

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

REVISION PETITION NO. 4033 OF 2011

(Against the Order dated 01/08/2011 in Appeal No. 697/2011 of the State Commission Haryana)

1. VIMAL KUMAR

S/o Sh Sat Parkash , Village Gajlana tehsil, Thanesar

Kurukshetra

Haryana

.....Petitioner(s)

Versus

1. DIRECTOR, NATIONAL HORTICULTURE RESEARCH &
DEVELOPMENT CENTRE & ANR.

Kanda Batta Bhawan 2954 E New Mumbai, Agra Road

Nassik

2. Deputy Directro , National Horticulture Research and
Developemnt Centre

Deputy Cenre Karnal , Slaru

Karnal

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.....Respondent(s)

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BEFORE:

HON'BLE MR. JUSTICE R.K. AGRAWAL,PRESIDENT

HON'BLE MR. DINESH SINGH,MEMBER

For the Petitioner : Mr. Vimal Kumar, Petitioner, in person

For the Respondent : Mr. Vijay Kumar Mangla, Advocate

Dated : 20 Mar 2023

ORDER

R.K. AGRAWAL, J., PRESIDENT

1. These two Revision Petitions have been filed by Mr. Vimal Kumar (hereinafter referred to as the Complainant) under Section 21(b) of the Consumer Protection Act, 1986 (hereinafter referred to as the Act), against the Impugned Order dated 01.08.2011, passed by the Haryana State Consumer Disputes Redressal Commission at Panchkula (hereinafter referred to as the State Commission), whereby the State Commission has allowed the Appeal, being First Appeal No. 697/2011, filed by the Director, National Horticulture Research & Development Centre, Nassik and its Deputy Director at Village Salaru, Karnal (hereinafter referred to as the Opposite Parties), and dismissed the Appeal, being First Appeal No. 750/2011, filed by the Complainant, by setting aside the Order dated 20.04.2011, passed by the District Consumer Disputes Redressal Commission, Karnal (hereinafter referred to as the District Commission). By the said Order, the District Commission had accepted the Complaint filed by the Complainant and had directed the Opposite Parties to pay to the Complainant a sum of Rs.60,000/- along with interest @ 9% per annum from the date of filing of the Complaint, i.e. 31.07.2009, till its realization for deficiency on their parts and a further sum of Rs.5000/- as litigation charges.

2. Brief facts of the Case are that the Complainant purchased onion seeds weighing 8 kg. @ ₹300/- per Kg. vide Bill No. 48839 dated 01.10.2008 from the Office of Opposite Party No.2 at Karnal. He had sown the seeds in the land measuring 4 Acres and 6 Kanals. At the time of harvesting the onion crop in May 2009, it was noticed that neither the quality nor the quantity was as per expectation, due to which a part of onion crop was sold in the market @ ₹400/- per quintal whereas in the market at that time the prevailing rate was ₹600/650 per quintal. The Complainant stored the remaining onion crop in 440 bags, each bag weighing 41.5 kg., in his house, where two ceiling fans were installed, with the hope that there would be rise in the price of onion in future. It was alleged that previous year he got around 75 – 80 quintal of crop per Acre whereas this year he got only 40 quintal per Acre yield, i.e., 50% production loss. After 10 days when he opened the bags, he found that 4.5 Kg. onion was rotten in each bag. After sorting the onions contained in the bags, he found that the onion weighing 4.5 kg. per bag was deficient in quality and, thus, he suffered a loss of ₹32/- per bag in addition to labour charges of ₹18/- per bag, making the total loss at ₹22,000/- (₹32+ ₹18x440 bags). Still hoping that the price would rise after some time, the remaining onion crop was again kept by the Complainant in the store. On 14.06.2009, upon checking the onion stock, he found that the onion could not be stored even for 20 days because of poor quality of the seeds. The Complainant thought it appropriate to sell the remaining onion crop in the market, which would hardly get him ₹14,000/- per Acre, otherwise he would get nothing if the crop was destroyed. Accordingly, the Complainant sold the onion crop in the market at cheaper rate and allegedly suffered a loss of ₹2.00 Lakhs besides the mental agony and harassment. Alleging that there was deficiency in service on the part of the Opposite Parties in selling inferior quality onion seeds to the Complainant, which has resulted in the huge loss, the afore-noted Complaint came to be filed before the District Commission, seeking compensation of ₹2.00 Lakhs towards loss suffered and the equal sum towards mental and physical stress.

