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BEFORE THE CONSUMER DISPUTES REDRESSAL COMMISSION
GUJARAT STATE AHMEDABAD.

COURT NO: 01
APPEAL NO.353 /2018

Manubhai C Shah
Residing at: G-2, Barmaar Apartments,
Saintcruz, Ponda, Goa.

...Appellant

Vs.

1. Surat District Cricket Association
At: Lalbhai Contractor Stadium,
Surat-Dumas road, Vesu, Surat.
2. President, Surat District Cricket Association
At: Lalbhai Contractor Stadium,
Surat-Dumas road, Vesu, Surat.
3. Secretary Surat District Cricket Association
At: Lalbhai Contractor Stadium,
Surat-Dumas road,
Vesu, Surat.

...Respondents

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BEFORE: **Hon'ble Mr.I.D. Patel, President (In-charge)**
 Hon'ble Dr. J.G. Mecwan, Member

APPEARANCE: Mr. P.H.Thakkar, L.A. for the appellant.
 Mr. Milan Dudhiya, L.A. for the respondents.

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ORDER BY HON'BLE DR. J.G. MECWAN, MEMBER.

1. The appellant - original opponent has preferred the present appeal u/s. 15 of the Consumer Protection Act, 1986, against the impugned order dated 24.04.2018 passed by the learned District Consumer Disputes Redressal Forum, Surat, (hereinafter referred to as "learned District Forum") in the Complaint No.802 of 2016 on the grounds stated in the appeal memo. For the sake of the convenience, parties are hereinafter referred to by their original nomenclature.

2. Facts of the Case :-

- 2.1.** The complainant has been residing at Goa for the last several years. The complainant is a legally registered Lifetime Member under the Family Patron Category of the Surat District Cricket Association, being the opposite party herein. The complainant's membership number is 03877. The complainant has been regularly paying the annual membership fees for several years.
- 2.2.** It is further the case of the complainant that the opposite party is a legally registered organization and is legally bound to undertake various recreational activities for its members, protect the interests of its members, and maintain proper and systematic administration of the organization.
- 2.3.** The complainant had sent the following cheques to the opposite party, which were duly encashed:
- Cheque No. 925136 dated 20.04.2010 for Rs. 4,000/-
 - Cheque No. 718302 dated 30.04.2013 for Rs. 12,000/-
- Thus, a total amount of Rs. 16,000/- was paid.
- 2.4.** According to the complainant, although he was residing at Goa in connection with his business, he had, on different dates, sent a total of three cheques to the opposite party. However, all three cheques were allegedly lost by the opposite party without being deposited into the bank. Despite this fact, the complainant sent his trusted representative, Ms. Pallavi, with another cheque, but the opposite party refused to accept the same and no reason whatsoever was given by the office of the opposite party for such refusal.
- 2.5.** Thereafter, sometime around 01.04.2015, the opposite party sent a letter to the complainant showing an outstanding amount of Rs. 20,000/- towards maintenance fees. In the said letter, the opposite party specifically stated that the membership could be cancelled if the maintenance fees remained unpaid continuously for two years. In view

thereof, the complainant submits that he had not continuously defaulted in payment of maintenance charges for two years.

- 2.6.** The said letter also contained a demand for the advance maintenance fee for the year 2015-16. On the contrary, the letter specifically stated that the annual maintenance fee was required to be paid on or before 30th June of each year. Therefore, even on the basis of the said letter, the complainant could not be treated as a person who had continuously remained in arrears of maintenance charges for two years.
- 2.7.** Despite the complainant having shown his willingness to pay the outstanding maintenance charges, for reasons unknown to him, the opposite party cancelled the complainant's membership and, allegedly, devised a scheme to cancel the memberships of the complainant and similarly situated members and enroll other persons as members for obtaining substantial amounts of money.
- 2.8.** The complainant further submits that when a person was sent personally to pay the total maintenance fee, a person from the office of the opposite party wrote on the reverse side of the said notice, on 25.04.2015, the following statement: "Mr. Shah, your membership is terminated as you have not paid fees for three years."
- 2.9.** However, the complainant subsequently sent Canara Bank Cheque No. 794440 dated 08.06.2016 for Rs. 25,000/- towards the fees by Registered Post. The opposite party deliberately did not encash the said cheque and did not provide any explanation to the complainant in that regard.
- 2.10.** Thereafter, the complainant, through his advocate, issued a legal notice dated 30.07.2016 to the opposite party, as well as to the President and Secretary of the opposite-party organization, by RPAD and UPC. Although the said notice was duly received by the opposite party, the opposite party, with a view to illegally carrying out its

alleged intention and enrolling some other person as a member for obtaining financial gain, did not give any reply to the complainant's notice till date.

2.11. The complainant submits that despite having regularly paid the annual membership fees relating to his membership in the opposite-party organization for several years, the opposite party, by conspiring to terminate his membership, has committed serious negligence and deficiency in service.

