

**COMPETITION APPELLATE TRIBUNAL**

**IA 108/2008  
RTPE 53/2008**

**CORAM**

**Hon'ble Dr. Justice Arijit Pasayat  
Chairman**

**Hon'ble Shri Rahul Sarin  
Member**

**Hon'ble Smt. Pravin Tripathi  
Member**

**IN THE MATTER OF :**

**Rajiv Gupta**

**....Complainant**

**Vs.**

**Industrial Development Bank  
of India Ltd.**

**.....Respondent**

**Appearances : None for complainant**

**Shri Rajiv Kumar, Advocate for respondent**

**ORAL ORDER**

**9<sup>th</sup> November, 2009**

None appears for the applicant.

It is stated by the learned counsel for the Respondent that there is a possibility of settling the matter outside the court. In view of this statement, the matter is adjourned.

List on 17<sup>th</sup> December, 2009.

**(Dr. Justice Arijit Pasayat)  
Chairman**

**(Rahul Sarin)  
Member**

**(Pravin Tripathi)  
Member**

**COMPETITION APPELLATE TRIBUNAL**

**RTPE 30/2008**

**CORAM**

**Hon'ble Dr. Justice Arijit Pasayat  
Chairman**

**Hon'ble Shri Rahul Sarin  
Member**

**Hon'ble Smt. Pravin Tripathi  
Member**

**IN THE MATTER OF :**

**DG(I & R)**

**...Complainant**

**Vs.**

**M/s. Britannia New Zealand Food Pvt. Ltd.**

**.. .Respondent**

**Appearances : Shri C.Shanmugam, ADG for DG**

**ORAL ORDER**

**9<sup>th</sup> November, 2009**

Heard the representative of DG(I&R).

We have perused the Preliminary Investigation Report.  
On perusal of Preliminary Investigation Report, we are not  
satisfied that this is a case where any action is called for.

The proceedings are closed.

**(Dr. Justice Arijit Pasayat)  
Chairman**

**(Rahul Sarin)  
Member**

**(Pravin Tripathi)  
Member**

**COMPETITION APPELLATE TRIBUNAL**

**RTPE 94/1997**

**CORAM**

**Hon'ble Dr. Justice Arijit Pasayat  
Chairman**

**Hon'ble Shri Rahul Sarin  
Member**

**Hon'ble Smt. Pravin Tripathi  
Member**

**IN THE MATTER OF :**

**Mohd. Jaidi**

**....Complainant**

**Vs.**

**BSES Yamuna Power Ltd.**

**.....Respondent**

**Appearances : Shri Mahmood Zaidi, Complainant in person  
None for respondent**

**ORAL ORDER**

**9<sup>th</sup> November, 2009**

When the matter is called the same situation is prevailed on 16<sup>th</sup> July, 2009 exists. Initially, the complainant in person wanted a pass-over on the ground that his counsel is on the way. When the matter is taken up again, learned counsel for the complainant is not present.

None appears for the respondent.

In the order dated 16<sup>th</sup> July, 2009, the Commission had expressed its anguish that the matter is pending since 1997; yet there is no serious diligence by the parties. In fact, on 7<sup>th</sup> May, 2008, taking note of the conduct of the parties, it was directed that the parties should exchange their

written synopsis before the matter is finally taken up on 14<sup>th</sup> August, 2008. That has not been done.

*As a last chance, adjourned to day-after-tomorrow i.e. 11<sup>th</sup> November, 2009.*

Later on, learned counsel for the applicant Ms. Anjana Prabhakar appeared and noted the contents of the order.

**(Dr. Justice Arijit Pasayat)**  
**Chairman**

**(Rahul Sarin)**  
**Member**

**(Pravin Tripathi)**  
**Member**

**COMPETITION APPELLATE TRIBUNAL**

**RTPE 15/2005**

**CORAM**

**Hon'ble Dr. Justice Arijit Pasayat  
Chairman**

**Hon'ble Shri Rahul Sarin  
Member**

**Hon'ble Smt. Pravin Tripathi  
Member**

**IN THE MATTER OF :**

**DG(I&R)**

**....Complainant**

**Vs.**

**Bombay Paints Ltd. & Anr.**

**.....Respondent**

**Appearances : Shri C.Shanmugam, ADG for DG**

**ORAL ORDER**

**9<sup>th</sup> November, 2009**

At the request of the representative of the DG(I&R),  
the matter is adjourned.

