

**BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION, KARNAL.**

Complaint No.208 of 2020

Date of instt.12.06.2020

Date of Decision:27.03.2024

Arvind Mohan son of Shri Brij Mohan, resident of Daya Nand Colony, Model Town, Karnal.

.....Complainant.

Versus

1. M/s Bharti Airtel Ltd. Plot No.41 and 42, Industrial Park, Sector-2, Growth Center, Saha, District Ambala, Haryana, through its Sales Manager.
2. M/s PNS Telecom through its partner/proprietor Shri Yash Gulati Opposite Old Sessions Courts near Dr.Bhim Rao Ambedkar Chowk, Karnal.
3. Jio Head Office, (Reliance Communication) DLF City-2 Sector-25, Gurugram, Haryana 122008, through its Manager/ authorized representative.
4. Vodafone Idea Ltd. Zonal Regional Office at 173, Sector-3, HSIIDC Industrial Area, Karnal, through its Manager/ authorized representative.

.....Opposite Parties.

**Complaint Under Section 12 of the Consumer Protection Act, 1986 and after amendment Under Section 35 of Consumer Protection Act, 2019.****Before Sh. Jaswant Singh.....President.****Sh. Vineet Kaushik.....Member****Dr. Suman Singh.....Member****Argued by: Shri Devinder Sharma, counsel for complainant.****Shri Rahul Bali, counsel for OPs No.1 & 4.****OP No.2 ex-parte VOD 23.11.2021.****OP No.3 ex-parte VOD 29.03.2022.****(Dr.Suman Singh, Member)**

**ORDER:**

The complainant has filed the present complaint Under Section 12 of the Consumer Protection Act, 1986 as after amendment Under Section 35 of Consumer Protection Act, 2019 against the opposite parties (hereinafter referred to as 'OPs') on the averments that complainant purchased two postpaid connections of Idea/Vodafone bearing mobile/ connection No.78618-22222 and 78618-33333 by paying Rs.50,000/-. Aforesaid mobile numbers were ported from Idea/Vodafone to Airtel on 07.12.2019 and thereafter, complainant started availing the service of Airtel and made the payments to OP regularly and nothing is due towards him. Complainant received information from the OP to deposit Rs.290/- which was allegedly due for Idea/Vodafone and after receiving the aforesaid information, the complainant deposited Rs.290/- on 20.05.2020 and submitted the receipt with the OP No.2 and also informed to OP No.1. After receiving the aforesaid payment, the OPs stopped/disconnected the services of aforesaid mobile numbers on 21.05.2020, whereas nothing is due towards the complainant. The complainant is an advocate by profession and is using the aforesaid mobile numbers for his personal use as well as for his professional work. Due to the stop of services of aforesaid mobile numbers, the complainant suffered mental agony. The complainant approached the OP No.2 several times and requested to continue/restore the services of aforesaid mobile numbers. Despite giving assurance that they will certainly restore the services, the OPs did not continue the services of the aforesaid mobile numbers. In this way there is deficiency in service and unfair trade practice on the part of the OPs. Hence this complaint.

2. On notice, OPs No.1 & 4 appeared and filed their separate written version. OP No.1 filed its written version raising preliminary objections with regard to maintainability, jurisdiction, cause of action, etc. On merits, it is pleaded that the complainant has not made any payment to the OP while obtaining the said connections and the said connections were disconnected for want of outstanding dues. The other allegations made in the complaint have been denied and prayed for dismissal of the complaint.

3. OP No.4 filed its written version raising preliminary objections regarding maintainability, jurisdiction etc. On merits, it is pleaded that Indian Telegraph Act clearly provides for a special and efficacious remedy under Section 7-B of the Act, which states that any dispute concerning any telegraph, telegraph line, appliances or apparatus shall be determined by Arbitration and shall for the purpose of such determination, be referred to an Arbitrator, appointed by the Central Government. The other allegations made in the complaint have been denied and prayed for dismissal of the complaint.