2.12. Therefore, the complainant approached the Learned District Consumer Forum/Commission by filing the present complaint and prayed for appropriate reliefs, including the following:

2.13. To declare that the opposite party could not have illegally terminated the complainant's membership and to direct the opposite party to continue the complainant's membership bearing Membership No. 03877 in the opposite-party organization.

- To direct the opposite party to accept the outstanding membership/maintenance fees from the complainant.
- To direct the opposite party to pay a sum of Rs. 25,000/- towards compensation for the physical and mental harassment and suffering caused to the complainant and his family members due to the serious negligence and deficiency in service on the part of the opposite party, within one month from the date of the order passed by the Learned Forum.

2.14. The complainant has accordingly prayed that the aforesaid reliefs and such other reliefs as may be deemed just and proper in the facts and circumstances of the case be granted in favour of the complainant.

3. After hearing learned advocates for both the parties and after considering the document and evidences, the Learned District Commission has dismissed the complaint of the complainant.

4. Being aggrieved by the impugned order of the Learned District Commission, Surat, the original complainant has filed the present

appeal against the original opponent before this Commission on the ground stated in the appeal memo.

5. Heard Ld. Adv. Mr. P.H.Thakkar for the Appellant. Ld. Adv. Mr. Milan Dudhiya for the respondent. Perused the record of the case and order of the Learned District Commission.

6. Submissions of Appellant:

- 6.1. The Appellant submits that the Respondent has not produced any valid resolution or decision of the competent authority terminating the Appellant's membership bearing No. 03877. In the absence of such resolution, the alleged termination is not duly established.
- 6.2. As per Page No. 22, the Respondent has shown total outstanding dues of Rs.20,000/-, comprising Rs.7,300/- for 2013-14, Rs.6,600/- for 2014-15 and Rs.6,100/- for 2015-16.
- 6.3. However, the Appellant had already paid Rs.4,000/- by cheque dated 20.04.2010 and Rs.12,000/- by cheque dated 30.04.2013, aggregating to Rs.16,000/-, which payments are also reflected in the bank statement.
- 6.4. Therefore, the alleged outstanding amount of Rs.7,300/- for 2013-14 itself requires proper reconciliation, particularly when the Respondent had received Rs.12,000/- on 30.04.2013. The Respondent could not have ignored or failed to give credit for the said payment.
- 6.5. The Appellant had also sent a cheque of Rs.25,000/- dated 21.06.2012 towards payment of the fees/dues. The Respondent deliberately did not deposit or encash the said cheque. Hence, the Appellant cannot be treated as a defaulter merely because the Respondent failed to encash the cheque.
- 6.6. The documentary evidence, including the bank statement and cheques, clearly demonstrates that the Appellant had made payments

and had continuously shown his willingness to pay the legitimate dues. Therefore, there was no deliberate or continuous non-payment on the part of the Appellant.

- 6.7.** The Appellant had also served a legal notice upon the Cricket Association, calling upon it to accept the payment and clarify the position regarding his membership. Despite receipt of the notice, the Respondent failed to give any proper reply or explanation.
- 6.8.** The Respondent, being an association providing facilities and services to its members, was required to maintain proper accounts and deal fairly with the Appellant's membership. The dispute regarding continuation of membership and services rendered by the Association therefore falls within the jurisdiction of the Consumer Forum, subject to the applicable provisions of law.
- 6.9.** The Learned Forum failed to properly appreciate the payments already made, the bank statement, the tendering of the Rs.25,000/- cheque, the absence of any termination resolution and the Respondent's failure to reply to the legal notice. The finding based upon alleged non-payment is therefore contrary to the material evidence on record.
- 6.10.** In view of the aforesaid facts, the Appellant respectfully prays that the impugned order be set aside, the Appellant's Membership No. 03877 be restored/continued, and the Respondent be directed to accept the legitimate dues after properly reconciling the account and giving credit for all payments already made by the Appellant.

7. Submission of the respondent :

- 7.1.** The Respondent submits that the Appellant/Complainant has admittedly paid Rs.4,000/- in the year 2010 and Rs.12,000/- in the year 2013. However, the said Rs.12,000/- payment pertains to the maintenance charges for the period from 2010-11 to 2012-13 and, therefore, no credit can be given against the dues for the subsequent financial years.

- 7.2.** It is further submitted that for the year 2013-14, Rs.5,100/- was outstanding, and along with the applicable late charges of Rs.2,200/-, the total outstanding amount for that year was Rs.7,300/-. For the year 2014-15, Rs.6,600/- and for the year 2015-16, Rs.6,100/- were outstanding. Thus, the total outstanding amount comes to Rs.20,000/-.
- 7.3.** The Respondent submits that a valid resolution for termination of the membership was passed, and the same forms part of the record. The contention of the Appellant that no resolution was passed is therefore incorrect. The letter relied upon by the Appellant at Page No.23 is disputed by the Respondent as a false/incorrect document, and the Respondent submits that the said letter was never received by it.
- 7.4.** It is further submitted that the Appellant's own conduct raises a material question as to the alleged payments. If, as contended by the Appellant, all the requisite maintenance dues had already been paid, there was no occasion for the Appellant to subsequently send a cheque of Rs.25,000/- towards payment. The said circumstance supports the Respondent's contention regarding the existence of outstanding dues.
- 7.5.** The Learned District Commission dismissed the complaint at the preliminary stage on the question of jurisdiction, relying upon the judgment of the State Consumer Disputes Redressal Commission (SCDRC), without entering into the merits of the dispute. Therefore, the Respondent respectfully submits that, if this Hon'ble Commission finds that the matter requires consideration on merits, the appropriate course would be to remand the matter to the District Commission for proper adjudication on merits.
- 7.6.** With regard to the applications under Sections 41 and 27, the Respondent submits that since the original complaint itself was dismissed only on a preliminary ground, the Learned District Commission had not entered into the merits of the matter and,