List on 11<sup>th</sup> January, 2010.

**(Dr. Justice Arijit Pasayat)  
Chairman**

**(Rahul Sarin)  
Member**

**(Pravin Tripathi)  
Member**

**COMPETITION APPELLATE TRIBUNAL**

**RTPE 13/2004**

**CORAM**

**Hon'ble Dr. Justice Arijit Pasayat  
Chairman**

**Hon'ble Shri Rahul Sarin  
Member**

**Hon'ble Smt. Pravin Tripathi  
Member**

**IN THE MATTER OF :**

**Surat Singh Virk**

**....Complainant**

**Vs.**

**Fiit Jee Ltd.**

**.....Respondent**

**Appearances : Shri Sharath Sampath, Advocate for  
Complainant  
Shri Anil K. Khawar, advocate for respondent**

**ORAL ORDER**

**9<sup>th</sup> November, 2009**

Vide order dated 30<sup>th</sup> April, 2009, the right of the respondent to cross-examine the complainant's witness was closed. This was done in view of the fact that not only the cost, which was imposed earlier, was not paid and on the contrary the opportunities granted for cross-examination were not availed.

Learned counsel for the respondent submitted that because of some confusions, the above situation occurred.

Learned counsel for the complainant states that though the respondent's stand seeking permission to cross-examine the respondent is not backed by any sound basis, yet in the interest of justice, he may be permitted to do so, subject to, however, to payment of higher cost than what was imposed earlier.

We find substance in the fair stand taken by the complainant and the cost is fixed at Rs. 3000/- (Rupees three thousand only) which is to be paid by cheque to the learned counsel for the complainant in the court today. The payment is made.

The order closing the right of the respondent to cross-examine the complainant's witness is recalled.

The cross-examination shall be done on 22<sup>nd</sup> January, 2010.

**(Dr. Justice Arijit Pasayat)**  
**Chairman**

**(Rahul Sarin)**  
**Member**

**(Pravin Tripathi)**  
**Member**

**COMPETITION APPELLATE TRIBUNAL**

**IA 62/2006/RTPE 51/2006**

**CORAM**

**Hon'ble Dr. Justice Arijit Pasayat  
Chairman**

**Hon'ble Shri Rahul Sarin  
Member**

**Hon'ble Smt. Pravin Tripathi  
Member**

**IN THE MATTER OF :**

**M/s. Sheela Exports**

**....Complainant**

**Vs.**

**U.P.S.I.D.C. Ltd.**

**..... .Respondent**

**Appearances : Shri Bankey Bihari, Advocate for**

**Complainant**

**Shri Rajesh Raina, advocate for**

**respondent**

**ORAL ORDER**

**9<sup>th</sup> November, 2009**

An affidavit of evidence in support of the witness has not been filed by the complainant. A prayer is made for adjournment. A last chance of two weeks is granted.

The matter shall be listed on 12<sup>th</sup> January, 2010. An affidavit and the supporting documents shall be filed latest by 25<sup>th</sup> November, 2009.

The matter shall be taken up for admission/denial of the documents on 2<sup>nd</sup> December, 2009.

**(Dr. Justice Arijit Pasayat)  
Chairman**

**(Rahul Sarin)  
Member**

**(Pravin Tripathi)  
Member**





A brief reference to the factual position would be necessary.

As noted in the order dated 8<sup>th</sup> March, 2007 passed by the Monopolies & Restrictive Trade Practices Commission (in short the Commission). The applicant had booked one LIG flat in Indirapuram Lower Income Group Residential Scheme, Code No.656 by depositing a sum of Rs. 8,020/- on 24<sup>th</sup> March, 1993. The applicant also deposited Rs. 8000/- on 15<sup>th</sup> July, 1993 as reservation amount. As per table – 1 annexed with the brochure, the balance amount was payable in 13 years in quarterly instalments after delivery of possession. The stand taken by the respondent in the reply to the petition was that the applicant was avoiding to take possession but the Commission noted that there was no document suggesting that possession was offered to the petitioner although flat No. NK-III/629 was allotted to him.

Noticing the fact that even though the evidence of the respondent was closed by the Commission vide order dated 12<sup>th</sup> January, 2004 no evidence by way of reply affidavit was filed by the respondent.

