

**::BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION AT
BIDAR::**

C.C. No.15/2023.

Date of filing: 17.02.2023.

Date of disposal: 10.10.2023.

P R E S E N T S :-

- (1) Shri. Mabu Saheb H.Chabbi,
B.Com.,LL.B.,(Spl.),
President.,
- (2) Kum. Kavita,
M.A.,LL.B.,(Spl.),
Member.

COMPLAINANT/S

1. Shaik Miftauddin S/o Shaik samiuddin,
Age:Major, Occ:Private Job,
R/o H.No.4-1-130, Muslim Chowk
Noor Khan Taleem, Bidar-585401.

**(By Kum.Shivaleela S.Kodge &
Smt.Rajkumari Mallappa Adv.**

V/s

OPPONENT/S

1. The Manger/Authorized Person
Reliance Retail Ltd., Reliance Digital
Ground, 1st floor, Building No.19-1-207/29,
19-1-197, 19-1-209/49, Papnash Gate, S
Shivnagar, Bidar-585401.
2. Service Machanic,
LG Service Center,
LIG 108, KHB Colony, Bidar-585401.
3. The Manager/Authorized Person
Regd. Office LG Electronics Pvt. Ltd.
A Wings, 3rd Floor, D-3 Saketh,
New Delhi-110017.

**(OP No.2&3 By Smt.Padma Maharaj Adv.
And OP No.1 not served.)**

:: J U D G M E N T ::

By Shri. Mabu Saheb H.Chabbi, President.

The complainant filed complaint U/sec 35 of the Consumer Protection Act, 2019, against the opponents alleging deficiency in service



in not replacing defective refrigerator. Hence, passed the following judgement.

Brief facts of the complaint.

The facts of the complaint are summarized as follows: -

1. The complainant is permanent Resident of Bidar and also businessman by profession for his lively hood. The OP No.1 to 3 are the retailer and service center and manufacture of LG Refrigerator respectively. The complainant had purchased a Refrigerator Model name GRH811HLHB of grey color for the personal use on 15.04.2022 at 10.00 am from the OP No.1, by paying an amount of the Fridge Rs.77,190/- with a discount of Rs.3,874/- with Bajaj Fin-service Loan for the amount of Rs.62,190/- total cost of the fridge is Rs.73,316/- paid by complainant. After 2 to 3 days of installation of said fridge, the items kept in the fridge getting damaged i.e., vegetable, fruits etc. Immediately complainant called the person who installed the Refrigerator, the mechanic attended and stated that, he kept the temperature properly and he gave some instructions to complainant to follow all the instructions and set the Refrigerator. Accordingly, after that within one week again the same problems recurred. Again the complainant called the same person, who checked the fridge and replied his settings are proper and for further repair, to take the fridge to service center of OP No.3. Again after 2 days the OP No.2 visited complainant house and checked the fridge, had few photograph and video of complaints fridge for sending it to his higher officer. As per suggestion of his higher officer, he attended the complaints and suggested the complainant not to keep plastic bags inside the Refrigerator which was complied the same. In all totally 10 times OP No.2's personal attended the recurring complaints and he intimated to his higher officers by keeping said Refrigerator for 3 days with him by providing alternative fridge to complainant for his use till returning of complainant fridge and however the said complaints remained unresolved. Despite having sent

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number of complaints online to OP No.3 customer care which was vaguely replied the matter by answering one or other way by cancelling message.

2. The complainant further contended that, having purchased the said Refrigerator for his day-to-day personal use has been unable to enjoy the same for recurring complaints un-resolved as the said Refrigerator is defective one in respect of cooling with high noise and because of lack of proper cool all the items kept in the fridge were destroyed and hence, which is nothing but, defective Refrigerator was supplied by the OP No.1 which is manufactured by OP No.3. Therefore, contended that, this is nothing but deficiency in service along with unfair trade practice on the part of OPs. The complainant was burdened to pay said fridge loan installments to Bajaj Fin-service without enjoying the said fridge for personal use. Hence, filed this complaint because of OP NO.1 to 3's failure to attend the complaints with defect free which are recurring and un-resolved and hence, sought replacement of the said fridge through this complaint.

Written Version of OPs.

3. The OPs No.2&3 appeared through their counsel and OP No.1 was under await notice and till this day no fresh steps taken against him by complainant. **The OP No.2 and 3 did not file their W.V.** on the ground that, dispute is going to be settled with complainant as submitted on 09.06.2023 and however, finally on 12.09.2023 OPs No.2 and 3 reported the settlement as failure and in view of expiry of statutory period for filing W.V. this commission taken their W.V. as not filed on 12.09.2023.

Evidence of complainant.

4. Complainant after filing the complaint has been continuously absent and did not lead his evidence and no documents marked.

5. However, at the stage of and on the day of complainant evidence on 20.09.2023, OP No.2 filed memo dt:20.09.2023, by reporting settlement



of the dispute for payment of Rs.5,000/- as cost apart from the claim amount as agreed between them and the said memo was also not complied since 20.09.2023 to 04.10.2023 and due to non leading of evidence by complainant and further in view of under taking memo submitted by OP No.2 & OP No.3 without there being W.V. and evidence of all OPs, the matter was posted for orders.

