



WEB COPY



W.P.No.37171 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2025

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE K.RAJASEKAR

W.P.No.37171 of 2024

V.R.Krishnakumar

.. Petitioner

v.

1. The Branch Manager
American Express Bank Limited
187, Anna Salai
Chennai, Tamil Nadu
2. The State Public Information Officer
(RTI Act 2005)
The Tamil Nadu State Consumer Disputes
Redressal Commission
Present Address: Frazer Bridge Road
VOC Nagar, Park Town, Chennai 600 003, Tamil Nadu
3. The Assistant Manager
Department of Banking Supervision
Reserve Bank of India
Fort Glacis
No.16, Rajaji Salai
Chennai 600 001, Tamil Nadu



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4. The Principal Secretary
Ministry of Cooperation, Food and
Consumer Protection Department
Secretariat, Chennai 600 009

5. The Deputy Commissioner of Police-II
Central Crime Branch for Team 33
Forgery Wing, First Floor
O/o The Commissioner of Police Building
E.V.K.Salai, Vepery, Chennai 600 007 .. Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, direction to the Hon'ble National Consumer Disputes Redressal Commission in accordance with U/s 38(5) of the Consumer Protection Act, 2019 regarding the constitutional statutory violation section acknowledged by the Hon'ble National Consumer Disputes Redressal Commission in a direction letter dated 06.06.2024 (page No.296-297) dated 26.11.2019, (page No.197-198) towards the orders dated 24.08.2018 (page No.165-174), 13.08.2018 (page No.189-194) and dated 23.12.2018 (page No.222-224) misconceived u/s 13(2)(a), 38(3)(a), 38(3)(b)(ii), 13(4)(iii) C.P. Act 1986 under revised Consumer Protection Act 2019 in accordance with section 38(2)(a), 38(3)(a), 38(3)(a), 38(3)(ii), 38(7), 38(9)(c). Petitioner's review applications before the Hon'bl National Consumer Commission are still pending.

For Petitioner :: Mr.V.R.Krishnakumar
Party-in-Person

For Respondents :: Mr.Abhijai Shankar for
M/s R and P Partners for R1
Mr.T.Chandrasekaran
Special Government Pleader for R4
No appearance for R2, R3 & R5



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ORDER

(Order of the Court was made by S.M.SUBRAMANIAM,J.)

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The petitioner has filed the present writ petition seeking the following prayer:-

“Issue a writ of mandamus or any other suitable writ, order, or direction to the National Consumer Disputes Redressal Commission in accordance with Section 38(5) of the Consumer Protection Act, 2019 regarding the constitutional statutory violation section acknowledged by the Hon'ble National Consumer Dispute Redressal Commission in a direction letter dated 06.06.2024 (page No.296-297) dated 26.11.2019, (page No.197-198) towards the orders dated 24.08.2018 (page No.165-174), 13.08.2018 (page No.189-194) and dated 23.12.2018 (page No.222-224) misconceived u/s 13(2)(a), 38(3)(a), 38(3)(b)(ii), 13(4)(iii) C.P.Act, 1986 under revised Consumer Protection Act, 2019 in accordance with section 38(2)(a), 38(3)(a), 38(3)(ii), 38(7), 38(9)(c). Petitioner's review applications before the Hon'ble National Consumer Commission are still pending. Therefore, the petitioner requesting directions that the Hon'ble National Consumer Commission review the order based on pending



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review applications in light of aforementioned, dated letters.”

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2. The petitioner, appearing in person, would submit that he has been driven from pillar to post to redress his grievances. The petitioner would submit that he is the proprietor of Central Processor Global Inc. Slofter. It is a proprietary concern. He maintains the account with American Express Bank Limited at Anna Salai, Chennai. The bank promised to give mercantile banking services in the current account being maintained by the petitioner's concern and also promised to extend the Letter of Credit facility in favour of the suppliers of the complainant for his export business; that the complainant received a cash order for supply of rice and fertilizer for a quantity of 25000 metric tonnes each, for which he requested the bank to extend the Letter of Credit, vide letter dated 19.05.2002. But the bank did not reply to any of his letters nor informed him about the margin money to be paid and therefore the complainant was constrained to approach the Banking Ombudsman unsuccessfully. Since the grievances of the petitioner have not been redressed, the petitioner filed a consumer complaint before the Tamil Nadu State Consumer Disputes Redressal Commission in Consumer Complaint No.21 of 2006, which rejected the complaint vide



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order dated 20.11.2018 on merits. Therefore, the petitioner preferred First Appeal No.112 of 2009 before the National Consumer Disputes Redressal Commission. The National Consumer Disputes Redressal Commission passed final orders on 24th July, 2018 dismissing the first appeal by confirming the order of the Tamil Nadu State Consumer Disputes Redressal Commission. One of the grievances raised by the petitioner/party-in-person in the present writ petition is that the interim orders passed by the National Consumer Disputes Redressal Commission in the interlocutory applications were not complied with by the respondent Bank.

3. However, this Court is of the considered opinion that all the interim orders merged with the final order passed by the National Consumer Disputes Redressal Commission dated 24th July, 2018 in First Appeal No.112 of 2009.

4. The National Consumer Disputes Redressal Commission primarily considered the entertainability of the complaint under the provisions of the Consumer Protection Act. Relevant portions of the order in paragraph-6



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passed by the National Consumer Disputes Redressal Commission read as

under:-

“6. First we address ourselves to the issue whether the Complainant falls under the definition of Section 2(1)(d) of the Consumer Protection Act, 1986 to be termed as a 'Consumer'. There is a specific pleading in the Complaint that the Complainant is a proprietary concern and is engaged in business for the purpose of self employment. Section 2(1)(d)(ii) carves out an exception which reads as hereunder:

“Explanation-For the purposes of this clause, “commercial purpose” does not include use by a person of goods brought and used by him and services availed by him exclusively for the purpose of earning his livelihood by means of self-employment.”

As can be seen from the exception, 'commercial purpose' does not include service availed by the Complainant **exclusively** for the purposes of earning livelihood by means of self-employment.

.....

....On careful reading of section it is clear that the services of the Bank was hired by the Complainant for



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commercial purpose in furtherance of the business of the Complainant. Therefore, viewed from any angle it cannot be construed that the Complainant has utilised the services of the Bank **exclusively** for the purpose of earning his livelihood and therefore we hold that the Complainant does not fall under the definition of 'Consumer' as defined under Section 2(1)(d) of the Act.”

5. Even before this Court, the petitioner admittedly is the proprietor of Central Processor Global Inc Slofter, a proprietaryship concern. Since the petitioner has raised an allegation of deficiency in service pertaining to commercial transactions, he would not fall under the definition of 'consumer' under the provisions of the Consumer Protection Act, 1986. This Court, though able to understand the difficulties undergone by the petitioner all along during the pendency of these proceedings, is unable to deal with the issues on merits, since the complaint filed by the petitioner would not fall under the Consumer Protection Act. The petitioner has chosen a wrong forum. However, the issue regarding maintainability was decided only by the National Consumer Disputes Redressal forum. That being so, it is just



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and necessary to grant liberty to the petitioner to approach the competent forum for the purpose of redressal of his grievances. In the event of approaching any competent forum, such forum shall entertain the petition without reference to the delay, since he is all along agitating the matter before the State Consumer Disputes Redressal Commission and the National Consumer Disputes Redressal Commission and the issues are to be decided on merits and in accordance with law. With this liberty, the writ petition stands disposed of. No costs.

Index : yes

Neutral citation : yes/no

(S.M.S.,J.) (K.R.S.,J.)

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SS

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