

As per Section 2(1)(d), a 'consumer' includes not only a person who has hired or availed of service but even a beneficiary of a service and is entitled to remedy under Consumer protection Act.

[CASE BRIEF] The Joint Labour Commissioner and Registering Officer and Anr v. Kesar Lal

CASE NAME: The Joint Labour Commissioner and Registering Officer and Anr v. Kesar Lal

CASE NUMBER: Civil Appeal No 2014 of 2020 (Arising out of SLP(C) No 2150 of 2020)

COURT: Hon'ble Supreme Court of India

DECIDED ON: 17.03.2020

BENCH: Justice DY Chandrachud, Justice Ajay Rastogi

RELEVANT STATUTES: Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996, Section 2(d) of the Consumer Protection Act 1986.

BRIEF FACTS AND PROCEDURAL HISTORY:

1. The respondent obtained a Labour Beneficiary Identity Card on **29 December 2011** under the Welfare Board from the appellants after depositing the registration fee of Rs 25 and an annual contribution of Rs 60. The identity card was valid for a period of one year, from **29 December 2011** to **28 December 2012**. Seeking to avail financial aid under the scheme, the respondent submitted an application on **6 November 2012** in anticipation of the marriage of his daughter which was to take place on **24 November 2012**. Nine months after the application was submitted,

the Joint Commissioner of Labour, Jaipur issued an order of rejection covering 327 such applications, finding technical defects as a ground for the decision. The order reads thus:

i. *“Upon scrutiny of applications received in this office, following points are found to be incomplete like incomplete application form, incompleteness of certificate of the planner in Form ‘B’, non-correctness of birth certificate, submission of application after solemnization of marriage and non-submission of affidavit or absence of some information in application and letter was issued reminding to complete the details, and upon non-submission of any answer to that in the office, it is not possible to grant the marriage assistance amount hence in following matters (list of 327 cases is annexed) the application for the marriage assistance are rejected.”*

2. The respondent instituted a consumer complaint before the District Consumer Disputes Redressal Forum. The complaint was dismissed on **6 October 2016**. In appeal, the State Consumer Disputes Redressal Commission set aside the order of the District Forum on **20 August 2019** and directed the appellants to pay an amount of Rs 51,000 to the respondent together with Rs 10,000 as compensation, Rs 5,000 for expenses and interest of 18 per cent per annum from the date of the institution of the complaint.
3. The National Consumer Disputes Redressal Commission by its judgment and order dated **25 October 2019** affirmed the decision, overruling the objection that the respondent is not a ‘consumer’ within the meaning of the Consumer Protection Act 1986. The National Commission, however, reduced the rate of interest from 18 percent per annum to 9 percent per annum. The present appeal has arisen from the order of the National Commission.

ISSUE:

1. Whether a beneficiary of a statutory welfare scheme is entitled to exact accountability by invoking the remedies under the Consumer Protection Act 1986?

RATIO OF THE COURT:

1. In **National Campaign Committee for the Central Legislation on Construction Labour v Union of India, (2018) 5 SCC 607** the Court took note of the status of the implementation of the Act of 1996 and the Cess Act. Reviewing the status of implementation across the country, prefaced the judgment with the following observations:

a. *“Symbolic justice—there is nothing more to offer to several millions of construction workers in the unorganised sector—not social justice, not economic justice. The reason is quite simple. No State Government and no Union Territory Administration (UTA) seems willing to fully adhere to and abide by (or is perhaps even capable of fully adhering to and abiding by) two laws solemnly enacted by Parliament, namely, the Building and Other Construction Workers’ (Regulation of Employment and Conditions of Service) Act, 1996 (the BOCW Act) and the Building and Other Construction Workers’ Welfare Cess Act, 1996 (the Cess Act). Directions given by this Court from time to time to implement the two laws have been flouted with impunity. What is equally tragic is that multiple directions issued even by the Government of India under Section 60 of the BOCW Act have been disregarded by State Governments and UTAs — and this is candidly admitted in a statement made by the learned Additional Solicitor General in this Court and also by the Union of India on affidavit. Hopefully, the gravity of the situation in the constitutional and federal context, the human rights and social justice context will be realised by someone, somewhere and at some time.”*

2. The Court emphasised that these laws were enacted to implement the Directive Principles of State Policy contained in Articles 39 and 42 of the Constitution and for enforcing the right to life under Article 21. **Section 2(d) of the Consumer Protection Act 1986** was analysed by the Bench.

