

19.03.2024

Srimanta

Sl. No. 70

Ct. No. 655

CO/216/2014

***The Station Manager, Matangini Group Electric
Supply, WBSEDCL***

-Vs.-

Sri Dhananjoy Pal & Anr.

Mr. Srijan Nayak,
Mrs. Rituparna Maitra,
Mr. Arindam Mitra

...for the petitioner.

Learned Counsels appearing on behalf of the petitioner/the Station Manager, Matangini Group Electric Supply, W.B.S.E.D.C.L is present.

Despite service affected upon the opposite parties none appears on behalf of them. Affidavit of service filed by the petitioner be kept with the record.

The opposite party no. 2 took cable line by G.I. wire through the electric post of the petitioner (herein) and the opposite party no. 1 received electric shock when he was passing through the post of carrying such line at the time when he came in contact with the said wire. The opposite party no. 1 filed a complaint before the District Consumer Forum with a prayer for getting compensation on the ground that he sustained several burn injuries by touching the cable wire drawn by the cable operator. The learned Forum after giving opportunity of being heard to both the sides awarded compensation to the tune of Rs. 1,00,000/- and also cost of Rs. 5,000/- against the present petitioner as well as the cable operator payable within 45 days from the date of communication of the order and in default such amounts will fetch interest @ 8% p.a. from the date of order. Thereafter matter travelled to the State

Forum and the order passed by the District Forum was affirmed by it.

Being aggrieved and dissatisfied with the award passed by the learned State Consumer Disputes Redressal Commission, West Bengal in connection with SC/FA No. 817 of 2012 which has arisen out of order dated 28.08.2012 in Consumer Case No. 27 of 2010, passed by the learned District Consumer Disputes Redressal Forum, Purba Medinipur, the present petitioner has preferred this revisional application filed under Article 227 of the Constitution of India.

Learned Counsel appearing on behalf of the petitioner assailed that both the forums failed to appreciate the true meaning of the word consumer as provided in Section 2(1)(d) of the Consumer Protection Act as well as Section 2(15) of the Electricity Act, 2003. As per submission of the learned Counsel that there was no privity of contract between the petitioner and opposite party no. 1 and as such no complaint should be entertained by both the Forums.

It is specifically submitted on behalf of the petitioner that subject matter involved in this case is beyond the scope and ambit of the Consumer Protection Act and the opposite party no. 1 cannot be termed as "consumer" as per definition as embodied in the Electricity Act as well as the Consumer Protection Act.

It is further submitted by the learned Counsel that the orders passed by the District Consumer Forum as well as the State Consumer Disputes Redressal Forum are erroneous and taking advantage of these orders execution case was filed before the Court in which warrant of arrest was issued

against the present petitioner. As per submission of the learned Advocate that all the allegations of the opposite party no. 1 is against the cable operator and the present petitioner did not have any hand in that regard.

At the time of hearing the attention of this Court is drawn by the learned Counsel appearing on behalf of the petitioner to a document written by opposite party no. 1 (herein) Dhananjay Pal addressed to the Station Manager wherein it is stated that the complainant has already got compensations as awarded by the forum and presently he has/had got no claim against the present revisionist/petitioner. The said document filed by the petitioner dated 11.12.2023 be kept with the record.

It appears from the materials on record that the opposite party no. 1 (complainant) alleged that he received electric shock from the cable line drawn by the opposite party no. 2 (herein) when he came in touch with the said G.I. wire utilized by the cable operator/opposite party no. 2 (herein).

It is profitable to quote the definition of consumer as laid down under Section 2(15) of the Electricity Act, 2003 and Section 2(d) of the Consumer Protection Act which are as follows:

“Consumer” means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose

premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, this Government or such other person, as the case may be”.

“Section 2(d) : “Consumer” means any person who-

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(i) Buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly 3 promised, or under any system of deferred payment when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or

(ii) hires or avails of any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who hires or avails of the services for

consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first-mentioned person [but does not include] a person who avails of such services for any commercial purpose”.

So, it is clear that the opposite party no. 1 was not a consumer as per provision of the Act and as such matter in dispute cannot be termed as a consumer dispute and should not be entertained by the forums. It further appears that there was no privity of contract between the opposite party no. 1 and the present petitioner for providing any service in any manner whatsoever. More so, entire allegation was against the opposite party no. 2/ cable operator who drew the G.I. line in an unauthorized manner and since the present opposite party no. 1 came in touch with the said line received burn injuries. So, the allegations of the opposite party no. 1/ complainant has to be decided within the ambit of definition of “consumer” as provided in the Acts and as referred above.

So, the learned Forums passed the orders illegally in awarding compensation against the present petitioner and the complainant/opposite party no. 1 can never be termed as “consumer” in respect of the dispute in question. Moreover, from the document submitted by the petitioner today it appears that the opposite party no. 1 had already received the awarded compensation.

Accordingly, the order passed by the learned State Consumer Disputes Redressal Commission, West Bengal dated 19.11.2013 in connection with SC/FA No. 817 of 2012 arising out of order dated 28.08.2012 in Consumer Case No. 27 of 2010, passed by the learned District Consumer Disputes Redressal Forum Purba Medinipur are hereby set aside.

C.O. being No. 216 of 2014 is hereby allowed and disposed of but without any order as to costs.

Urgent Photostat certified copy of this order, if applied for be given to the parties on payment of requisite fees.

(Prasenjit Biswas, J.)