

Date of Filing: 06.07.2023  
Date of Order:14.06.2024

**BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION-III,  
At HYDERABAD.**

Present

SRI. M. RAM GOPAL REDDY, PRESIDENT  
SRI R. NARAYAN REDDY, MEMBER

Friday, the 14<sup>th</sup> day of June, 2024

**C.C. No 166 of 2023**

Between:

Mr. Ileni Prabhakar Reddy, S/o. Raji Reddy,  
Age 59 years, Occ: Business,  
R/o. H.No.5-87, Thatipalli Village & Mandal,  
Karimnagar District – 505452.

....Complainant

AND

1. M/s. Srei Equipment Finance Limited,  
Regd. Off: Vishwakarma, 86-C, Topslas Road (South),  
Kolkata – 700046, rep. by its Managing Director /  
Authorised Signatory.
2. M/s. Srei Equipment Finance Limited,  
Branch Office at Door No.8-2-269/4/B,  
Near Stamford Park, Road No.2, Banjara Hills,  
Hyderabad, rep. by its Branch Manager. .... Opposite parties

Counsel for the complainant : M/s. Y. Narasimha Reddy &  
Associates, Advocate.

Counsel for the opposite Parties : V. Babitha, Advocate.

**ORDER**

**(PER HON'BLE SRI R. NARAYAN REDDY, MEMBER ON BEHALF OF THE  
BENCH)**

1. This complaint is filed under Section 35 of Consumer Protection Act, 2019, praying this commission to direct the Opposite Parties:
  - a). To issue No Due Certificate and Loan Closure Letter in respect of the Loan Account/Contract No.SEFL/99545/NG199233 to the complainant.
  - b). To pay compensation of Rs.5 Lakhs to the complainants for committing negligence of Service, Unfair Trade practice and for suffering mental agony,
  - c). Award the cost and pass such further order or orders which Hon'ble Commission may deems fit and proper under the circumstances of the case.
2. The averments of the complaint in brief are that the Complainant has availed a loan of Rs.27,37,771/- to purchase a JCB from Opposite Party No.

1's branch office at Karimnagar under contract No. 99545, repayable in 46 EMIs at Rs.66,600/- per month. The Complainant has paid the 46 EMIs at Rs.66,000/- per month regularly without any default and closed the loan account. The Complainant has paid a total amount of Rs.30,63,600/- towards repayment of the loan amount through HDFC Bank. After payment of the loan amount, the Opposite Parties were supposed to issue a no objection certificate and a no due certificate loan closure letter to delete the hypothecation entry in the registration certificate.

2a). The Complainant has approached the Karimnagar branch office of Opposite Party No. 1 on several occasions for the no objection and loan closure letter, but there was no response from their end. Meanwhile, the Karimnagar branch has closed its business without any information. Due to the non-closure of the loan account and non-issuance of the no objection certificate, the Complainant's CIBIL score fell, causing the Complainant to face a lot of hardships.

2b). The Complainant came to know that all the files relating to the business transactions of the Karimnagar branch were shifted to Opposite Party No. 2, situated at Banjara Hills, Hyderabad. After noticing the said address, the Complainant approached Opposite Party No. 2 for the issuance of the No Objection Certificate and No Due Certificate, but there was no response from Opposite Party No. 2. Meanwhile, the Complainant received a legal notice dated 09.12.2021 issued by the Opposite Parties to pay an amount of Rs. 11,23,216/- in respect of another loan account No. 114314. Upon receipt of the legal notice, the Complainant approached Opposite Party No. 2, and one of their employees informed the Complainant that there is an outstanding amount due and payable by the Complainant in another loan account No. 114314, and therefore the issuance of the loan closure letter is not possible.

2c). Earlier to contract No. 99545, the Complainant availed a loan of Rs.58 lakhs from Opposite Party No. 1 to purchase an excavator from the Karimnagar branch office under contract No. 114314. The Complainant paid the installments regularly without any default. However, in the course of business, the Complainant suffered huge losses, resulting in an inability to pay some installments to the Opposite Parties. Due to non-payment, the Opposite Parties repossessed the vehicle and sold it to third parties. In the first week of February 2019, the Opposite Parties issued a notice directing

the Complainant to pay the balance amount of Rs.4,79,121/- and to appear before the Conciliation Centre in the presence of Conciliator Shri K. Ram Prasad, advising to contact Mr.Ramesh Murthi for clarification.

