



according to section 21b, 13, and 14 of the Consumer Protection, Act 1986 the court has no jurisdiction to trail the matter, hence the suit is dismissed.

5. Aggrieved by this Order, the Petitioner filed Appeal No. 1168 / 2011 before the State Commission. The State Commission vide Order dated 18.09.2012 dismissed the Appeal by observing as under:-

“Since the arbitration award has been passed by the arbitrator on the request of the appellant himself and compliance of the award has already been made without any objection, we find no error or illegality in the impugned order dated 6.4.2011 passed by the District Forum, Bhilwara so as to call for any further interference in the present appeal. The same is dismissed accordingly as having no merits.”

6. Feeling aggrieved, the Petitioner filed Revision Petition, i.e., RP No. 2198 of 2013 before this Commission, challenging the Order dated 18.09.2012 passed by the State Commission.

7. This Commission vide Order dated 21.08.2019, restored the Appeal on the files of the State Commission by observing as under:-

“.....It is not in dispute that the Application for referring the matter to Arbitrator was filed by the Petitioner before the National Stock Exchange, sometime in the year 2009 and simultaneously a Complaint under the Consumer Protection Act, 1986 was also filed before the District Consumer Disputes Redressal Forum, Bhilwara (hereinafter referred to as "the District Forum"). When the Consumer Complaint was filed, the Arbitrator had not given the award. The award was given only on 18.1.2010. At that time, the Consumer Complaint was pending before the District Forum.

In view of the principles laid down by the Hon'ble Supreme Court in M/s National Seeds Corporation Ltd. vs. M. Madhusudhan Reddy & Anr. reported in (2012) 2 SCC 506, the Complaint was maintainable when it was filed as the award had not been given. We, therefore, set aside the impugned orders passed by the State Commission and restore the Appeal on the file of the State Commission. We request the State Commission to decide the Appeal as expeditiously as possible, preferably within a period of three months from the date when a certified copy of the order is filed before it...”

8. On remand, the State Commission vide its Order dated 11.11.2021 dismissed the Appeal. English translation of the relevant para of the Order dated 11.11.2021 passed by the State Commission, reads as under:-

“From the perusal of the Order of the District Forum it appears that the Appellant deals in purchase and sale of shares and maintained trading account for this purpose. Accordingly, he is involved in the commercial activities. Opponent also deals in share trading. Both Parties are involved in commercial transaction. Therefore, Appellant does not fall under the category of ‘Consumer’. Even otherwise, Arbitration Award on the issue in question has already been passed between the Parties on 18.01.2010 and the said award has already been complied with. Therefore, keeping in view the provisions under Order 2 Rule 2 r/w Section 10 & 11 of C.P.C., the Complaint is not maintainable. Consequently, there is no merit in this appeal and it is dismissed.”

9. Being aggrieved with the Impugned Order dated 11.11.2021 passed by the State Commission, the Petitioner has filed the present Revision Petition before this Commission.

10. I have heard Mr. Bal Mukan Joshi, Petitioner/Complainant, who was present in person. No one was present on behalf of the Respondent.

11. It is not in dispute that on application for referring the matter to Arbitrator filed by the Petitioner before the National Stock Exchange, matter was referred to the Arbitrator and the Award had been passed on 18.01.2010. The Award attained finality as the Complainant / Petitioner did not challenge the Award under Section 34 of the Arbitration and Conciliation Act, 1996. The Award has also been complied with. It is settled principle of law that the Arbitration and Conciliation Act, 1996, is a complete code and once an arbitral award is passed, it is to be challenged in the manner provided in the Arbitration and Conciliation Act, 1996 by making an application under Section 34 for setting aside of the award, within the time stipulated under Section 34(3) of the said Act.

12. A reference can be made to the Order dated 13.09.2021 passed by the Hon’ble Supreme Court in ‘Navneet Jha vs. Magma Shracchi Finance Limited’ [SLP No. 13778 / 2021] wherein it has held as under:-

“It appears that there were criminal proceedings, complaints, etc. It may be pertinent to point out that the agreement executed contained an arbitration clause. The matter was apparently referred to arbitration. The arbitrator passed an award dated 06.07.2011. The complainant neither complied with the award nor took any steps to challenge the award under Section 34 of the Arbitration and Conciliation Act, 1996, but instead, filed a complaint under the Consumer Protection Act, 1986 in the District Consumer Redressal Forum (District Forum), Karwadha in Kabirdham District in Chhattisgarh. The District Forum dismissed the complaint observing that there was evidence of an arbitral award passed against the petitioner. The complaint was, therefore, held not to be maintainable.

Against the aforesaid order, an appeal was filed before the State Consumer Disputes Redressal Commission, Chhattisgarh (State Commission). The State Commission affirmed the order of the District Forum and dismissed the appeal. The revision petition filed by the petitioner has been dismissed by the judgment and order impugned.

It is well settled that the Arbitration and Conciliation Act, 1996, is a complete code and once an arbitral award is passed, it is to be challenged in the manner provided in the Arbitration and Conciliation Act, 1996 by making an application under Section 34 for setting aside of the award, within the time stipulated under Section 34(3) of the said Act. This has admittedly not been done.”

13. Undisputedly, in the present case, the Arbitration Award had attained finality as the Complainant / Petitioner did not challenge the Award under Section 34 of the Arbitration and Conciliation Act, 1996. The Award has also been complied with. Accordingly, as rightly held by the State Commission, the Consumer Complaint is not maintainable

14. For the reasons stated hereinabove, I do not find any illegality, material irregularity or jurisdictional error in the Impugned Order dated 11.11.2021 passed by the State Commission warranting interference in revisional jurisdiction under Section 21(b) of the Consumer Protection Act, 1986. Consequently, the Revision Petition is dismissed.

.....J  
**R.K. AGRAWAL**  
**PRESIDENT**