



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 7710 OF 2024

The Senior Superintendent Of Post Offices, Aurangabad
Division, Aurangabad And Another

VERSUS

Shital Ashok Nimbalkar, r/o Cidco, N-2, Aurangabad.

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D.S.G.I. for Petitioners : Mr. A.G.Talhar

CORAM : S. G. CHAPALGAONKAR, J.

Dated : 02nd August, 2024

PER COURT :-

1. Petitioners impugns the order dated 9.5.2024 passed by the District Consumer Disputes Redressal Commission, Aurangabad in complaint case no.CC/357/2023 as well as the order dated 2.7.2024 passed by the Maharashtra State Consumer Disputes Redressal Commission, Mumbai, Bench at Aurangabad in Revision No.38 of 2024.

2. The Respondent/original complainant filed consumer complaint No.357 of 2023 before the District Consumer Dispute Redressal Commission at Aurangabad contending that she booked a Speed Post Article on 16.3.2023 from the Post Office at Sessions Court Premises, Aurangabad vide article no. EM401078268IN. Said article was delivered to the respondent on 17.3.2023 instead of delivering to recipients/Addressee. Respondent No.1 being

enraged by deficiency in service by the postal authority, issued legal notice. It was replied by the petitioners on 24.4.2023. However, unsatisfied with the reply, respondent filed consumer complaint. The notice of said complaint was served upon the petitioners on 7.12.2023. On 13.2.2024 Petitioners caused appearance before the District Consumer Disputes Redressal Commission, Aurangabad and obtained copy of the complaint. On 3.4.2024 Advocate for the petitioners filed Vakalatnama. After noting appearance, matter was posted to 9.5.2024 for reply/written statement of the petitioners. However, on 9.5.2024 District Consumer Disputes Redressal Commission, Aurangabad passed the impugned order i.e. “No say order” and posted the complaint for arguments on 3.7.2024. Petitioners filed revision petition against “No say order” before Maharashtra State Consumer Disputes Redressal Commission, Mumbai, Bench at Aurangabad. However, revision petition came to be dismissed vide order dated 2.7.2024.

3. Mr. Talhar, learned D.S.G.I. appearing for the petitioners submit that the petitioners were not served with copy of the complaint alongwith notice of the proceeding. On 3.4.2024 appearance was caused on behalf of the petitioners. Roznama depicts that matter was posted on 9.5.2024. On that day, petitioners submitted an application seeking permission to tender written statement. However, said application came to be rejected as written statement was not filed within the stipulated time. Mr. Talhar, relying

upon the judgment of the Supreme court of India in case of *Diamond Exports & Anr. Vs. United India Insurance Company Limited (Civil Appeal No.7546 of 2021)* submits that written statement could have been accepted by condoning the delay on payment of costs. Mr. Talhar urges to adopt the same course in the present matter and permit written statement on record by awarding costs to the Respondent.

4. It is trite that consumer Protection Act, 1986 is a Complete Code and provides mechanism to deal with grievances of consumers so also prescribes procedure and remedies in the matters of the Consumer Disputes. The provisions are designed so as to provide hasslefree and expeditious justice to the consumers, who are required to fight out against the deficiencies in service at the hands of service providers. Early disposal of the complaint is ensured through a summary and time bound procedure. Timeline is prescribed for the steps to be taken by the parties during course of the proceeding of the complaint. Section 38 of the Consumer Protection Act prescribes for specific time limit for filing the written statement after service of notice of the complainant. Section 38 (2) (a) of the Consumer Protection Act, 2019 prescribes the period of 30 days for filing of the reply, which can be extended by further 15 days. The Supreme Court of India in case of *Diamond Exports and Anr. (supra)* held that the District Consumer Disputes Redressal Forum has no discretion to

grant extension of time for filing reply beyond 15 days after initial period of 30 days. District Consumer Disputes Redressal Forum as well as the Maharashtra State Consumer Disputes Redressal Commission, Mumbai Bench at Aurangabad has followed the aforesaid principles of law and rejected prayer of the petitioners for extension of time to file the written statement.

5. Although, Mr. Talhar, learned D.S.G.I. attempts to contend that service of notice dated 7.12.2023 was without copy of the complaint, it is not disputed that copy of the complaint was obtained by Petitioner from office of the District Consumer Disputes Redressal Commission, Aurangabad on 13.2.2024 through an advocate when he filed vakalatnama before the District Consumer Disputes Redressal Commission. Even from that day i.e. 13.2.2024 period of more than 45 days had lapsed till 9.5.2024 when written statement was tendered into service. The District Commission is not empowered to brake water tight compartment of time limit and permit filing time barred written statement. Consequently, no fault can be found in the impugned order. Resultantly, Writ Petition stands dismissed. No costs.

(S. G. CHAPALGAONKAR)
JUDGE

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