2d). On receipt of the said notice, the Complainant appeared before the conciliator in Hyderabad on 20.02.2019, and the matter was amicably settled. Accordingly, the Hon'ble Conciliator passed an order dated 20.02.2019 directing the Complainant to pay an amount of Rs.1,00,000/- as full and final settlement to close the loan account. As per the Conciliator's directions, the Complainant paid Rs.10,000/- through account transfer on 27.02.2019 and Rs.90,000 /- in cash at the Karimnagar branch on 11.03.2019. Upon receipt of the total amount of Rs.1,00,000/-, the officials of the Karimnagar branch issued a cash receipt No. 411142 dated 11.03.2019 for Rs.90,000/-, endorsing that the payment was received towards closure of the loan account. The original order dated 20.02.2019 was retained by the Opposite Parties, and a Xerox copy was handed over to the Complainant.

2e). Upon receipt of the Rs.1,00,000/- the Opposite Party was supposed to close the loan account and issue a No Objection Certificate and loan closure letter to the Complainant. Instead, the Opposite Parties issued a notice dated 05.09.2019 through their counsel to pay a balance amount of Rs.8,64,324/- as of 31.07.2019 and directed the Complainant to appear before the conciliation camp on 13.09.2019 at Jyoti Nagar, Karimnagar, in the presence of Conciliator Mr. E. Madhusudan Rao and Mr. Ramesh Murthi for a one-time settlement of the said loan account. Upon receipt of the said notice, the Complainant approached Mr. Ramesh Murthi and inquired about the matter. Mr. Ramesh Murthi informed the Complainant that the loan account was closed and they would issue the No Objection Certificate and loan closure letter at the earliest.

2f). The loan transactions covered under contract Nos. 99545 and 114314 are independent transactions. The Opposite Parties cannot withhold the issuance of the No Objection Certificate and No Due Certificate in respect of loan account No. 99545 on the vague allegation of a pending loan amount in loan account No. 114314, and such action is void in law. Therefore, the Complainant requested the Opposite Parties through a letter dated 23.02.2023 to issue the No Objection and Loan Closure Letter. However, the Opposite Parties did not respond and did not issue the same. As such, the

Complainant issued a legal notice on 01.04.2023, calling upon the Opposite Parties to issue the No Objection Certificate and Loan Closure Letter, but even after receipt of the said notice, the Opposite Parties neither complied nor replied. Hence, the present complaint with the reliefs stated supra.

3. The Opposite Parties filed their Written Version, denying all the allegations against them and contended that on 04.10.2021, the Reserve Bank of India (RBI), under the 1934 RBI Act, superseded the board of directors of SREI Infrastructure Finance Ltd (SIFL) and SREI Equipment Finance Ltd (SEFL) due to governance concerns and defaults by SCFL in meeting various payment obligations, and appointed an administrator. On 08.10.2021, the RBI filed an application for the initiation of a corporate insolvency resolution process (CIRP) against SIFL and SEFL before the Hon'ble NCLT Kolkata Branch. By an order dated 08.10.2021, the Hon'ble NCLT Kolkata Bench admitted the petition, passed an order of moratorium, and appointed Mr. Rajnish Sharma as Administrator of the corporate debtor. The last date of completion of the CIRP of SIFL and SEFL was 18.02.2023.

3a). As noted in the annual returns for the financial year 2021-22, the Administrator acknowledged the business transfer agreement dated 16.08.2019, entered into between SCFL and SIFL. On 11.08.2023, the Hon'ble NCLT Kolkata Bench passed an order approving the resolution plan for SEFL/Opposite Parties. This resolution plan is binding on SIFL, SEFL, and all other stakeholders involved.

3b). In view of the aforesaid order, the present petition against the Opposite Parties is not maintainable. All claims and issues against the Opposite Parties, decided or undecided, shall now be governed by the resolution plan, which is binding on all stakeholders, including the Complainant. It is well settled that any claims or issues that may exist, apart from those decided on merits by the Resolution Professional and/or the Adjudicating Authority and/or the Appellate Tribunal, cannot be decided or looked into after the approval of a resolution plan, as this would militate against the Insolvency and Bankruptcy Code. Furthermore, the complaint is hopelessly time-barred and not within the limitation and jurisdiction. As such, it is liable to be dismissed in limine. Therefore, the Opposite Parties sought for the dismissal of the complaint.

4. During the course of the inquiry, the Complainant filed his evidence affidavit as PW1, reported no further evidence, and marked Exs.A-1 to A-11. Mr. M. Chandrashekar Rao, Legal Manager of the Opposite Parties, filed his evidence affidavit on behalf of the Opposite Parties, and Ex.B-1 was marked. The Complainant and the Opposite Parties filed their respective Written Arguments. The Complainant submitted his Oral Arguments, and the Opposite Party filed a citation of the Hon'ble Supreme Court. Hence, the matter was reserved for orders.

