

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL FORUM, JIND.

Complaint Case No. : 130 of 2019

Date of Institution : 25.04.2019

Date of Decision : 12.03.2020

Balwan S/o Sh. Molu Ram R/o Village Manoharpur Tehsil & Distt. Jind.

.....Complainant

Versus

1. M/s Ashish Beej Bhandar, r/o Village Manoharpur Tehsil & Distt. Jind.
2. M/s Kisal Sales Corporation through its Proprietor Sh. Dayanand Singla, Old Anaj Mandi, Jind (distributor of Jind)
3. M/s Har Sarup Kewal Ram (deals in Rice, Paddy and Paddy Seeds), Goyal Bhawan Hansi District Hisar (distributor of Haryana).
4. KRBL Ltd. 9th mile stone, Post Dujana, Bulandshahar Road, District Gautam Budh Nagar, U.P.

.....Opposite Parties

Complaint under Section 12 of the Consumer Protection Act.

CORAM: HON'BLE SH. MANJIT SINGH NARYAL, PRESIDENT.
HON'BLE SH. M.K. KHURANA, MEMBER.
HON'BLE SMT. NEERU AGARWAL, MEMBER.

Present: Sh. Partap Singh Redhu, counsel for complainant.
Sh. V.S. Lather, counsel for OPs No. 1 to 4.

ORDER

In nutshell, facts of the present complaint are that complainant purchased 10 kg. paddy 1509 seeds vide bill No.330 dated 27.05.2019. That OP No. 2 is carrying its business through its authorized person i.e. OP No.1 and OP No.2 is manufacturer of seed. There is exists relationship of consumer between Ops and

complainant. After purchase of the seeds, complainant sown in his fields it and prepared plant (pau dh) of paddy and thereafter same were planted in 2 acre agricultural land situated at village Manoharpur. It is submitted that the complainant cared and provided all things which were necessary for the paddy crops i.e. prepared soil, provided water and irrigation facilities, supplied of nutrients and used fertilizers etc. Besides this, the complainant also adopted correct agriculture practice for good crop. It is also submitted that after some time when paddy plant grown up and reached at ripening stage then it has been noticed by the complainant that the seed quality of paddy is not superior quality and there are different plants of paddy and is not same manner. It is also appeared that there is some mixup in seeds and seed is also inferior quality and sub-standard. It was seen at the time of mature stage of crop that some plants were tall and some were dwarf, some plants were in milk stage and some plants were at the maturity stage. It is stated that the complainant contacted with OP No. 1 and disclosed all above facts but it did not give any satisfactory reply. It is stated that the complainant moved an application to D.C. Jind for taking action against the Ops vide receipt No.2243 dated 08.10.2018 and the complaint was forwarded to Dy. Director (Agri.) Jind for further action. On direction of Dy. Director (Agri.) Jind SDO (Agri.) vide his office letter No.439 dated 09.10.2018 constituted a team for inspecting the field of the complainant and on 11.10.2018 a joint team of Agriculture Officer visited the fields of the complainant and after inspection issued report in which team concluded that there are three different type and size of plants. The numbers of tall size of plants are about 35% and numbers of dwarf size of plant are

about 68% and plant of dwarf size are at stage of ripening whereas tall size of plants are at milk stage with reach at stage of ripening after 15 days. It is submitted that the complainant suffered huge losses due to inferior quality of paddy seed. The complainant suffered about 50% loss of crop produce. If the paddy had been of quality then the yield of paddy would have been 50 Qtls. In 2 acre @ 25 quintal per acre and must have fetched price @ 2900/- per quintal which would come to Rs.1,45,000/- but the production of paddy came to be only 25 quintals in 2 acre. The losses suffered by the complainant to the tune of Rs.72,500/- on account of inferior quality of paddy. Had the seeds been of good quality the complaint could have been saved from the huge losses and in this situation Ops cannot escape from its own liability to compensate the complainant. As such, complainant submitted that the act and conduct of Ops amount to deficiency in service resulting into monetary loss as well as physical and mental harassment to the complainant. Hence, the present complainant has been preferred relief as per prayer clause.

2. Upon notice, Ops appeared through counsel and tendered their separate replies. After going through the contents of the replies, it reveal that all the replies have been submitted almost on the same lines. The Ops taken preliminary objections that the complainant is not maintainable being false and frivolous and that complainant no cause of action and locus standi to file the present complaint against them. On merits, OPs submitted that the complainant had purchased the paddy seeds supplied and manufactured by them. The Ops submitted that the complainant not used the seeds as per instructions for using the same as 10 kg. seeds is prescribed of one

acre whereas the seeds used by complainant was less than the prescribed quantity. As such, the answering OPs submitted that the loss if any occurred to the complainant was due to his own wrong and thus, no deficiency in service can be attributed towards the answering OPs. The alleged loss has been denied by the Ops and prayed for dismissal of complaint with costs.

