

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

RTPE 50/2008
CA 84/1997

Hon'ble Dr. Justice Arijit Pasayat
Chairman

Hon'ble Shri Rahul Sarin,
Member

Hon'ble Ms. Pravin Tripathi
Member

In the matter of :

D.K. Khanna

...Complainant

Vs.

M/s. Sanofi Aventis Pharma Ltd.

...Respondent

Appearances : Shri Rohit Kumar Sinha, Advocate for the complainant

Ms. Shraddha Bhargava, Advocate for the respondent

Oral Order
21st September 2010

As prayed for by the applicant, list this matter on 1st December 2010.

(Dr. Justice Arijit Pasayat)
Chairman

(Rahul Sarin)
Member

(Pravin Tripathi)
Member

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

UTPE 39/2009

Hon'ble Dr. Justice Arijit Pasayat
Chairman

Hon'ble Shri Rahul Sarin,
Member

Hon'ble Ms. Pravin Tripathi
Member

In the matter of :

Shri K.K. Sharma **...Complainant**

Vs.

Anuradha Sahakari Awas Samiti Ltd. **...Respondent**

Appearances : Shri D.K.Goswami, Advocate for the
complainant

None for respondent

Oral Order

21st September 2010

Issue fresh Notice to Respondent No. 4.

List this matter on 1st December 2010.

(Dr. Justice Arijit Pasayat)
Chairman

(Rahul Sarin)
Member

(Pravin Tripathi)
Member

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

UTPE 55/2009

Hon'ble Dr. Justice Arijit Pasayat
Chairman

Hon'ble Shri Rahul Sarin,
Member

Hon'ble Ms. Pravin Tripathi
Member

In the matter of :

DG (I & R)
U.N. Shukla

...Complainant

Vs.

Faber Heat Kraft Indus Ltd.

...Respondent

Appearances : ADG for the DG

Oral Order
21st September 2010

At the request of the representative of the DG, the matter is
adjourned to 1st December 2010.

(Dr. Justice Arijit Pasayat)
Chairman

(Rahul Sarin)
Member

(Pravin Tripathi)
Member

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

UTPE 43/2009

Hon'ble Dr. Justice Arijit Pasayat
Chairman

Hon'ble Shri Rahul Sarin,
Member

Hon'ble Ms. Pravin Tripathi
Member

In the matter of :

DG (I & R)

...Complainant

Vs.

Punjab Urban Planning and Development
Authority

...Respondent

Appearances : ADG for the DG

Shri Nirada Das, Advocate for the respondent

Oral Order

21st September 2010

It is stated that no rejoinder is necessary. At the request of the respondent, the matter is adjourned to 1st December 2010.

(Dr. Justice Arijit Pasayat)
Chairman

(Rahul Sarin)
Member

(Pravin Tripathi)
Member

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

UTPE 44/2009

Hon'ble Dr. Justice Arijit Pasayat
Chairman

Hon'ble Shri Rahul Sarin,
Member

Hon'ble Ms. Pravin Tripathi
Member

In the matter of :

DG (I & R)

...Complainant

Vs.

Vodafone Essar Mobile

...Respondent

Appearances : ADG for the DG

**Shri N.Vinoba Bhoopathy, Advocate for the
respondent**

Oral Order

21st September 2010

We have perused the complaint and the PIR filed by the DG. It appears that the grievance which formed the subject matter of the complaint was settled with the respondent. But the complainant states that he has further grievance for the subsequent period. That being so, the proceedings stand disposed of.

(Dr. Justice Arijit Pasayat)
Chairman

(Rahul Sarin)
Member

(Pravin Tripathi)
Member

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

UTPE 47/2009

Hon'ble Dr. Justice Arijit Pasayat
Chairman

Hon'ble Shri Rahul Sarin,
Member

Hon'ble Ms. Pravin Tripathi
Member

In the matter of :

DG (I & R)

...Complainant

Vs.

Avit Digital Pvt. Ltd. and Anr.

...Respondent

Appearances : ADG for the DG

Shri Ratan Joneja, Advocate for R-1

Shri Manuranjan Sharma, Advocate for R-2

Oral Order

21st September 2010

The matter shall be listed on 1st December 2010.

(Dr. Justice Arijit Pasayat)
Chairman

(Rahul Sarin)
Member

(Pravin Tripathi)
Member

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

UTPE 57/2009

Hon'ble Dr. Justice Arijit Pasayat
Chairman

Hon'ble Shri Rahul Sarin,
Member

Hon'ble Ms. Pravin Tripathi
Member

In the matter of :

N.K. Srivastava **...Complainant**

Vs.