4. Despite service of notice none has appeared on behalf of OPs No.2 & 3 and they opted to be proceeded against ex-parte, vide order dated 23.11.2021 and 29.03.2022 respectively.

5. Parties then led their respective evidence.

6. Learned counsel for complainant has tendered into evidence affidavit of complainant Ex.CW1/A, copies of bills Ex.C1 to Ex.C4, copy of receipt Ex.C5 and statement of account Ex.C6 and closed the evidence on 26.07.2022 by suffering separate statement.

6. Both the OPs No.1 & 4 while tendering their respective evidence, have tendered the documents by marking the same exhibits, therefore, in order to avoid the complications, the documents tendered by OP No.4 be read as OP1/4 to Ex.OP4/4.

7. On the other hand, learned counsel for OP No.1 tendered into evidence affidavit of Mr.Pushkal Chauhan, authorized signatory, Bharti Airtel Ltd. Ex.OP1/A, copy of alert/notification letter Ex.OP1, copy of

notification of telecom regulatory authority of India Ex.OP2, copy of detail history Ex.OP3 and closed the evidence on 01.05.2023 by suffering separate statement.

8. Learned counsel for OP No.4 has tendered into evidence affidavit of Manoj Madan Ex.OP4/A, copy of porting Ex.OP1/4, copy of suspension/barring history Ex.OP2/4, copy of subscriber history Ex.OP3/4 and copy of reference ID Ex.OP4/4 and closed the evidence on 20.03.2023 by suffering separate statement.

9. We have heard the learned counsel for complainant and counsel for the OPs and have gone through the record available on the file carefully.

10. Learned counsel for complainant while reiterating the contents of complaint has vehemently argued that complainant was having two postpaid connections bearing mobile No.78618-22222 and 78618-33333 by paying Rs.50,000/-. On receiving the information from the OP, complainant deposited Rs.290/- and intimation was given to OP no.1 and OP No.4 and thereafter, OPs stopped/disconnected the services of aforesaid mobile numbers on 21.05.2020, whereas nothing was due towards the complainant. Due to this act of the OPs, complainant suffered financial loss, harassment, etc. In this way, there is deficiency in service and unfair trade practice and lastly prayed for allowing the complaint.

11. Per-contra, learned counsel for OPs No.1 & 4 reiterating the contents of written version has vehemently argued that complainant has not made any payment to the OP No.1 while obtaining the said connections and the said connections were disconnected for want of outstanding dues. He further argued that the said connections have already allotted to some other person, therefore, the same cannot be released in favour of complainant and lastly prayed for dismissal of complaint.

12. The OPs have alleged that the mobile connections of the complainant were disconnected due to outstanding amount of Rs.290/-. The onus to prove this fact was relied upon the OPs but OPs failed to prove this fact by leading cogent and convincing evidence, rather the complainant has placed on file copy of receipt Ex.C5 dated 20.05.2020, whereby he has paid the outstanding dues towards said mobile connections. The OPs has not placed on file any proof whereby it can be ascertained that any other dues are pending towards the complainant. Thus, the act of OPs while disconnecting the connections of the complainant amounts to deficiency in service and unfair trade practice.

13. Thus, in view of the above discussion, we allow the present complaint and direct the OPs to restore the connections No.78618-22222 and 78618-33333 and to release mobile numbers in favour of complainant. In case, these connections have already been allotted to some other person and that the OPs are unable to allot the said mobile connections to the complainant, then the OPs are directed to pay Rs.50,000/- which was paid by the complainant at the time of purchasing of the said connections. We further direct the OPs to pay Rs.15,000/- to the complainant on account of mental agony and harassment suffered by him and for the litigation expenses. This order shall be complied within 45 days from the receipt of copy of this order. The parties concerned be communicated of the order accordingly and the file be consigned to the record room after due compliance.

Announced

Dated:27.03.2024

President,

District Consumer Disputes

Redressal Commission, Karnal.

(Vineet Kaushik)

(Dr. Suman Singh)

Member

Member