5. Based on the facts and material available on the record, the following points have emerged for consideration:

- a. Whether this Commission has jurisdiction to entertain the CC when the Opposite Parties have undergone Corporate Insolvency?
- b. Whether the Complainant could establish the commission of a deficiency of service by the Opposite Party?
- c. Whether the Complainant is entitled to the claim/ compensation made in the complaint?
- d. If so, to what relief?

6. **Points a, b & c:** It is the case of non-issuance of No Objection Certificate/No Due Certificate after payment of all EMIs of vehicle loan to the Opposite Parties, but not for any monetary claim or recovery as a creditor/stakeholder of the company.

6a). But under the guise of Ex.B-1 the Opposite Parties taken a plea that on 04.10.2021, the Reserve Bank of India (RBI), under the 1934 RBI Act, superseded the board of directors of SREI Infrastructure Finance Ltd (SIFL) and SREI Equipment Finance Ltd (SEFL) due to governance concerns and defaults by SCFL in meeting payment obligations, and appointed an administrator. On 08.10.2021, the RBI filed for a corporate insolvency resolution process (CIRP) against SIFL and SEFL before the Hon'ble NCLT Kolkata Branch. By an order dated 08.10.2021, the NCLT admitted the petition, imposed a moratorium, and appointed Mr. Rajnish Sharma as Administrator. The CIRP was to be completed by 18.02.2023. In the annual returns for FY 2021-22, the Administrator acknowledged the business transfer agreement dated 16.08.2019, between SCFL and SIFL. On 11.08.2023, the NCLT Kolkata Bench approved the resolution plan for

SEFL/Opposite Parties, binding SIFL, SEFL, and all stakeholders involved. As such the Opposite Parties sought for dismissal of the complaint.

6b). As per the contentions of the Opposite Parties, when a corporate entity undergoes Corporate Insolvency Resolution Process (CIRP), as per Section 14 of the Insolvency and Bankruptcy Code, 2016, a moratorium is imposed, which includes a stay on all pending and new legal proceedings against the corporate debtor. This implies that during the CIRP period, any claim or litigation against the corporate debtor typically cannot proceed, and all such claims must be addressed within the CIRP framework. Given the above context, if the Opposite Parties are indeed undergoing CIRP and a moratorium is in effect as ordered by the NCLT, this Commission would generally lack the jurisdiction to entertain or adjudicate upon the complaint (CC). All claims against the corporate debtor need to be submitted to the Resolution Professional appointed by the NCLT, and the resolution plan approved by the NCLT would address and settle these claims. Therefore, based on the information provided, if the corporate insolvency proceedings and the moratorium are still in effect, this Commission would not have the jurisdiction to entertain the complaint against the Opposite Parties. The claims should be pursued through the insolvency resolution process as outlined in the IBC. However, if the CIRP has concluded and a resolution plan has been approved and implemented, or if the moratorium has been lifted, the Commission might have jurisdiction depending on the specifics of the resolution plan and any orders from the NCLT. In summary, during the period of the moratorium under the CIRP, this Commission does not have jurisdiction to entertain the complaint. The appropriate course of action would be to pursue the claims through the CIRP process.

6c). But the on examining the Ex.B-1 dated: 11.08.2023, while approving the resolution plan, the Hon'ble NCLT was pleased to held clearly in para 115 under page 184 that:

*115. We have perused the reliefs, waivers and concessions as sought and as given in section 10 t pages 105-115 of the resolution Plan. While some of the reliefs, waivers and concessions sought by the Resolution Applicant come within the purview of Code while many others fall under the power and jurisdiction of different Government authorities/ departments. This adjudicating authority has power to grant reliefs, waivers and concessions only in relation to the Code and*

*the Companies Act 2013 (within the powers of the NCLT) for achieving the objective of the Code. No reliefs, waivers ad concessions that fall within the domain of other Government departments shall be dealt with the respective competent authorities/forums/offices, Government or Semi Government of the State or Central Government with regard to the respective reliefs, waivers and concessions. The competent authorities including the Appellate authorities may consider grant such reliefs waivers and concessions keeping in view the spirit of the Code.*

*Para 124 of the order in Ex.B-1, was also made clear that:*

*124. The Moratorium imposed under section 14 of the Code shall cease to have effect from the date of this order.*

*And as per Para 128 of the Ex.B-1, the Administrator was discharged from his duties from the date of 11.08.2023.*

*And after taking into consideration the case of Ghanashyam Mishra And Sons Vs. Edelweiss Asset Reconstruction Co. Ltd., and others, cited by the opposite parties, the Hon'ble NCLT was pleased to uphold the order under Ex.B1.*

6d). Here the Complainant is neither a creditor nor a stakeholder of the company. He was obtained a vehicle loan from the Opposite Parties and after repayment of the same with interest, demanding the Opposite Parties for issuance of No Objection Certificate/No Due Certificate. And based on the order under para 115 of Hon'ble NCLT, i.e. Ex.B-1, the complainant being neither a creditor nor a stakeholder of the company in question, as such he is seeking a relief from this commission for the deficiency of service but not for any recovery of the debts or assets.