Ghaziabad Development Authority **...Respondent**

Appearances : Advocate for the complainant

None for the respondent

Oral Order

21st September 2010

Heard learned counsel for the applicant. The following issues are framed:-

1. Whether the allegation of unfair trade practice on the part of the respondent is established?
2. If the answer to the first question is in the affirmative, whether such practices have prejudicial to the public interest?

The affidavit of evidence shall be filed within a period of four weeks. If any documents are filed, the admission/denial shall take place on 21st October 2010.

The matter shall be listed on 13th December 2010 for cross-examination of the applicant's witness.

(Dr. Justice Arijit Pasayat)
Chairman

(Rahul Sarin)
Member

(Pravin Tripathi)
Member

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

UTPE 42/2009

CA 34/2009

Hon'ble Dr. Justice Arijit Pasayat
Chairman

Hon'ble Shri Rahul Sarin,
Member

Hon'ble Ms. Pravin Tripathi
Member

In the matter of :

Dr. Shashi Bhushan Singh

...Complainant

Vs.

Bank of Maharashtra

...Respondent

Appearances : Shri Saurabh Mehra, Advocate for the
complainant

Advocate for the respondent

Oral Order

21st September 2010

It is stated that there is a possibility of settlement. A prayer for adjournment is made.

List this matter on 2nd December 2010.

(Dr. Justice Arijit Pasayat)
Chairman

(Rahul Sarin)
Member

(Pravin Tripathi)
Member

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

UTPE 37/2009

CA 31/2009

Hon'ble Dr. Justice Arijit Pasayat
Chairman

Hon'ble Shri Rahul Sarin,
Member

Hon'ble Ms. Pravin Tripathi
Member

In the matter of :

Ms. Preeti Bhatia **...Complainant**

Vs.

M/s. Birla Sunlife Insurance Co. Ltd. **...Respondent**

Appearances : Shri Vikram, Advocate for the applicant

Advocate for the respondent

Oral Order

21st September 2010

The reply shall be filed within three days by R-1.

The matter shall be listed on 2nd December 2010.

(Dr. Justice Arijit Pasayat)
Chairman

(Rahul Sarin)
Member

(Pravin Tripathi)
Member

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

UTPE 38/2009
CA 32/2009

Hon'ble Dr. Justice Arijit Pasayat
Chairman

Hon'ble Shri Rahul Sarin,
Member

Hon'ble Ms. Pravin Tripathi
Member

In the matter of :

Shri Vikram Bhatia

...Complainant

Vs.

M/s. Birla Sunlife Insurance Co. Ltd.

...Respondent

Appearances : Shri Vikram, Advocate for the applicant

Advocate for the respondent

Oral Order

21st September 2010

The reply shall be filed within three days by R-1.

The matter shall be listed on 2nd December 2010.

(Dr. Justice Arijit Pasayat)
Chairman

(Rahul Sarin)
Member

(Pravin Tripathi)
Member

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

UTPE 54/2005

Hon'ble Dr. Justice Arijit Pasayat
Chairman

Hon'ble Shri Rahul Sarin,
Member

Hon'ble Ms. Pravin Tripathi
Member

In the matter of :

DG (I & R)

...Complainant

Vs.

Zerox India Ltd.

...Respondent

Appearances : Shri R.D.Makheeja, Advocate for the DG

Shri A.N.Haksar with Shri K.K.Patra, Advocates
for the respondent

Oral Order

21st September 2010

The matter shall be listed on 3rd December 2010 for final arguments.

(Dr. Justice Arijit Pasayat)
Chairman

(Rahul Sarin)
Member

(Pravin Tripathi)
Member

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

IA 38/2009
RTPE 21/2009

Hon'ble Dr. Justice Arijit Pasayat
Chairman

Hon'ble Shri Rahul Sarin,
Member

Hon'ble Ms. Pravin Tripathi
Member

In the matter of :

Durga Drug & General Store **...Complainant**

Vs.

Dabur India (P) Ltd. & Anr. **...Respondent**

Appearances : Shri R.D.Makheeja, Advocate for the DG

**Shri Sudhir K.Makkar, Advocate for the
respondent**

Oral Order
21st September 2010

Rejoinder if any, shall be filed within four weeks.

List this matter on 2nd December 2010.

(Dr. Justice Arijit Pasayat)
Chairman

(Rahul Sarin)
Member

(Pravin Tripathi)
Member

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

UTPE 46/2005

Hon'ble Dr. Justice Arijit Pasayat
Chairman

Hon'ble Shri Rahul Sarin,
Member

Hon'ble Ms. Pravin Tripathi
Member

In the matter of :

Neeraj K. Karol **...Complainant**

Vs.