consequently, the resolution and Constitution/Bye-laws of the Association were not required to be considered or produced at that stage. The Respondent therefore prays that the matter may, if necessary, be remanded to the Learned District Commission for consideration of all relevant documents and the respective contentions of both parties in accordance with law.

8. Discussion and Findings :

- 8.1.** At the outset, the documents produced by the Respondent in the applications under Sections 41 and 27 of the Consumer Protection Act, including the Resolution and Constitution/Bye-laws of the Surat District Cricket Association, are taken on record, subject to proof, relevancy and admissibility in accordance with law. The said documents shall be considered by the Learned District Commission while deciding the complaint afresh.
- 8.2.** On consideration of the pleadings and submissions of both sides, it is apparent that the Appellant is a member of the Surat District Cricket Association and has paid membership/maintenance fees for availing the facilities and activities provided by the Association. The Association provides to its members various facilities and activities, including cultural activities, sports activities, indoor games and other recreational facilities. Thus, the membership is not merely a matter of holding an identity card, but is connected with availing facilities/services against payment of membership and maintenance fees. In the facts and circumstances of the present case, the Appellant is therefore a “consumer” within the meaning of the Consumer Protection Act, and the facilities/services provided by the Respondent Association against the membership/maintenance fees fall within the ambit of “service” under the Act.
- 8.3.** The Learned District Commission, however, dismissed the complaint only on the preliminary ground of jurisdiction/maintainability, relying upon the decision of this Commission in Appeal No.57/2016, without

examining the evidence and factual circumstances of the present case. We find that the facts of Appeal No.57/2016 cannot be mechanically applied to the present case. In the said matter, the complainant had relied upon the identity/membership card, whereas in the present case the Appellant has produced detailed particulars regarding the payments made, including Rs.4,000/-, Rs.12,000/-, the alleged outstanding dues, the Rs.25,000/- cheque, bank statement and correspondence/legal notice. Therefore, the factual foundation of the present complaint requires independent consideration.

8.4. The Learned Advocate for the Appellant has also relied upon Special Leave Petition (Civil) No.18636/2019 before the Hon'ble Supreme Court. The said proceedings concern the question of applicability of the Consumer Protection Act in the context of a Trust and the issue was directed to be considered by a larger Bench. In the present case, however, the Appellant is an individual member who has paid membership/maintenance fees for availing facilities and services provided by the Association. Therefore, having regard to the nature of the membership and facilities provided against consideration, the Appellant is to be treated as a consumer, and the Consumer Commission has jurisdiction to entertain the complaint. Nevertheless, since the Learned District Commission has not adjudicated the complaint on merits, the factual and documentary issues are required to be considered by the District Commission in the first instance.

8.5. Accordingly, the impugned order passed by the Learned District Commission is hereby set aside and the matter is remanded to the Learned District Commission for fresh adjudication. The Learned District Commission shall hear both the Appellant/Complainant and the Respondent, take into consideration the documents produced under Sections 41 and 27, including the Resolution and Constitution/Bye-laws, and thereafter decide the complaint on merits in accordance with law. It is clarified that, except for the finding that the Appellant is a consumer for the purpose of the present complaint,

this Commission has not expressed any opinion on the remaining merits of the dispute, including the alleged payments, outstanding dues, termination of membership or validity of the Resolution. Accordingly following order is passed.

ORDER

1. The Appeal No.353 of 2018 is hereby partly allowed.
2. The impugned order dated 24.04.2018 passed by the Learned Consumer Disputes Redressal Forum, Surat, in Consumer Complaint No. 802 of 2016, is quashed and set aside.
3. The matter is remanded back to the ld. District Commission, Surat and ld. District Commission, Surat, is hereby directed to decide the Consumer Complaint no. 802 of 2016 a fresh on merits, after giving opportunity of hearing and also to lead evidence for both the parties before the ld. District Commission.
4. The parties are directed to appear before the ld. District Commission on 06.11.2026
5. No order as to cost.
6. Registry is directed to provide copy of this judgment free of cost to the parties to this proceeding.
7. Registry is hereby instructed to send a copy of this order in PDF format by E-mail to the Consumer Disputes Redressal Forum, Surat for taking necessary action.

Pronounced in the open court today on **6th October, 2026.**

Dr. J.G. Mecwan
Member

I.D. Patel
In-charge President