

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

HON'BLE SRI JUSTICE M.GANGA RAO

WP.Nos.19657 and 20540 of 2017

Date:07.06.2018

Between.

M/s S & S Green Projects Private Limited,
Hyderabad, repled by its Managing Director-
Meka Vijaya Sai

.....Petitioner

And.

The Telangana State Consumer Disputes
Redressal Commission, repled by its
Chairman, Hyderabad and five others.

.....Respondents

Counsel for the petitioner: Mr. M.R.K.Chakravarthy

Counsel for respondent No.2: Mr. Prabhakar Sreepada

The Court made the following:

COMMON ORDER: (*per Hon'ble Sri Justice C.V.Nagarjuna Reddy*)

These two Writ Petitions involve common parties and inter-related issues, hence, they are heard and being disposed of together.

Respondent No.2 filed C.C.No.34 of 2016 before respondent No.1-The Telangana State Consumer Disputes Redressal Commission (for short 'Commission') complaining of deficiency of services against the petitioner. Admittedly, a notice was received by the petitioner, but, it has failed to appear before respondent No.1-Commission on the first date of hearing which was fixed for 07.4.2016. However, the petitioner has filed the vakalat and written version on 17.8.2016 along with an application-CCIASR.No.2641 of 2016 to extend the time for filing such written version. The said application and the written version were returned on the same day with certain office objections. The petitioner pleaded that the fact of the said return came to the knowledge of its counsel only on 26.10.2016 when C.C.No.34 of 2016 was listed before respondent No.1-Commission and that immediately, its counsel took return of the written version and C.C.IASR.No.2641 of 2016, complied with the office objections and resubmitted it along with CCIA.No.1322 of 2016 filed for condonation of delay in re-presentation. By a common docket order, dated 28.02.2017, respondent No.1-Commission has dismissed both the

applications, viz, CCIASR.No.2641 of 2016 and CCIA.No.1322 of 2016. Feeling aggrieved by the said common order passed by respondent No.1-Commission, the petitioner filed these two Writ Petitions.

We have heard Mr. M.R.K.Chakravarthy, learned counsel for the petitioner and Mr. Prabhakar Sreepada, learned counsel for respondent No.2.

From a perusal of the impugned docket order, dated 28.02.2017, it is apparent that respondent No.1-Commission has failed to assign any reasons whatsoever in support of its conclusion that the applications are not maintainable.

Learned counsel for the petitioner submitted that his client has taken a specific plea that it has not received a copy of the complaint along with the notice, as envisaged under Section-13(2)(a) of the Consumer Protection Act, 1986 (for short 'the Act'), despite which, respondent No.1-Commission has not adverted to the same.

Under Section-(13)(2)(a) of the Act, the District Forum shall refer a copy of the complaint to the opposite party directing him to give his version of the case within a period of 30 days or such extended period not exceeding 15 days as may be granted by the District Forum.

If the plea of the petitioner that it has not received a copy of the complaint along with the notice is true, the period of 30

days for filing its written version may not have commenced as, service of notice without service of complaint cannot constitute proper service. Respondent No.1-Commission, therefore, ought to have considered the plea of the petitioner relating to non-service of a copy of the complaint with reference to the record before holding that the said applications are not maintainable.

As noted earlier, the impugned docket order is bereft of any reasons. In ordinary course, we would have set aside the same and remanded the cases to respondent No.1-Commission. However, considering the fact that the petitioner has already filed its written version and it deserves an opportunity of being heard so that an order on merits could be passed, we refrain from remanding the cases. Instead, we feel that interests of justice would be served if the petitioner is saddled with compensatory costs for the delay in its approaching respondent No.1-Commission after receipt of notice.

Accordingly, both the Writ Petitions are allowed and the impugned common docket order, dated 28.02.2017, passed by respondent No.1-Commission in CCIASR.No.2641 of 2016 and CCIA.No.1322 of 2016 is set aside. Both the said applications filed by the petitioner are allowed, subject to its paying costs of Rs.25,000/- (Rupees Twenty five thousand only) to respondent No.2 within two weeks from today. On filing of proof of such payment within the stipulated time, respondent No.1-

Commission shall receive the written version from the petitioner and proceed with adjudication of CC.No.34 of 2016 on its own merits.

As a sequel to disposal of the Writ Petitions, WPMP.Nos.23995, 25174 and 27494 of 2017 are disposed of as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE M.GANGA RAO

07th June, 2018

DR