Rohan Motors Ltd. & Anr. **...Respondent**

Appearances : Shri K.N.Nagpal, Advocate for the applicant

Shri Jainul Abdin, Advocate for R-1
Shri Gurmeet Bindra, Advocate for R-2

Oral Order

21st September 2010

At the request of the applicant, the matter is adjourned to 1st
December 2010.

(Dr. Justice Arijit Pasayat)
Chairman

(Rahul Sarin)
Member

(Pravin Tripathi)
Member

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

RTPE 128/1992

Hon'ble Dr. Justice Arijit Pasayat
Chairman

Hon'ble Shri Rahul Sarin,
Member

Hon'ble Ms. Pravin Tripathi
Member

In the matter of :

DG (I & R)

...Complainant

Vs.

Boroughs Welcome (I) Ltd.

...Respondent

Appearances : Shri R.D.Makheeja, Advocate for the DG

Shri Aditya Narain, Advocate for the respondent

Oral Order

21st September 2010

The compilation of citations has been filed by the learned counsel for the respondent. Copy has been supplied to Shri Makheeja, learned counsel for the DG.

List this matter on 6th December 2010.

(Dr. Justice Arijit Pasayat)
Chairman

(Rahul Sarin)
Member

(Pravin Tripathi)
Member

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

RTPE 108/1997

RTPE 109/1997

Hon'ble Dr. Justice Arijit Pasayat
Chairman

Hon'ble Shri Rahul Sarin,
Member

Hon'ble Ms. Pravin Tripathi
Member

In the matter of :

Dr. Raj Kumari Bhatia (Deceased)
Dr. Dev Raj Bhatia (Deceased) **...Complainant**

Vs.

Kaypee Land & Finance (P) Ltd. **...Respondent**

Appearances : Shri Jagjit Singh, Advocate for the applicant

**Shri Bharat Deepak, Advocate for the
respondent**

Oral Order
21st September 2010

Synopsis of the arguments has been filed by the learned counsel for the claimant. Learned counsel for the respondent states that he will also file the synopsis of the arguments. Let it be done within four weeks.

The matter shall be listed on 6th December 2010.

(Dr. Justice Arijit Pasayat)
Chairman

(Rahul Sarin)
Member

(Pravin Tripathi)
Member

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

UTPE 70/2000

Hon'ble Dr. Justice Arijit Pasayat
Chairman

Hon'ble Shri Rahul Sarin,
Member

Hon'ble Ms. Pravin Tripathi
Member

In the matter of :

DG (I & R)

...Complainant

Vs.

Advertising Standard Council of India

...Respondent

Appearances : Shri R.D.Makheeja, Advocate for the DG

Shri Aditya Narain, Advocate for the respondent

Oral Order

21st September 2010

List this matter on 6th December 2010.

(Dr. Justice Arijit Pasayat)
Chairman

(Rahul Sarin)
Member

(Pravin Tripathi)
Member

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

UTPE 43/2001

Hon'ble Dr. Justice Arijit Pasayat
Chairman

Hon'ble Shri Rahul Sarin,
Member

Hon'ble Ms. Pravin Tripathi
Member

In the matter of :

Win Medicare Ltd.

...Complainant

Vs.

Reckitt Benckiser India Ltd.

...Respondent

Appearances : Advocate for the applicant

**Shri Prashant Kalra, Advocate for the
respondent**

Oral Order

21st September 2010

It is stated that there is a possibility of settlement. A prayer for adjournment is made.

List this matter on 2nd December 2010.

(Dr. Justice Arijit Pasayat)
Chairman

(Rahul Sarin)
Member

(Pravin Tripathi)
Member

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

RTPE 18/2001

Hon'ble Dr. Justice Arijit Pasayat
Chairman

Hon'ble Shri Rahul Sarin,
Member

Hon'ble Ms. Pravin Tripathi
Member

In the matter of :

V.K. Dhir

...Complainant

Vs.

Ansal Housing & construction Co. Ltd.

...Respondent

Appearances : Shri Abhinav Agnihotri, Advocate for the complainant

Ms. Preeti Gupta, Advocate for the respondent

Oral Order

21st September 2010

It is stated that the parties have settled the dispute by a Deed of Settlement dated 13th July 2010. A copy of the Deed of Settlement has been brought on record. The application of settlement and withdrawal of the case is taken on record. The CA is disposed of in terms of the Deed of Settlement. If there is any variation as regard the terms indicated in the Deed of Settlement, it shall be open to the parties to file an application to seek restoration of the proceedings. The proceedings are accordingly disposed of.