3. Upon notice by the District Commission, the Opposite Parties contested the Complaint by filing their Reply. While admitting about purchase of onion seeds (variety ALR) by the Complainant from them on 01.10.2008, it was submitted on their behalf that the Farmer had dug out the onion crop between 05.05.2009 and 12.05.2009 and then stored it in sacks after neck cutting. The Godown, in which the onion crop was stored, was inspected by Dy. Director Satyender Singh on 26.06.2009, who found that the room used to store the onion crop was closed and did not have the provision of ventilation except two ceiling fans. Such kind of place was not suitable for onion storage. Onion is stored in an airy and open place as mentioned at Page No.4 of the Onion Storage Book. The description of the inspection was mentioned in Letter No. RSS/09-10/489 dated 29/30.06.2009 (Ex.02) and was sent to the Complainant. Based on the explanation of the Complainant, it appeared that the onion was damaged because of lack of cutting after it was dug out and storage of wet onion. The type of seed bought by the Complainant was also sold to 9 other Farmers and none of them had filed any complaint. The list of the said Farmers was marked as Ex.04. The seeds had the germination rate of 70% and the Report was marked as Ex.05. The seeds were appropriate for 2 Acres land whose average yield was about 50-55 quintal per Acre with sugarcane under inter-cropping technique. In reply to the Affidavits filed by the Complainant of one Prem Chand S/o Satpal, who had also bought the onion seed and got the higher yield, it was stated by the Opposite Parties that while the seed bought by said Prem Chand was L-28, the seed bought by the Complainant was ALR and the yield of both the said type of seed was different. The Complainant had received the yield equivalent to average expected yield of ALR. Therefore, the Opposite Parties were not responsible for the loss.

4. After hearing the Complainant, who was appearing in person, and the learned Counsel for the Opposite Parties and on consideration of the evidence adduced by both the Parties as well as the documents filed by them, the District Commission while rejecting the contention of the Opposite Parties that the Complainant was not a 'consumer' as he had sown the seeds for selling the crop in the market, allowed the Complaint and issued the aforesaid directions.

5. Feeling aggrieved with the Order passed by the District Commission, both the Parties carried the matter in their respective Appeals before the State Commission. While the Complainant filed First Appeal No.750/2011, seeking enhancement of the compensation, the Opposite Parties filed First Appeal No.697/2011 for setting aside the Order dated 20.04.2011 passed by the District Commission. After hearing learned Counsel for both the Parties and on reappraisal of the matter and on consideration of the relevant provisions, prescribed for storage of onion and the storage method applicable to the State of Haryana under the different methods of storage of onion in different areas, referred to in the Impugned Order, the State Commission found force in the submission of the Opposite Parties that the Complainant did not follow the procedure for storage of the onion and kept the onion in a room in bags without proper ventilation and, therefore, it cannot be said that the damage to the onion crop was due to defect of the seeds. Consequently, the State Commission allowed the Appeal preferred by the Opposite Parties and dismissed the Appeal preferred by the Complainant, by setting aside the Order passed the District Commission and dismissing the Complaint. The relevant portion of the Order passed by the State Commission is reproduced below:-

“Now coming the loss of onion due to strage of the same in a store by the complainant, we do not find any force in the claim submitted by the complainant. The damage of the onions due to storage in a room in summer season and that too without ventilation, cannot be connected with the quality of seed. It is a matter of common knowledge that the onion is such a produce, the life of which depends upon various factors i.e. proper irrigation of the crop, harvesting of crop at appropriate time and the location as well as the proper ventilation of the store. If the crop of onion is harvested before it dries completely, in that eventuality there is possibility of damaging the onion within short period. It is admitted case of the Complainant that he had stored 440 bags in a store. Thus, it cannot be denied that the Complainant had must stored the onions in congested heap of bags containing 41 Kgs onions in each bag. In our view the procedure adopted by the Complainant for storing the onion was improper due to which the onion damaged and at that later stage the Complainant could not have taken the plea with respect to the inferior quality of onions seeds. The Complainant could have raise objection with respect to the quality of onions seeds when the crop was standing in the fields and also after harvesting in the crop but before storing the same in a room which was not fit for storage. There is no expert evidence on behalf of the Complainant with respect to the onion seeds supplied to the Complainant by the Opposite Parties and thus the District Forum has erred in passing the impugned order and the same cannot be allowed to sustain.”

6. Feeling aggrieved with the Order passed by the State Commission, the Complainant is before us in the present Revision Petitions.

7. We have heard the Complainant, who appeared in person, and Mr. Vijay Kumar Mangla, learned Counsel for the Opposite Parties, Respondents herein, and perused the material available on record.