3. In **Regional Provident Commissioner v. Shiv Kumar Joshi**, (2000) 1 SCC 98 , a bench of two learned Judges of this Court held that the invocation of the remedies under the Consumer Protection Act 1986 is permissible against the Provident Fund Commissioner by a member of the Employees’ Provident Fund Scheme. The Court held that the Regional Provident Fund Commissioner discharges a statutory function and is not delegated with any of the sovereign powers of the State. In that context, the Court held:

a. *“...The definition of “consumer” under the Act includes not only the person who hires the “services” for consideration but also the beneficiary, for whose benefits such services are hired.*

b. *Even if it is held that administrative charges are paid by the Central Government and no part of it is paid by the employee, the services of the Provident Fund Commissioner in running the Scheme shall be deemed to have been availed of for consideration by the*

Central Government for the benefit of employees who would be treated as beneficiaries within the meaning of that word used in the definition of “consumer” ...”

4. In **HUDA v Sunita**, (2005) 2 SCC 479, the Court held:

a. *“This definition is not exhaustive, rather the legislature has left the task to expound the provision on a case-to-case basis to the judiciary. The purpose of leaving this provision open ended, without providing an exhaustive list indicates the requirement for a liberal interpretation. Broadly speaking, it is inclusive of all those services performed for a consideration, except gratuitous services and contract of personal services. Moreover, the aforesaid provision reflects the legislative intent of providing impetus to “consumerism”. It may be noted that such a phenomenon has had a benevolent effect on the government undertakings, wherein a new dynamism of innovation, accountability and transparency are imbibed.”*

5. Every building worker who is registered as a beneficiary under the enactment is entitled to the benefits provided by the Board from the fund. **Section 16 of the BOCW Act** requires a building worker who has been registered as a beneficiary to make a contribution:

a. *“16. Contribution of building workers:- (1) A building worker who has been registered as a beneficiary under this Act shall, until he attains the age of sixty years, contribute to the Fund at such rate per mensem, as may be specified by the State Government, by notification in the Official Gazette and different rates of contribution may be specified for different classes of building workers:*

b. *Provided that the Board may, if satisfied that a beneficiary is unable to pay his contribution due to any financial hardship, waive the payment of contribution for a period not exceeding three months at a time.*

c. *(2) A beneficiary may authorise his employer to deduct his contribution from his monthly wages and to remit the same, within fifteen days from such deduction, to the Board.”*

Furthermore, reference to section 22 providing for the functions of the Board was made.

6. As a matter of interpretation, the provisions contained in the Consumer Protection Act 1986 must be construed in a purposive manner. Parliament has provided a salutary remedy to consumers of both goods and services. Public authorities such as the appellants who have been constituted under an enactment of Parliament are entrusted with a solemn duty of providing welfare services to registered workers. The workers who are registered with the Board make contributions on the basis

of which they are entitled to avail of the services provided in terms of the schemes notified by the Board. Public accountability is a significant consideration which underlies the provisions of the Consumer Protection Act 1986. The evolution of jurisprudence in relation to the enactment reflects the need to ensure a sense of public accountability by allowing consumers a redressal in the context of the discharge of non-sovereign functions which are not rendered free of charge. This test is duly met in the present case.

DECISION HELD:

No reason to interfere with the ultimate decision of the State Commission to award the claim, subject to the modification of the rate of interest by the order of the National Commission. The appeal stands dismissed. No order as to costs.