3. In order to prove his case, learned counsel for complainant has placed on record affidavit of complainant as Annexure CW1/A alongwith documents as Annexures C-1 to C-6 and closed the evidence. On the other hand, counsel for OPs No. 1 to 4 tendered in evidence affidavit of Sanjay, Dayanand, Lakshay and Amit Kumar Annexure OPW1/A to OP4/A alongwith documents as Annexure OP-1 to OP-6 and closed the same.

4. We have heard learned counsel for the parties and perused the record very carefully.

5. Learned counsel for complainant has argued that the seeds so purchased by complainant from OPs caused loss to his paddy crop and the Agriculture Department observed that in the fields there were 35% tall size plants and 68% dwarf size plants thereby the counsel argued that huge loss of yield has occurred to the complainant besides physical and mental harassment which amounts to deficiency in service on the part of Ops. The counsel to prove his case has relied upon case law delivered by **Hon'ble Punjab State Consumer Disputes Redressal Commission, Chandigarh case title Bayer Cropscience Ltd. Vs. Surjit Singh and another** wherein it is observed that *"Agriculture-pesticides-Defective pesticides-inferior*

quality of pesticides-Compensation-Report of Agriculture Development Officer clearly proves that the wheat crop of the respondent had suffered the loss because of the spray of pesticides which was purchased from the s shop of respondent No.2 and which was manufactured by the appellants-Order of the District Forum allowing the complaint and directing to refund the amount of Rs.30,400/- as price of the pesticides and to pay another amount of Rs.45,000/- as compensation for the loss suffered by the respondent upheld.

On the other side, learned counsel for Ops has argued that the product /seeds are of best quality and they sold it to the complainant in a sealed and packed manner but the complainant not used the seeds as per instructions for using the same as 10Kg. seeds are required for one acre whereas the seeds used by complainant was less than the prescribed quantity. Learned counsel for complainant argued that the loss, if any, has occurred to the complainant due to his own fault. The counsel further argued that they have sold the said seeds to many farmers but no complaint has yet been received from any of them. Further, no officer of agriculture department has appeared before the Forum to authenticate the loss caused to the complainant. It is urged that the officers of Agriculture Department have no authority to inspect the fields of farmers regarding any complaint of poor quality seed and herbicide as per memo no.52-70 PKL dated 03.01.2002, if there is any complaint regarding poor quality of insecticide, then field of the complainant farmer will be inspected by a committee comprising of two officers of agriculture department and one representative of concerned manufacturing agency and Scientist of KGK/KVK/HAU

should be associated but these instructions have not been complied with meticulously by the officers of Agriculture Deptt. and thus the report relied upon by complainant in this case is no report in the eyes of law. The counsel further argued that non-joinder of Agriculture Department as a party to the complaint is a big flaw on the part of complainant as the department who has assessed the loss could prove the said fact before the Forum. As such, the counsel submitted that there is no deficiency in service on its part and prayed for dismissal of complaint with costs.

6. At the outset, the complainant has relied upon the report of Agriculture Department (Annexure C-5) but the said department has not been arrayed as party to the complaint. The Non-joinder of Agriculture department as a party is a big flaw to the complaint of complainant as the department was the only witness who can prove whether the inspection was carried out by it, whether the loss caused due to the said poor quality of seeds and what was the percentage of loss. Further, the complainant has annexed photocopy of the report of Agriculture department which is a secondary piece of evidence and cannot be read into evidence unless it is proved by the author of the said report or by leading any evidence on record by filing any affidavit etc. in this regard but nothing of such sort has been placed on record. Further there is no independent witness joined at the time of inspection or not any agent of the Ops was present at that time. The Agriculture Department has also not followed the instructions of Haryana State Govt. while conducting the inspection. Further the complainant has not placed on record any documents which could show that the other farmer/person has occurred loss due to the said seeds, therefore, the complaint is liable to be

dismissed. In view of the facts & circumstances mentioned above, there is no deficiency in service or defect in the seeds is proved on record. Hence, the complaint is dismissed with no order to costs. Certified copies of the order be sent to the parties, free of costs. File be consigned to the record room, after due compliance.

Announced in open Forum
on 12.03.2020

(Manjit Singh Naryal)
President

(M.K. Khurana)
Member

(Neeru Agarwal)
Member