In view of the orders passed in RTPE 18/2001, CA 163/2002
also stands disposed of on the same terms.

(Dr. Justice Arijit Pasayat)
Chairman

(Rahul Sarin)
Member

(Pravin Tripathi)
Member

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

CA 102/2009

Hon'ble Dr. Justice Arijit Pasayat
Chairman

Hon'ble Shri Rahul Sarin,
Member

Hon'ble Ms. Pravin Tripathi
Member

In the matter of :

Jeevan Mala Hospital

...Applicant

Vs.

Kone Elevator India Pvt. Ltd.

...Respondent

Appearances : Shri Nandan K.Jha, Advocate for the applicant

Shri Rajesh Pandit, Advocate for the respondent

Oral Order

21st September 2010

Rejoinder shall be filed within three days.

List this matter on 2nd December 2010.

(Dr. Justice Arijit Pasayat)
Chairman

(Rahul Sarin)
Member

(Pravin Tripathi)
Member

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

CA 14/2004

Hon'ble Dr. Justice Arijit Pasayat
Chairman

Hon'ble Shri Rahul Sarin,
Member

Hon'ble Ms. Pravin Tripathi
Member

In the matter of :

Raj Kumar

...Applicant

Vs.

Sterling Holiday Resorts

...Respondent

Appearances : Shri Nitin Bhardwaj, Advocate for the applicant

Shri A.Acharjee, Advocate for the respondent

Oral Order

21st September 2010

It is stated that there is a possibility of out of court settlement.

List this matter on 2nd December 2010.

(Dr. Justice Arijit Pasayat)
Chairman

(Rahul Sarin)
Member

(Pravin Tripathi)
Member

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

CA 12/2004

Hon'ble Dr. Justice Arijit Pasayat
Chairman

Hon'ble Shri Rahul Sarin,
Member

Hon'ble Ms. Pravin Tripathi
Member

In the matter of :

Inder Paul Singh

...Applicant

Vs.

Sterling Holiday Resorts

...Respondent

Appearances : Shri Nitin Bhardwaj, Advocate for the applicant

Shri A.Acharjee, Advocate for the respondent

Oral Order

21st September 2010

It is stated that there is a possibility of out of court settlement.

List this matter on 2nd December 2010.

(Dr. Justice Arijit Pasayat)
Chairman

(Rahul Sarin)
Member

(Pravin Tripathi)
Member

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

UTPE 234/98

Hon'ble Dr. Justice Arijit Pasayat
Chairman

Hon'ble Shri Rahul Sarin,
Member

Hon'ble Ms. Pravin Tripathi
Member

In the matter of :

DG(I&R)

...Applicant

Vs.

Hindustan Lever Limited

...Respondent

Appearances : Shri R.D.Makheeja, Advocate for the DG

Shri Aditya Narain, Advocate for the respondent

Oral Order

21st September 2010

List this matter tomorrow i.e. on 22nd September 2010.

(Dr. Justice Arijit Pasayat)
Chairman

(Rahul Sarin)
Member

(Pravin Tripathi)
Member

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

Compensation Application No.123 of 2003

CORAM

Hon'ble Dr. Justice Arijit Pasayat
Chairman

Hon'ble Mr. Rahul Sarin
Member

Hon'ble Mrs. Pravin Tripathi
Member

IN THE MATTER OF :-

Shri Vinod Kumar Bhatnagar
s/o Shri V.K. Bhatnagar
606, Udaigiri Apartment
Kaushambi
Ghaziabad (U.P.)

...Applicant

Versus

U.P. State Industrial Corporation Ltd.
Through its Managing Director
117/30, Sarvodaya Nagar
Post Box No. 413
Kanpur (U.P.)

....Respondent

Appearances : Mr. P.C. Gupta, advocate for the Applicant.

Mr. M.D. Sharma, advocate for the Respondent.

ORDER

DR. JUSTICE ARIJIT PASAYAT, CHAIRMAN

The applicant has filed this application under Section 12-B of the Monopolies and Restrictive Trade Practices Act, 1969 (in short the 'Act') for a direction to the respondent to refund of Rs. 30,000/- being the amount deposited by the Applicant along with interest @ 18% per annum on the same from the dates of deposit till the date

