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RAJASTHAN FINANCIAL CORPORATION  
Udyog Bhawan, Tilak Marg, C-Scheme, Jaipur-302 005

Ref.No.RFC/F.Law-3/LPM/22/819

Dated: 04<sup>th</sup> August, 2004

CIRCULAR  
(Lit.Cir.No. 107..)

Sub: Important decision of Hon'ble National Consumer Disputes Redressal Commission -in the matter of Sree Kanaka Durqa Hatcheries Pvt. Ltd. Vs. SBI

The Hon'ble National Consumer Disputes Redressal Commission, New Delhi in the case of Sree Kanaka Durqa Hatcheries Pvt. Ltd. Vs. State Bank of India in Original Petition No. 264 of 1994 has dismissed the complaint on 22.05.2002 and held that refusal to rehabilitate or failure to provide credit or refusal to finance have been consistently held to be not amounting to deficiency in service. The operative part of the judgement are given below:-

"It is for the financial institutions really to decide whether to or not enhance the facilities or even to sanction the loan. There will also be no deficiency in service if the loan is sanctioned by the Bank subject to certain conditions which remain unfulfilled on account whereof loan is not disbursed. However, in the present case, we find that according to the counsel, even the sanction letter was not delivered to the complainant (as asserted by the counsel for the complainant at the time of hearing). In that view of the matter, the sanction remains in the file of the Bank only and before proceeding any further, the Bank took a conscious decision to not to go ahead with grant of this loan. A situation like this, we are afraid, cannot be described as deficiency in service. In these circumstances, since there is no deficiency in service, this complaint cannot be entertained and is dismissed. We, however, leave the parties to bear their own costs.

Complaint dismissed."

All concerned are advised to keep the judgement in mind while processing the relevant issues and also apprise our Panel Advocates about the said judgement so that the same may be taken use of as and when required.

(NAVEEN MAHAJAN)  
EXECUTIVE DIRECTOR

Encl: As above

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a breach of duty on the part of the doctor, and (2) that the breach of duty was the real cause of the damage complained of and such damage was reasonably foreseeable. This matter had to be decided in the light of the above well-settled propositions of law. Seen in this light no case of negligence is made out against the appellants. The appeal is, therefore, allowed and the majority order of the State Commission is set aside. The original complaint stands dismissed leaving the parties to bear their own costs.

*Appeal allowed.*

(2003) CPJ 62 (NC)

NATIONAL CONSUMER DISPUTES  
REDRESSAL COMMISSION, NEW DELHI

Hon'ble Mr. Justice D.P. Wadhwa, President; Mr.  
Justice J.K. Mehra & Mr. B.K. Tainni,  
Members

SREE KANAKA DURGA HATCHERIES PVT.  
LTD —Complainant

versus

STATE BANK OF INDIA —Opposite Party

Original Petition No. 264 of 1994—Decided on  
22.5.2002

Consumer Protection Act, 1986 — Section  
2(1)(g) — Banking Services — Non-  
disbursement of loan — No deficiency in  
service. (Para 2)

*Result : Complaint dismissed.*

Cases referred :

1. I (1993) CPJ 11 (NC). [Para 2]
2. II (1992) CPJ 115 (NC). [Para 2]
3. II (1993) CPJ 147 (NC). [Para 2]
4. I (1991) CPJ 23 (NC). [Para 2]

Counsel for the Parties :

For the Complainant : Mr. P.B. Suresh, Advocate.

For the Respondent : Mr. R. Mohan, Sr. Adv. with  
Mr. M.A. Krishnamurthy and Mr. R. Nedumaran,  
Advocates.

### ORDER

Mr. Justice J.K. Mehra, Member—This is a complaint wherein the complainant is seeking the following reliefs :

- (a) direct the respondent Bank to disburse the loan of Rs. 2.5 crores being the escalated cost of the project; or
- (b) direct the respondent Bank to pay compensation to the tune of Rs. 21,42,000/- due to accumulated capital losses incurred on account of unconscionable and unexplained delay which amounts to deficiency of service;
- (c) award pecuniary damages actually suffered by the complainant by reason of the failure, negligence and omission to sanction and disburse the loan and interest on the same; and
- (d) pass any other order or orders as may be deemed just and proper to meet the ends of justice.

