

27.03.2026
Item No.35
Ct. No. 30
Aloke

CO 3274 of 2022

**The Manager, Bank of India, Alipore Branch & Anr.
Vs
Sanjay Sharma & Anr.**

Mr. Sourojit Dasgupta
Ms. Rupal Singh
Ms. Anukriti Poddar
Mr. Ashok Kr. Singh
... for the petitioners

Mr. Sayak Ranjan Ganguly
Ms. Srijani Ghosh
Ms. Ankita Jha
Ms. Kripa Kami
... for the opposite party no.2

1. The revisional application has been preferred challenging an order dated 23.06.2022, passed in respect of the appeal filed by the petitioners under Section 15 of the Consumer Protection Act, 1986 being Appeal No. A/271 of 2018.
2. Vide the said order, the West Bengal State Consumer Dispute Redressal Commission has been pleased to dismiss the 1st Appeal being No. A/271 of 2018 for default with cost of Rs.100/-.
3. Both parties have filed their written notes.
4. Learned counsel for the opposite party submits that the present order is an appealable order before the National Commission and the revision is not maintainable.
5. Relying upon Section 47 of the Consumer Protection Act, 2019, the learned counsel for the

opposite party submits that the impugned order is an order passed by the Commission and the only forum is the appellate forum under Section 51 of the Act.

6. Learned counsel for the petitioners relies upon Section 49 of the Act which provides as follows :

“49.Procedure applicable to State Commission

(1) The provisions relating to complaints under sections 35,36,37,38 and 39 shall, with such modifications as may be necessary, be applicable to the disposal of complaints by the State Commission.

(2) Without prejudice to the provisions of subsection (1), the State Commission may also declare any terms of contract, which is unfair to any consumer, to be null and void.”

7. It appears that the provision under Section 38 of the Act has been made applicable to the disposal of complaints by the State Commission. As such, as it appears that admittedly the appeal was not decided on merit by the State Commission, the State Commission had to decide the complaints on merit even though the appellant had failed to appear before it.

8. Considering the fact that the impugned order was passed not on merit, this Court is of the view that the civil revision is maintainable and the State Commission was bound to comply with the provisions of Section 38(3)(C) of the Act. The

said order thus being not in accordance with law is hereby set aside. The 1st Appeal is restored to its file and number.

9. The State Commission shall hear the appeal on merits and proceed in accordance with law with due notice to both the parties.

10. **CO 3274 of 2022 stands disposed of.**

11. Connected application, if any, stands disposed of.

12. Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon usual undertakings.

(Shampa Dutt (Paul), J.)