of news or other information, but does not include the rendering of any service free of charge or under contract of personal service. It is further stated that there is no such contract between the petitioner and the respondent.

6.It is further stated that the 'Jurisdiction' of the Consumer Forum is barred under the Right to Information Act. The Right to Information Act itself provides adequate remedy to a person aggrieved. The Consumer forum allowed this petition only on the basis of non appearance of the petitioner herein and the Consumer Forum failed to appreciate the merits of the case and failed to note that an *ex-parte* order also is to be passed on merits.



7. Records perused. From the records it is clear that there is a clear bar under Section 23 of the Right to Information Act and the jurisdiction of the Consumer Forum is expressly barred and the District Forum does not have any jurisdiction to entertain the complaint. Moreover, the position of the respondent is not that of a Consumer and the respondent has not hired or availed any service for a consideration from the petitioner. In the above circumstances, the order of the Lower Court is set aside and the Civil Revision Petition is allowed on merits. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS-III)

To

1. The District Consumer Disputes Redressal Forum, Karur.

2. The Public Information Officer and Member,
Secretary/Director,
TRB Teacher Recruitment Board,
E.V.K. Sampath Maaligai, 4th Floor,
Chennai - 6.

3. The Section Officer,
V.R. Section, Madurai Bench of Madras High Court,
Madurai. (2 copies)

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