

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL
COMMISSION, AMRITSAR.

Consumer Complaint No. 99 of 2021

Date of Institution: 16.2.2021

Date of Decision: 5.4.2024

Hardeep Singh S/o Sh. Harvinderpal Singh resident of House No. 210,
Sudarshan Nagar, Sultanwind Road, Amritsar

Complainant

Versus

M/s LA Roma Pizzeria through its owner cum partner SCO 6-7 B-Block,
District Shopping Complex, Ranjit Avenue, Amritsar

Opposite Party

Complaint under section 35 of the
Consumer Protection Act, 2019

Result : Complaint Dismissed

Counsel for the parties :

For the Complainant : Sh. Harish Sharma, Adv.

For the Opposite Party : Sh. Munish Kohli, Adv.

CORAM

Mr. Jagdishwar Kumar Chopra, President

Ms. Mandeep Kaur, Member

ORDER:-

Ms. Mandeep Kaur, Member:- Order of this commission will dispose of
the present complaint filed by the complainant under the Consumer
Protection Act, 1986 .

Brief facts and pleadings

1. Brief facts of the complaint are that on December 24, 2020 at around 1.25 p.m complainant visited the premises of the opposite party to purchase cuisines served by the opposite party. At almost 1.30 p.m. takeaway order was submitted with choices and non choices (mushrooms) of item toppings in order. The complainant was informed the time of packing order 30-35 minutes and was asked to take a seat and wait. In meantime complainant requested a glass of water for drinking and to utter surprise staff informed that only packed mineral water is served at premises. Moreover no facility of normal drinking water was found at premises . The complainant raised query to staff about their source of water for cooking and diswashing purpose and same was not entertained by any of staff member standing there. Suddenly a staff member came to table and asked the complainant to leave premises and made an inappropriate remark. In response complainant conveyed that his order is not ready yet and being asked to wait and sit there. Staff forced and misbehaved with the complainant to leave premises and wait outside for order till ready and packed. No seasoning was there in package and adequate care was not taken towards non choices due to which ordered food was almost wasted. The opposite party intentionally delayed the delivery of packed food in order to harass the complainant and made him wait outside establishment premises. The complainant was in proper

Advocate's dress and this act of opposite party was meant to degrade Advocate's profession which is very serious concern. The act of the opposite party of forcing consumers to purchase packed water amounts to unfair trade practice and clear example of looting valuable and hard earned money of customers. The act of the opposite party amounts to negligence, carelessness, unfair trade practice as well as deficiency in service which has caused lot of mental agony, harassment, inconvenience to the complainant. Vide instant complaint, complainant has sought for the following reliefs:-

- (i) Compensation to the tune of Rs. 50000/- due to potential professional economical loss to the complainant.
- (ii) Compensation of Rs. 50000/- for casing mental injury to the complainant be also awarded to the complainant.
- (iii) Opposite party be also directed to pay litigation expenses of Rs. 25000/- to the complainant.
- (iv) Any other relief to which the complainant is found entitled be also awarded to the complainant.

Hence this complaint.

2. Upon notice, opposite party appeared and filed written version taking certain preliminary objections therein inter alia that the complainant is not the consumer, thus the complainant is not entitled to invoke the jurisdiction of this Commission, as such present complaint is liable to be dismissed that the present complaint is just an abuse of process of law. It was submitted that complainant has distorted the facts in order to harass the opposite party. It is pertinent to mention here that

opposite party is running their restaurant under the name and style of La Roma Pizzeria. The restaurant provides all the facilities congenial food and other eatables. The restaurant kept neat and clean by incurring huge expenses by way of payment of salary to the employees, expenses on lighting system, accommodation and travel charges etc. Even the premises of opposite party are fully air conditioned. The guest are enjoying the ambience and facilities available in the restaurant and for these facilities the opposite party are charging very nominal from the customers. List of price is placed before every customer before getting order. After going through the list of price, the complainant accepted the price mentioned in the list and placed the order. Premises of opposite party are equipped with RO system meant for providing mineral water to the customers. No customer is under any compulsion to purchase the bottle of mineral water by paying the price, mentioned in the list. Every customer has right to use this facility of mineral water of RO available in the premises of opposite party without any cost , but the complainant instead of availing that facility , placed order qua bottle of mineral water but after going through price list the complainant disagreed for the payment of the same and not purchased the packed bottle of water after knowing the price of the same.. The opposite party had engaged trained staff who are following the guidelines issued by Govt.of India to contain spread of Covid 19 for the safety of all the guests. The opposite party

develops and functions in a legal environment regulating on one hand the rights , responsibilities and obligations of the employer and on the other hand maximum safety conditions for rest and relaxation of guests, tourists and consumer . The provision of safe conditions for guests with the aim to protect the lives and health of restaurant guests, visitor and staff in this pandemic period of Corona virus. The present complaint is gross misuse of process of law and no cause of action has arisen against the opposite party. While submitted that there is no deficiency or unfair trade practice and while denying and controverting other allegations, dismissal of complaint was prayed.