Therefore, the Commission was of the view that the plea taken by the respondent was totally unsubstantiated. Therefore, inter alia the following order was passed:-

**x x x x x x**

***"Accordingly, we direct the respondent to issue possession letter and deliver the possession of the flat to the petitioner within two months. The complainant will pay the remaining instalments according to the agreed schedule."***

When the matter was taken up on 23<sup>rd</sup> May, 2007 the applicant made a further grievance before the Commission that instead of complying with the Commission's order dated 8<sup>th</sup> March, 2007, the respondent had issued a notice demanding the entire balance of amount in lumpsum. But the possession had not been delivered despite the Commission's order dated 8<sup>th</sup> March, 2007.

Taking note of this fact, notice was issued to the respondent and the matter was directed to be listed on 31<sup>st</sup> July, 2007. It was submitted by the learned counsel for

respondent that the offer of possession had been made to the complainant vide letter dated 30<sup>th</sup> July, 2007 and a copy of the letter was supplied to the complainant. Complainant had filed a contempt petition and a compensation application was also filed in which notices were issued.

By a separate order today, we have disposed off the contempt application.

What survives now is compensation application. By order dated 10<sup>th</sup> March, 2008 it was noted that reply to the compensation application was filed, but later on it was noticed that in fact no reply to the compensation application had been filed. This is clear from /the order dated 5<sup>th</sup> February, 2009. The position was reiterated by order dated 9<sup>th</sup> April, 2009.

The net position according to applicant, therefore, is that there is no reply to the compensation application.

Learned counsel for the complainant submits that there was total lack of co-ordination in the respondent authority which is evident from the fact that though the brochure

clearly stated about the amount being payable in 13 years in quarterly instalments, even after the Commission passed an order, payment of the amount in lumpsum was demanded.

This approach was deprecated by the Commission and finally the possession was delivered in 30<sup>th</sup> July, 2007.

Learned counsel for the respondent submitted that there is a lot of confusion which was created on the account of statement made by the learned counsel for the applicant. He stated that he had filed his rejoinder to the reply filed by the respondent. If that was so, there was no question of the respondent having not filed the response to the compensation application. A copy of the reply with the seal of the Commission is filed for records.

It is stated that though it was filed earlier, since it was not available it was refiled on 9<sup>th</sup> April, 2009. It is also pointed out that a rejoinder had been filed on 15<sup>th</sup> January, 2008.

A stand has been taken in the reply to the compensation application that the complainant was not

keen to take possession on the alleged ground that the alleged allotted house was incomplete and it is pointed out that as back on 8<sup>th</sup> July, 1998, the complainant was requested to take possession of another house i.e. NK-III 358C which was situated in the same building. But the complainant did not respond to the letter of the respondent.

It is true that respondent has indicated the reason as to why there was delay in handing over the possession. But the position is that even after the Commission passed an order clearly directing that the balance amount was to be paid in instalments, the respondent authority insisted on payment in lumpsum.

As quoted above, the Commission vide its order dated 8<sup>th</sup> March, 2007 clearly directed that the complainant will pay the remaining instalments according to the agreed schedule. If there is any violation of the stipulation, it is for the respondent authority to take such steps as are available in law. That, however, did not entitle the respondent authority to demand payment in lumpsum, contrary to the clear direction of the Commission that the remaining instalments were to be paid in terms of the agreed schedule.

It is stated that the costs' as imposed earlier are being paid to the learned counsel for the applicant by two cheques(Nos. 708137 and 710545 dated 17.3.09 , 8.4.09 for the amount of Rs. 1000/- and 2000/- respectively. The cheques are handed over to the learned counsel for complainant today in the court.

*It is pointed out by the learned counsel for the complainant that the cheques which are handed over to him are of March and April, 2009 and do not have any finality.*

So far as the compensation application is concerned, we find that there is definitely some lapse on the part of the respondent. We, therefore, award compensation of Rs. 10,000/- (Rupees ten thousand only) to be paid to the complainant within a period of three weeks by the respondent.

***Accordingly the compensation application is disposed of.***

***Fresh cheques having currency shall be handed over within a period of one week failing which our order shall not be operative.***

**(Dr. Justice Arijit Pasayat)  
Chairman**

**(Rahul Sarin)  
Member**

**(Pravin Tripathi)  
Member**



