



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.1449/2025

Anand Kamlakar Borkar .Vs. Vikas Sampatrao Borkar and anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. K. R. Giripunje, Advocate instructed by Dr. Mrs. R. S. Sirpurkar,
Advocate for petitioner.

CORAM : ANIL L. PANSARE, J.

DATE : APRIL 22, 2025

Heard.

2. Challenge is to order dated 12.12.2024, passed by State Consumer Disputes Redressal Commission, Maharashtra, Circuit Bench Nagpur, (For short the, "State Commission") thereby rejecting application filed by the petitioner to condone delay of 350 days in filing revision against order dated 01.02.2023 passed by District Consumer Disputes Redressal Commission, Nagpur (For short the, "District Commission") in Complaint Case No.682/2022.

3. The State Commission found that the justification put forth by the petitioner was not sufficient to condone the delay. According to the petitioner, he got to know of the impugned order only when the matter was posted for filing written notes of arguments. The Commission noted that this ground is not acceptable inasmuch as the order of "No Written Statement" was passed in the presence of the petitioner and accordingly, refused to condone the delay.

4. Counsel for the petitioner submits that the complaint was filed by respondent No.1 before District Commission on 21.09.2022. The petitioner appeared before the District Commission on 18.12.2022. On that day, he received copy of complaint and

documents. On 07.12.2022, the petitioner filed application to permit him to file written statement and along with the application, was filed written statement. Thus, it is the case of the petitioner that he received documents on 18.10.2022 and within 45 days he filed written statement.

5. In this regard, Section 38 (3) (a) of the Consumer Protection Act, 2019 will be relevant, which provides that the District Commission Shall, if complaint relates to services, refer a copy of such complaint to the opposite party directing him to give his version of the case within a period of thirty days or such extended period not exceeding fifteen days as may be granted by the District Commission.

6. Thus, the opposite party is under obligation to put forth his version within thirty days from the date of receipt of notice from the District Commission.

7. In the present case, notice was delivered to petitioner on 07.10.2022. Thus, the petitioner ought to have filed reply by 06.11.2022.

8. At this stage, counsel for the petitioner submits that the petitioner had received copy of complaint and other documents on 02.04.2024, though notice might have been served on him on 07.10.2022. He submits that the acknowledgment of receiving complaint on 18.10.2022, is available with him.

9. If what has been stated by petitioner's counsel is said to be true even then petitioner ought to have moved District Commission for filing written statement on or before 18.11.2022 and for additional time, he ought to have moved application seeking extension of time to file written statement in terms of Section 38 (3) (a) of the Act of 2019.

10. It appears that the petitioner filed application for extension of time on 07.12.2022 and along with application was filed written statement. Thus, the petitioner was aware that he failed to file written statement within stipulated time and, therefore, had filed application to permit him to place on record written statement and in that sense the petitioner ought to have been careful on the point whether the application filed by him, has been allowed and written statement is taken on record.

11. In the light of the above, roznama and subsequent orders would be relevant. Roznama dated 07.12.2022 of the District Commission notes that the petitioner has filed application to submit written statement. On next date i.e. on 11.01.2023, the matter was posted for passing 'No written statement' order and on 01.02.2023, the order came to be passed. Roznama indicates that the petitioner was present before the State Commission. The fact of his presence is not disputed by the petitioner though he states that he was unaware of passing impugned order.

12. In the circumstance, the petitioner ought to have been careful as to whether application has been allowed. There appears no reason why should petitioner presume that his application is allowed. Therefore, the ground taken by the petitioner that he came to know of passing order of 'No written statement', only when the matter was posted for filing written notes of argument appears to be incorrect. The State Commission has, therefore, rightly held that the petitioner failed to explain the delay of 350 days on the aforesaid ground. No interference is, therefore, called for in the writ jurisdiction. The writ petition is dismissed. No order as to costs.

(Anil L. Pansare, J.)