

In the Court of Mahmood Ahmed Shakir Jajja, Presiding Officer/ District & Sessions Judge, District Consumer Court, Bahawalpur

Mohammad Qaiser Abbas Vs Abdur-Rehman Joiya etc.

Case No. 2228/11

Dated of Institution: 10-06-2011.

Date of Decision: 04-01-2012.

Present: Parties along with their counsel.
Arguments heard. Record perused.

Order:-

The version of the petitioner is that the respondents have launched Super Lucky Committee / scheme (Motorcycle) on 10-03-2011 under the supervision of Mohammad Iqbal Channer ,Provincial Minister for Jail, Punjab; that according to the terms and conditions, total number of the members was 160 with monthly installment of Rs.1600/- as was published in the advertisement but in the very second lottery held on 15-04-2011, the members of the scheme were enhanced 199 in violation of the terms and conditions; that inspite of including 199 members in the lottery, there were left 4 members remaining and thus, number was raised to 203; that when there was left last name of the lucky member, the complainant protested and asked to stop the lottery as name of Sardar Shah, Naib Qasid of petitioner's office was not included in the 198 (Parchies) and the last name of the lucky member should be that of Syed Sardar Shah but the respondents did not bothered to the request of the complainant and also did not show the name of the last member and in this way, they have committed fraud; that the respondents with the connivance of additional members of the committee have enhanced 40 members whereby, chances of complainant have been reduced up to 25% and the respondents are giving undue advantage to their favourite members. The complainant has claimed Rs.6,00,000/- as damages and also has prayed that the respondents be proceeded against in accordance with law and the Super Lucky Committee / scheme should be stopped.

From the other side, the version of the respondents No.1 to 3 is that this court lacks jurisdiction to entertain this complaint; that Qaiser Abbas (complainant) is a corrupt government servant who use to get illegal amount from the peoples on the pretext of getting job for them; that he took Rs,2,00,000/- from younger brother of the respondent No.1 in the same cheating way but did not provide job to him and on demand of the said amount, he has moved this fictitious and frivolous complaint against the respondents; that respondent No.1 to 3 reserve their right to initiate proceedings against the complainant to the Anti Corruption Establishment; that according to the terms and conditions, the number of members of the committee can be enhanced at any stage; that none of the other 199 members has raised any objection on the Super Lucky Committee lottery scheme but only the complainant has raised objection with malafide intention to usurp the motorcycle delivered to him. It has further been averred that the respondents have included 11 motorcycles CD125 instead of 3 and that if the petitioner do not intend to deal in the scheme of the respondents, they are ready to pay him amount of two installments Rs.32,00/- paid by him. They have requested for dismissal of the complaint and payment of costs to them.

The respondent No.4, through his separate written reply, has taken up a plea that he is not member of the administrative body of the Super Lucky Committee. So he is not responsible for any act of the respondents No.1 to 3. He had joined the process of the lottery as Chief Guest. So, his name be deleted from the said complaint.

After hearing the arguments and perusal of the record, the court has observed that the complainant has placed on record, photo copy of the pamphlet Mark-A, photo copy of the legal notice Mark-A1, receipts of the payments of two installments Mark- B and C, copy of receipt of Express Courier Service Mark-D and registered AD receipts Mark –E to F to substantiate his version. Whereas, the respondents have only put forth their stance through written replies without any supportive evidence. Anyhow, they have admitted all the contentions of the complainant about launching of Super Lucky Committee (Motorcycle). So, to this extent, the case of the complainant is proved . So for as concern, the stance of the respondents that this court lacks jurisdiction to entertain and decide this

complaint is not law full as there is no written agreement between the parties so that the complainant should have moved to the Civil Court through a suit for specific performance of contract. The respondents No.1 to 3 have launched the scheme to provide service to the public, therefore, the complainant becomes a service receiver and thus, Consumer Court inherits jurisdiction to decide this complaint. The other version of the respondents No.1 to 3 is that they can enhance number of members of the committee at any time under the terms and conditions of the lottery and they will provide these terms but no such terms and conditions have been produced on record by them. The said respondents have also taken up a plea that none of the other 199 members has raised objection on the said committee and only the complainant has moved this complaint against them malafidely and with bad intention due to demand of Rs.2,00,000/- by the younger brother of the respondent No.1 from him. This plea do not hold any ground as any one of the members can raise objection if he feels aggrieved by any illegal or malafide act of the administrative committee. He cannot be debarred from doing so on the ground that other members have not raised such objection. So for as concern the matter of proceeding against the complainant to the Anti Corruption Establishment, the brother of the respondent No.1 is at liberty to do so in accordance with law.

The nut shell of the above discussions is that the complainant has proved his case without any shadow of doubt. Respondents No.1 to 3 have acted illegally by launching the Super Lucky Committee which is clear cut violation of section 294 A PPC. They have also not got any legal right to enhance number of the members as published by them in pamphlet as 160. It is also allegation against them that they are favouring the members with whom they are connived for their vested interests. The chances of the complainant have definitely been minimized for getting the motorcycle in lottery. So, he has got a cause of action to move this complaint. The complaint in hand is therefore, allowed and the respondent No.1 to 3 are held liable to pay damages of Rs.50,000/- to the complainant as compensation for the physical torture and mental agony faced by him and wastage of his precious time on this litigation. As the respondents No.1 to 3 have committed criminal offence which they, themselves have admitted. Hence, S.H.O P/S

Baghdad-ul-Jadeed is directed to lodge an FIR against the respondents No.1 to 3 under section 294 A and 420 PPC and to proceed against them in accordance with law and to get investigated the case on merits. As the Super Lucky Committee is unlawful and is based on malafide, therefore, its functioning in future is hereby stayed to protect and safeguard the rights and interests of its members and public at large. It is also observed that the name of Mohammad Iqbal Channer, Provincial Minister for imprisons has been published by the respondents No.1 to 3 as Chief Guest. The said minister should not patronize such illegal activities as being a highly responsible and respectable office holder of provincial minister. Otherwise, clever and fraudulent persons will be encouraged to loot and misappropriate the poor citizens. He also should have not allowed the publication of his name in the pamphlet as Chief Guest if he was not pattering the illegal and unlawful scheme under consideration. The respondent No.4 is not practically involved in the administration of the said committee. So, he is not responsible for any illegal act of the respondents No.1 to 3. Anyhow, he should also avoid to become Chief Guest in such illegal and fraud schemes in future. With these observations, the complaint in hand is decided infavour of the complainant and against the respondents. Notice be issued for execution on 06-02-2012.

Announced:
04-01-2012

Presiding Officer