of repayment. The Application has been filed in the following background:-

The applicant is a Graduate Engineer who wanted to settle himself in life by having a small factory and is residing at 606, Udaigiri Apartment, Kaushambi, Ghaziabad, U.P. In September 1989 the respondent announced and advertised for their Scheme relating to allotment of Industrial Plots at Kasna Surajpur, an industrially backward area of Distt. Ghaziabad. It was stated in the advertisement that the rate was @ Rs. 150/- per sq. meter. Applications were invited from the intending purchasers. Being persuaded by the advertisement of the respondent the applicant vide application no. 7369 applied for allotment of an industrial plot in the category of 2000 sq. mtrs. to 3000 sq. mtrs. for setting up SILICA GEL INDUSTRY. As per the Scheme, the respondent was required to allot the registration within 45 days from the date of closure of the Scheme i.e. 16th October, 1989. Accordingly the respondent allotted the Registration No. AO1/1077 and priority No. 2720 vide letter dated 4th December, 1989 to the applicant. Later on the applicant was called for an interview on 7th March, 1990 before the Allotment Committee by the respondent's letter dated 24th February, 1990. The Applicant appeared before the Allotment Committee on the date and at the time given. Subsequently an Allotment Letter dated 19th May, 1990 was issued by the Respondent wherein the land allotted to the Applicant was mentioned as 800 sq. mtrs. as against the application of the Applicant for 2000 sq. mtrs. to 3000 sq. mtrs. Since the land

allotted to the Applicant was not sufficient for the proposed unit , the applicant wrote on 25th July, 1990 to the Respondent requesting for allotment of land as per his requirement and as per the category applied for by the Applicant. The applicant further deposited a sum of Rs. 5000/- under protest as required by the Respondent. However, the Respondent did not accede to the request of the Applicant. The Applicant personally met several officials of the Respondent and also requested for considering his justified demand of atleast 2000 sq. mtrs. land. The Applicant also conveyed the change in his postal address. The Applicant went on sending reminders vide letters dated 10th September, 1992 and 15th January, 1993. Strangely the Respondent did not pay any heed to his letters and demanded Rs. 42,781.35 as interest @ 18% per annum. The Applicant was called upon to pay this amount within 30 days and it was mentioned in the notice that in the event of non payment of interest amount, the allotment of plot would be liable to be cancelled including forfeiture of the amount deposited. Correspondence continued to be exchanged. The Applicant flatly refused to pay the exorbitant demand and continued his request for 2000 sq. mtrs. of land. Strangely vide letter dated 28th April, 1993 the Respondent rejected the request for justified requirement of the land given by the Applicant, and on the other hand demanded Rs.78,792.35 under various heads of interests and premiums and it was indicated that the present rate of land is Rs. 300/- per sq. mtr and in case the Applicant is allotted the bigger size plot then, in that case the applicant is liable to pay Rs. 300/- per sq. mtr. The grievance of the Applicant is that the action of the Respondent is clearly

unsustainable in law and the Applicant is entitled to the amount as claimed.

In the reply the Respondent has stated that no change of address was intimated and several letters claimed to have been sent by the Respondent have not been received by the Applicant. The demand raised by the Respondent was towards balance allotment money due and payable along with interest as per the terms and conditions of the Allotment Letter. Rejoinder affidavit has been filed by the Applicant. Issues were framed, affidavits of evidence were filed and evidence was led.

In order to deal with the basic issue involved it is necessary to take note of clause 4 of the General Conditions. The same reads as follows:-

“The Corporation reserves the right to make its own assessment of the requirement of land and is not bound to make allotment according to the demand made in the application. However, if the difference in the area allotted by the Corporation and the area demanded is more than 20% the allottee may refuse the allotment without loss of earnest money if such refusal is communicated within the time allowed in the reservation letter to deposit the allotment money.”

Bare reading of the clause 4 makes the position clear that in case of difference exceeding 20% between the land allotted and land demanded, the money deposited has to be refunded. The respondent's plea is that the Applicant never made a request to refund the money instead it demanded a bigger plot and he miserably failed to justify the requirement. There is no dispute

regarding the existence of clause 4 of the General Conditions. The insistence of the applicant was also for allotment of bigger plot of land instead of a smaller plot of land as was being offered. If according to the Respondent there was no justification for larger plot of land, it is not explained as to how the Respondent agreed to allot a bigger plot of land on the condition that the Applicant pays Rs. 300/- per sq. mtr at the rate prevalent then.

In the aforesaid background we are of the view that the Respondent is liable to refund the amount deposited by the Applicant in two instalments i.e. Rs. 25,000/- on 4th December, 1999 and Rs. 5,000/- on 1st June, 1999. The amount shall carry interest @ 12% per annum from the date of deposits till it is actually refunded. Let the refund be made within three months from today. The Compensation Application is allowed to aforesaid extent.

Pronounced in open Court on day 21st September, 2010.

(Dr. Arijit Pasayat)
Chairman

(Rahul Sarin)
Member

(Pravin Tripathi)
Member