2. It is alleged by the complainant that they had set up a hatchery and wanted a working capital facilities and financial assistance from, *inter alia*, the respondent, State Bank of India. It is alleged that State Bank kept exchanging correspondence and never disbursed the loan which it had sanctioned. On a query it was pointed out that the sanction letter is Annexure-I to the reply version of the State Bank. In the course of the arguments, it was pointed out to us by the Counsel for the SBI that decision was taken to sanction the loan and for the reason they had sent letter dated 10th January, 1992. On further query, it was clarified that said letter remained unacknowledged and unsigned by the complainant. This letter contained various conditions on which the loan was to be given. The last paragraph of the letter reads as under :

"Please acknowledge on the duplicate copy of this letter token of your acceptance

to the terms and conditions as detailed above."

Not only this copy was never signed admittedly by the complainant, but the conditions contained therein for the grant of the loan also remained unfulfilled. We need not go into further details in this case but, to note that in various decisions, this Commission has taken a consistent view that refusal to rehabilitate or failure to provide credit or refusal to finance have been consistently held to be not amounting to deficiency in service. A reference may be made to the following decisions of this Commission :

- (i) *Ashok Prabhakar v. State Bank of India*, I (1993) CPJ 11 (NC).
- (ii) *M/s. Arora Industrial Corporation v. UBI*, II (1992) CPJ 115 (NC).
- (iii) *Jagannath Meher v. SBI*, II (1993) CPJ 147 (NC).
- (iv) *Ramkripal v. UI*, I (1991) CPJ 23 (NC).

3. It is for the financial institutions really to decide whether to or not to enhance the facilities or even to sanction the loan. There will also be no deficiency in service if the loan is sanctioned by the Bank subject to certain conditions which remain unfulfilled on account whereof loan is not disbursed. However, in the present case, we find that according to the Counsel, even the sanction letter was not delivered to the complainant (as asserted by the Counsel for the complainant at the time of hearing). In that view of the matter, this sanction remains in the file of the Bank only and before proceeding any further, the Bank took a conscious decision to not to go ahead with grant of this loan. A situation like this, we are afraid, cannot be described as deficiency in service. In these circumstances, since there is no deficiency in service, this complaint cannot be entertained and is dismissed. We, however, leave the parties to bear their own costs.

*Complaint dismissed.*

I (2003) CPJ 63 (NC)

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION, NEW DELHI

Hon'ble Mr. Justice D.P. Wadhwa, President; Mr. Justice J.K. Mehra, Mrs. Rajyalakshmi Rao & Mr. B.K. Tainni, Members

POCHAMPALLY HANDLOOM HOUSE  
---Complainant

versus

UNITED INDIA INSURANCE CO. LTD.

---Opposite Party

Original Petition No. 38 of 2002—Decided on 10.10.2002

Consumer Protection Act, 1986 — Section 21 — Insurance — Full and final settlement — Contention, discharge voucher not voluntary — Undue influence and coercion cannot be adjudicated without proper evidence in summary jurisdiction — Complainant at liberty to move Civil Court under Section 14 of Limitation Act, 1963.

*Held* : In this case, the complainant has offered his acceptance for a sum of Rs. 14,50,000/- in full and final settlement on 31.7.2001. Not only that, an affidavit has also been sworn on behalf of the complainant to the same effect. Thereafter, on 16.8.2001 the complainant raised the protest against that payment and has alleged that this payment was received under protest. We consider that unless a very strong case is made out on evidence, this petition cannot be entertained particularly, when protest has come after 16 days. Furthermore, the allegations of undue influence and coercion cannot be adjudicated without proper evidence, which, in our summary jurisdiction, we are not able to embark upon. (Para 5)

*Result : Complaint dismissed.*

*Cases referred :*

1. I (2002) SLT 214 = I (2002) CPJ 16 (SC) = (2002) 2 SCC 1. [Para 3]

2. II (1995) CPJ 1 (SC) = (1995) 3 SCC 583. [Para 5]

*Counsel for the Parties :*

For the Complainant : Mr. K. Maruti Rao, Advocate.

For the Opposite Party : Mr. P.K. Sethi, Advocate.