8. The Complainant submitted that the State Commission has erred in not considering his Case that low production and bad quality of the onion crop was due to inferior quality of seeds, provided by the Opposite Parties, and not because of storage. A perusal of the various complaints made and letters written to the authorities concerned, including the State Government, would show that it is a case of loss suffered by the Complainant on account of aforesaid ground and is not a concocted story. The Opposite Parties have not disputed the low production nor made a single averment that the production was the same as promised by them. The State Commission has given finding only in respect of storage of the onions and did not appreciate that there is a marked difference between production and storage of the product. Low production gives an entirely different cause of action. The Order passed by the State Commission is, therefore, not sustainable and deserves to be set aside.

9. Per contra, learned Counsel for the Opposite Parties, Respondents herein, supported the Order passed by the State Commission, stating that it is a well-reasoned Order, which is based on a correct and proper appreciation of the evidence adduced by the Parties and material available on record. It does not call for any interference and, therefore, the present Revision Petitions are liable to be dismissed.

10. The only question to be considered in this Case is whether the damage to the Complainant’s onion crop was on account of inferior quality of the seeds sold by the Opposite Parties or the damage was because of improper method of storage resorted to by the Complainant. It is not in dispute that the Opposite Parties had sold the onion seeds ALR to the Complainant and upon sowing the same the Complainant got a low yield of about 40 quintal per Acre. On the basis of Affidavits of one Shri Prem Chand S/o Satpal and another Farmer from Village Antawa, who had bought LD-28 seed and got the yield of 100 quintal per Acre, the Complainant submitted that the damage to his onion crop in terms of low production and quality was on account of poor and inferior quality of the seeds supplied by the Opposite Parties. In rebuttal to the same, the Opposite Parties in their Written Version stated that the seeds bought by the Complainant had also been sold to 9 other Farmers and none of them had filed any complaint. Insofar as the Affidavits of Shri Prem Chand and another Farmer from Village Antawa, who had got the yield of 100 quintal per Acre, are concerned, admittedly they had been sold LD-28 seeds whereas the Complainant had been sold ALR seeds, which had gestation rate of 70%, as per Report (Ex.05). Further, the Opposite Parties stated that both the types of seeds were different and had different gestation rate, leading to variation in yield, and the Complainant had received the yield equivalent to average expected yield of ALR. Except for submitting the Affidavits of the Farmers, referred to above, who had admittedly bought a different type of seeds and got a higher yield of 100 quintals per Acre, the Complainant has not been able to prove his case that the damage to the onion crop in terms of low production and quality was due to inferior and poor quality of the seeds sold by the Opposite Parties. Neither any expert report in this behalf has been filed before the Fora below. In this view of the matter, we are of the considered opinion that the damage to the Complainant’s onion crop was not on account of the seeds sold by the Opposite Parties. We are also unable to differ with the stand taken by the Opposite Parties that the damage to the crop was on account of improper method of storage resorted to by the Complainant.

11. As regards storage of the onion crop, it is admitted by the Complainant that the same was stored in a room, wherein two windows and two ceiling fans were installed. The record reveals that when the Complainant took up the matter with the Opposite Parties by filing a complaint on 16.06.2009, the then Dy. Director (Shri Satyender Singh), Opposite Party No.2, with another official from the Department, had inspected the store/godown, and found that it was a closed room and did not have the provision of ventilation. As per Onion Storage Book, referred to in the Written Version, the onion crop was required to be stored in an airy and open place whereas in the present Case the crop in wet condition was stored in a closed room, which was not suitable for the same. Being a Farmer, the Complainant ought to have known the conditions suitable for storing the produce, the onion crop in the present case, and, if he was not aware about the same and had not earlier done so, he was required to obtain necessary information in this behalf from the fellow Farmers or the authorities concerned, i.e. the Opposite Parties, but he did not do so and used an improper method to store the onion crop in a room, which did not have any ventilation provision, more so in summer season when the crop was not completely dried. Clearly, the Complainant’s said callous act resulted in the damage to the crop.

12. In view of the foregoing discussion, we do not see any reason to interfere with the Impugned Order passed by the State Commission. For the reasons stated in the Impugned Order, the State Commission was justified in allowing the Appeal preferred by the Opposite Parties and dismissing the Appeal preferred by the Complainant, by setting aside the Order passed by the District Commission.

13. In the result, both the Revision Petitions fail and are dismissed accordingly.

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R.K. AGRAWAL
PRESIDENT
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DINESH SINGH
MEMBER