6. This Commission in view of non leading evidence by complainant and in view of under taking memo filed by OP No.2 this commission passed the following judgment.

Points/Issues.

1. **Whether the complainant/s proves that, he is the consumer to Ops and further any deficiency in service on the part of OPs?**
2. **Whether the complainant is entitled for any relief/order? If so, What orders?**

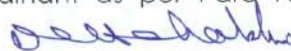
7. Our answers to the points raised above are as follows: -

1. **In the affirmative.**
2. **As per the final order.**

::REASONS::

8. In order to decide the complaint issues, this commission discussed points/issues No.1 and 2 altogether for discussion as each points are inter related to each other- as follows.

9. In order to prove the case of the complaint, the complainant though not lead his evidence and did not mark any documents on his behalf, however the document No.1 as per list of documents alongwith complainant i.e., original bill dt:15.04.2022, speaks about purchase of said Refrigerator for the said amount shown there in for Rs.72,615/- which is not denied by either of any OPs No.1 to 3 and document No.2 speaks about message to complainant by customer care which runs for 3 pages and documents No.3 legal notice along with RPAD receipts further which is replied by Reliance Retail/OP No.1 by admitting the purchase of said Refrigerator by complainant as per Para No.3 of said reply notice by



denying his liability on the ground stating that, he is just facilitator in between manufacturer and customer and not liable to pay any amount. The document No.5 is the complainant's Aadhar Card which all documents and admission of OP No.1 in his reply notice to complainant for having purchased said Refrigerator through him pertaining to OP No.3 is sufficient to hold that, the complainant is consumer and OP No.1 and 3 are retailer and manufacturer of the defective Refrigerator supplied respectively to the complainant.

10. That, on perusal of the memo dt:20.09.2023 duly served to complainant advocate shows the admission of OP No.2 and 3 for under taking to pay cost of fridge along with Rs.5,000/- as expense within 15 days from the date of 20.09.2023 was failed on their part and did not keep up of the same under taking made before this Commission for having failed to supply defect free Refrigerator despite once having replaced in the place of defective Refrigerator, which shows nothing but, they have supplied defective Refrigerator to complainant . And hence, in view of memo passed by OP No.2 and 3 and also non protesting the claim of complainant by OP No.1 by way of filing his W.V. within statutory period, having admitted purchase of same Refrigerator in his reply notice dt:30.11.2022, at document No.4 of complainant as per list amply proves that, all the OPs have admitted the claim of complainant. When the OP No.1 admitted purchase of said Refrigerator by complainant as stated above. The summons after issuance through RPAD to OP No.1 was not returned to this commission is deemed and sufficient to hold that, the said summons was served on him/OP No.1 and despite that, he did not attend on the day of appearance before this commission and not protested the claim of complainant and hence, it is sufficient to hold that, all the OP No.1 to 3 are liable to pay claim amount as prayed by the complainant.

11. The said documents as per list of complainant establishes the case of complainant case against OPs for their deficiency in service, negligence and unfair trade practice which is in corroboration with complaint

over liable!

averments and documents placed by the complainant. Even non rebuttal of those documents and pleadings by OPs in any manner and non compliance of the under taking memo dt:20.09.2023, with certainly amounts to carelessness attitude of the OPs evident from the above discussion.

12. Therefore, in the light of the above discussion, this commission is of the opinion that, the complainant proved his case for entitlement of getting cost of said fridge i.e., as per document No.1 along with cost of Rs.5,000/- as under taking memo dt:20.09.2023 and the Ops No.1 to 3 are utterly failed to prove their case as discussed here in above. Hence, we answered point No.1 and 2 in affirmative in favor of complainant and hence, we proceed to pass the following,

::ORDER::

The complaint is allowed in part along with cost.

The opponents No.1 and 3 are hereby directed to pay Refrigerator price of Rs.72,615/- as per bill dt:12.04.2022/document No.1 along with Rs.5,000/- as extra amount in addition to invoice price to complainant as per under taking memo dated 20.09.2023, within 45 days from the date of this order along with cost of litigation/s Rs.3,000/- and Rs.2,000/- towards mental harassment and in-convenience suffered by complainant.

The complainant against OP No.2 service centre is hereby dismissed.

Intimate the parties accordingly.

(Typed to our dictation then corrected, signed by us and then pronounced in the open Commission on this **10th day of October-2023**).


10/10/2023

Kum. Kavita,
Member
DCDRC Bidar.


10-10-2023

Shri. Mabu Saheb H. Chabbi,
President
DCDRC Bidar.

Documents produced by the complainant.

-Nil-

Document produced by the Opponent.

-Nil-

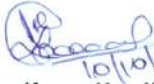
Witness examined.

Complainant.


-Nil-

Opponent.

-Nil-


10/10/2023

Kum. Kavita,
Member
DCDRC Bidar.


10-10-2023

Shri.MabuSaheb H. Chabbi,
President
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