

The order passed by the District Forum was affirmed in Appeal No.87 of 2014 by the State Consumer Disputes Redressal Commission, Rajasthan at Jaipur, against which Revision Petition No.228 of 2015 was preferred by the petitioner before the National Consumer Disputes Redressal Commission, New Delhi. The matter was remanded by the National Commission vide order dated 19.11.2015 and post remand, the appeal was again dismissed by the State Commission by order dated 06.06.2016.

That order was challenged before the National Commission by filing Revision Petition No.2725 of 2018 which came to be dismissed by the National Commission by its order dated 10.10.2018, presently under challenge before this Court.

Mr. Gopal Singh, learned advocate for the petitioner submitted that going by the definition of "person" as appearing in Section 2(1)(m) of the Consumer Protection Act, 1986, a corporate entity or an incorporated company such as the respondent herein could not maintain an action before the Fora under the Consumer Protection Act. In his submission, four categories mentioned in the definition of "person" under Section 2(1)(m) are exhaustive.

He further submitted that the definition does not specifically include an incorporated company or corporate entity and, as such, the complaint at the instance of the respondent was not maintainable. He relied upon a decision of this Court in *Pratibha Pratisthan & Others v. Manager, Canara Bank & Others*, (2017) 3 SCC 712, which was in the context of a Trust which had filed an action under the Consumer Protection Act.

On the other hand, in *Karnataka Power Transmission Corporation & Another v. Ashok Iron Works Private Limited*, (2009) 3 SCC 240, the issue that arose for consideration of this Court was whether the complaint by a company was maintainable or not? The issue was squarely dealt with and it was concluded that a company would be a "person" within the meaning of Section 2(1)(d) read with Section 2(1)(m) of the Consumer Protection Act, 1986. Paras 8, 20 and 21 of said decision, which dealt with the issue, are extracted as under:

"8. Mr S.K. Kulkarni, learned counsel for KPTC made the following submissions before us:

(i) The complaint by the Company before the Consumer Forum against KPTC was incompetent and not maintainable because the complainant is not a "person" under Section 2(1)(m) of the 1986 Act and as such the complainant is not the "consumer" within the opening limb of the definition of that expression in Section 2(1)(d).

(ii) The complainant is not a "consumer" within the definition of Section 2(1)(d)(i) of the 1986 Act since it purchased electrical energy from KPTC for commercial production.

(iii) The complainant's case does not fall within the scope of Section 2(1)(d)(ii) of the 1986 Act. The expression "service" in Section 2(1)(o) cannot be read in a wider sense as it is circumscribed by the word "facilities", thereby limiting the service only to the consumers of facilities in connection with supply of electrical energy. In other words, the dispute relating to sale and supply of electricity does not come within the ambit of "service" under Section 2(1)(o) of the 1986 Act. If for the arguments' sake, it is treated "service", since it is for commercial purpose, it is excluded from the purview of sub-section (1)(d)(ii).

20. Section 3 of the 1986 Act upon which reliance is placed by learned counsel for KPTC provides that the provisions of the Act are in addition to and not in

derogation of any other law for the time being in force. This provision instead of helping the contention of KPTC would rather suggest that the access to the remedy provided to (*sic* under) the Act of 1986 is an addition to the provisions of any other law for the time being in force. It does not in any way give any clue to restrict the definition of "person".

21. Section 2(1)(m), is beyond all questions an interpretation clause, and must have been intended by the legislature to be taken into account in construing the expression "person" as it occurs in Section 2(1)(d). While defining "person" in Section 2(1)(m), the legislature never intended to exclude a juristic person like company. As a matter of fact, the four categories by way of enumeration mentioned therein is indicative, Categories (i), (ii) and (iv) being unincorporate and Category (iii) corporate, of its intention to include body corporate as well as body unincorporate. The definition of "person" in Section 2(1)(m) is inclusive and not exhaustive. It does not appear to us to admit of any doubt that company is a person within the meaning of Section 2(1)(d) read with Section 2(1)(m) and we hold accordingly."

Learned counsel for the petitioner then submitted that the aforesaid decision of this Court requires re-consideration. He submitted that the definition of "person" must be restricted to four categories which are specified under Section 2(1)(m) of the Consumer Protection Act, 1986.

We do not see any merit in the submission of the learned counsel for the petitioner. The matter was gone into in great detail by this Court in *Karnataka Power Transmission Corporation & Another (Supra)* and we see no reason to take a different view in the matter.

We, therefore, reject the submission and dismiss this petition.

.....J.
[UDAY UMESH LALIT]

.....J.
[INDU MALHOTRA]

NEW DELHI;
APRIL 25, 2019