In this context, if the relief of obtaining a No Objection Certificate falls within the purview of the Code or the Companies Act 2013, it may be appropriate for the complainant to seek relief from the adjudicating authority, subject to the provisions and objectives of the Code. However, the relief sought by the Complainant is not pertains to reliefs, waivers, and concessions in relation to the Code and the Companies Act 2013. Hence this commission has very much jurisdiction to entertain the complaint.

6e). On perusal of evidence on record it is noted that the complaint was filed for non-issuance of No Objection Certificate/No Due Certificate even after made payments of all 46 EMIs of vehicle loan to the Opposite Parties under the Contract No.99545. The Ex.A-1, dated: 06.01.2016 is a Welcome Letter for Contract No.SEFL/99545/NG199233 for Rs.27,37,771/- along with a repayment schedule for 46 months EMIs @ Rs.66,600/- starts from 15.02.2016 to 15.11.2019. Ex.A-2 is Certificate of Registration of the Vehicle which was hypothecated with Opposite Parties. And Ex.A-11 is an irrefutable evidence which substantiates that the Complainant was repaid entire vehicle loan amount under the Contract No.99545 as per the schedule given under Ex.A-1 i.e. all 46 EMIs @ Rs.66,600/- p.m. from 16.02.2016 to 15.11.2019. And Exs.A-3 to A-5 reveals that as per the conciliation agreement the Complainant has paid Rs.1,00,000/- to the Opposite Parties to close the contract No. 114314. Exs.A7 and 8 are notices demanding the Opposite Parties to issue No Objection Certificate and No Due Certificate / Loan Closer Letter, same were served on the opposite parties, but there was no response from the Opposite Parties.

6f). The Opposite Parties have evidently breached their contractual obligations by neglecting to issue No Objection Certificate and No Due Certificate / Loan Closer Letter, under the guise of Ex.B-1, knowingly that the Complainant neither a creditor nor a stakeholder of their company and he is not claiming any recovery of asset. This breach has resulted in a deliberate loss for the Complainant.

6g). In view of the above findings and discussions, we are of the opinion that despite the Complainant having paid all EMIs of his vehicle loan, the Opposite Parties have failed to issue No Objection Certificate and No Due Certificate / Loan Closer Letter. This failure amounts not only to a deficiency of service but also constitutes an unfair trade practice on the part of the Opposite Parties.

7. Point No.d: In the result, the complaint is partly allowed and directing the Opposite parties:

- a) To issue No Objection Certificate/No Due Certificate and Loan Closer Letter in respect of the Loan Account No. SEFL/99545/NG1999233 to the Complainant;
- b) To pay a reasonable compensation of Rs.25,000/- (Rupees Twenty-Five Thousands only) for mental agony and suffer.



c) To pay Rs.5,000/- (Rupees Five Thousand only) towards costs of the complaint.

Time for compliance is 45 days from the date of receipt of this order.

Typed to my dictation and pronounced in the Open court on this the 14<sup>th</sup> day of June, 2024.

Sd/-  
MEMBER

Sd/-  
PRESIDENT

**APPENDIX OF EVIDENCE**  
**WITNESSES EXAMINED**

**For Complainant:**

PW1: Mr. Ileni Prabhakar Reddy

**For Opposite Parties :**

DW1 : Sri Chandrashekar Rao Madhyannapu, Legal Manager.

**DOCUMENTS MARKED**

**For complainant :**

Ex.A1: is the copy of Welcome letter, dt.06.01.2016.

Ex.A2: is the copy of RC of Vehicle, dt.30.01.2016.

Ex.A3: is the copy of Conciliation Agreement, dt.20.02.2019.

Ex.A4: is the copy of Statement of Account for proof of payment of Rs.10,000/-, dt.27.02.2019.

Ex.A5: is the original of Cash Money Receipt, dt.11.03.2019.

Ex.A6: is the copy of Legal Notice, dt.09.12.2021.

Ex.A7: is the copy of office copy of Notice, dt.23.02.2023.

Ex.A8: is the copy of Legal Notice, dt.01.04.2023.

Ex.A9: is the copy of Postal receipts, dt.06.04.2023.

Ex.A10: is the copy of Acknowledgment, dt.12.04.2023.

Ex.A11: is the copy of HDFC Bank statement of account.

**For Opposite Parties:**

Ex.B1: is the copy of Approval Order, dt.11.08.2023.

Sd/-  
MEMBER

Sd/-  
PRESIDENT