Evidence of the parties and Arguments

3. Alongwith the complaint, complainant has filed his affidavit Ex.CW1/A, copy of invoice Ex.C-1, legal notice Ex.C-2, postal receipt Ex.C-3.

4. On the other hand opposite party alongwith written version has filed affidavit of Sh. Jaspreet Singh, Partner Ex.OP1/1, copy of guidelines issued by Govt. of India Ex.OP1/2, photographs clearly proving the fact that restaurant is equipped with RO system meant for providing mineral water Ex.OP1/3 to Ex.OP1/4.

5. We have heard the Ld.counsel for the parties and have carefully gone through the record on the file . We have also gone through the written arguments submitted by the complainant..

Findings

6. From the appreciation of the facts and circumstances of the case, the case of the complainant is that on December 24, 2020 at around 1.25 p.m he visited the premises of the opposite party to purchase cuisines served by the opposite party and he was informed the time of packing order 30-35 minutes and was asked to take a seat and wait. In meantime complainant requested a glass of water for drinking and to utter surprise staff informed that only packed mineral water is served at premises. Moreover no facility of normal drinking water was found at premises . The complainant raised query to staff about their source of water for cooking and diswashing purpose and same was not entertained by any of staff member standing there. Rather complainant was conveyed that his order is not ready yet and being asked to wait outside for order till ready and packed. It is the case of the complainant that the opposite party intentionally delayed the delivery of packed food in order to harass him and made him wait outside establishment premises. Complainant has contended that the act of the opposite party of forcing consumers to purchase packed water amounts to unfair trade practice and clear example of looting valuable and hard earned money of customers and all this amounts to deficiency in service as well as unfair trade practice on the part of the opposite party.

7. On the other hand the opposite party repelled the aforesaid contentions of the complainant and submitted that premises of opposite party are equipped with RO system meant for providing mineral water to the customers and no customer is under any compulsion to purchase the bottle of mineral water by paying the price, mentioned in the list. Every customer has right to use this facility of mineral water of RO available in the premises of opposite party without any cost , but the complainant instead of availing that facility , placed order qua bottle of mineral water but after going through price list the complainant disagreed for the payment of the same and not purchased the packed bottle of water after knowing the price of the same.. The opposite party had engaged trained staff who are following the guidelines issued by Govt.of India to contain spread of Covid 19 for the safety of all the guests.

8. This Commission has given thoughtful consideration to the facts of the present case and the moot question involved in this case is that whether the opposite party is well equipped with RO system for providing drinking water to its customers or for cooking and diswashing purposes. From the appraisal of the evidence produced on record, it stands proved on record that opposite party has placed on record photographs Ex.OP1/3 and Ex.OP1/4 showing the installation of RO system , as such the contention of the complainant that there is no facility of normal drinking water at the premises of the opposite party is falsified.

Moreover , if the opposite party only serves packed drinking water instead of normal water, the complainant can file affidavit of any other customer to strengthen its contention . Only bald statement of the complainant does not serve the purpose for holding the act of deficiency in service on the part of the opposite party. Moreover burden of proof is on the person who alleges the same. Reliance in this connection has been placed upon *2000(1) CLT (SC) Ravneet Singh Bagga Vs. M/s. KLM Royal Dutch Airlines and another*, wherein it has been held by the Hon'ble Apex Court that in case deficiency in service is alleged, then burden of proof is upon the person, who alleges it. The other contention of the complainant that staff of the opposite party forced and misbehaved with the complainant by telling him to leave premises and wait outside for order till ready and packed. However, again we are not agreed with this contention of the complainant as in those days Corona is at peak level and the gatherings in the restaurant was banned as such if the staff of the opposite party in compliance to the guidelines of the Government of India Ministry of Health and Family Welfare the opposite party took the preventive measures for the safety of the customers, asked the complainant to wait outside the restaurant premises till the order is ready, there is nothing wrong. As such this contention of the complainant is also not sustainable in the eyes of law.

9. In view of the above discussion, we do not find any merit in the present complaint and the same is hereby dismissed with no order as to costs. Copies of the order be furnished to the parties free of costs. File is ordered to be consigned to the record room. Case could not be disposed of within the stipulated period due to heavy pendency of the cases in this commission.

Announced in Open Commission

(Jagdishwar Kumar Chopra)
President

Dated:
5.4.2024

(Mandeep Kaur)
Member