

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION – I,
HYDERABAD

PRESENT

HON'BLE MRS. B. UMA VENKATA SUBBA LAKSHMI, PRESIDENT
HON'BLE MRS. C. LAKSHMI PRASANNA, MEMBER
HON'BLE MR.B.RAJA REDDY, MEMBER

Wednesday, the 08th day of November, 2023

Consumer Case No.38 OF 2023

Between:-

Kethavath Naresh S/o. Teekya
Aged about: 23 Years, Occ: Student,
Address: Room No.: 54, E1 Hostel,
OU Campus, Tarnaka,
Hyderabad – 500 007,
M.No. 90100 16745.

....Complainant

AND

1. AMAZON SELLER SERVICES PRIVATE LIMITED
Brigade Gateway, 8th Floor,
26/1, Dr.Rajkumar Road, Malleshwaram (west),
Bengaluru, Karnataka – 560 055,
Rep. by its authorized person.
2. SARASWATI BOOK HOUSE
H.No. 129, Sector 63,
NOIDA, Uttar Pradesh – 201301,
India, PAN No. BAQPM2804K
Rep. by its authorized person.

....Opposite Parties

Counsel for the Complainant	:	Party-in-Person
Counsel for the Opposite Party No.1	:	Rajan Sri Krishnan
Counsel for the Opposite Party No.2	:	Exparte

ORDER

(By Hon'ble Mr.B.Raja Reddy, Member
on Behalf of the Bench)

1. The present complaint is filed by the Complainant under Section 35 of the Consumer Protection Act, 2019 alleging deficiency of service and unfair trade practice on the part of the Opposite Parties with a prayer:
 - a) To direct the Opposite Party No.2 to restrain itself from exercising unfair trade practice in future and further direct the Opposite Parties to follow the provision of Consumer Protection Act, 2019 and Consumer Protection (E-commerce) Rules, 2020;

- b) To direct the Opposite Parties to return an amount of Rs. 672/- (Rupees Six Hundred and Seventy Only) which has been collected more than that of MRP of the book;
- c) To direct the Opposite Parties to pay compensation of Rs.50,000/- (Rupees Fifty Thousand Only) for mental agony, trauma and pain suffered by the Complainant;
- d) To impose a penalty of Rs. 50,000/- (Rupees Fifty Thousand Only) on Opposite Party No.2 as punitive damages for resorting to unfair trade practice under Sec. 2(47) of the Consumer Protection Act, 2019 and a Penalty of Rs. 50,000/- (Rupees Fifty Thousand Only) on Opposite Party No.1 for deficiency of service under Sec. 2(11) of the Consumer Protection Act, 2019.

2. The brief facts of the case are that, as per averments of the Complaint, the Opposite Party No.1 (Amazon Seller Services Private Limited) is an e-commerce online platform and the Opposite Party No.2 (Saraswathi Book House) is a book seller. The Complainant has purchased a book having title "A History of Ancient and Medieval India" (Upinder Singh) [published by Pearson Publications on 25.01.2023] from the Opposite Party No.1 on their e-commerce platform by paying an amount of Rs. 1,517/- (Rupees One Thousand Five Hundred and Seventeen Only) to Opposite Party No.1 vide invoice number IN-1280 with invoice details as UP-154826281-2223 dated: 19.01.2023 vide Order No. 407-1692692-4172310 and the delivery was free, that the Complainant received the courier on 25.01.2023, after opening the cover, the Complainant noticed the MRP on the book as Rs. 845/- (Rupees Eight Hundred and Forty Five Only) as such being a highly reputed online platform failed to check whether the sellers in their platform are complying with the provision of Consumer Protection Act, 2019 but the Opposite Party No.1 failed to do so by which the Opposite Party No.1 committed deficiency of service. It is further averred by the Complainant that as he had suffered a lot with the unfair trade practice and deficiency of service committed by the Opposite Party No.1 & 2 as such he filed the present complaint with the reliefs as stated supra.

3. The notices were served on Opposite Party No.1 & 2. Upon service, the Opposite Party No.1 filed its written version whereas the Opposite Party No.2 despite service of notice failed to appear before this Commission and hence vide docket proceedings dated: 13.04.2023 the Opposite Party No.2 was set ex-parte.

3.1. Wherein, in the written version of Opposite Party No.1, it is pleaded that as the Opposite Party No.1 is a company incorporated under the provision of Companies Act, 1956 and Mr.Rahul Narayanan was authorized as authorized signatory to represent the case. It is further pleaded that the complainant placed an order for a book i.e. "A History of Ancient and Early Medieval India" on 19.01.2023 with an independent third-party seller i.e. Saraswathi Book House and an invoice was raised for the said product for an amount of Rs. 1,517/- by the seller duly indicating its Permanent Account Number (PAN) and the tax invoice was raised by the Opposite Party No.2 and further averred as the payment made by the complainant is to Opposite Party No.2 and not to Opposite Party No.1 as Opposite Party No.1 is an intermediary and it is further averred that as any transaction between a buyer and an independent third party seller is executed through an independent nodal account maintained in the names which is separate and free from the internal accounts of the seller and the Opposite Party No.1 reproduced the relevant extract from the RBI directions is produced as under:

*"2.1. **Intermediaries:** Intermediaries would include all entities that collect monies received from customers for payment to merchants using any electronic/online payment mode, for goods and services availed by them and subsequently facilitate the transfer of these monies to the merchants in final settlement of the obligations of the paying customers....."*

3.Maintaining of accounts for the collection of payments

3.1 All accounts opened and maintained by banks for facilitating collection of payments by intermediaries from customers of merchants, shall be treated as internal accounts of the banks. While it is left to the banks to decide on the exact nomenclature of such accounts, it shall be ensured that such accounts are not maintained or operated by the intermediaries.

4.Settlement

The final settlements of funds to the merchants.....In order to increase the efficiency of the payment process, it is necessary that banks transfer funds to the ultimate beneficiaries with minimum time delay. It is therefore mandated that banks shall implement the following settlement cycle for all final settlements to merchants. This settlement arrangement shall be implemented within three months of issuance of this circular....."

3.2. The Opposite Party No.1 further averred that as the Opposite Party No.1 being an intermediary under the Information Technology Act but obligated to verify the authority or genuineness of third party information made available on its market place and it is further averred that as the complainant paid for the said product directly into the nodal account of seller / Opposite Party No.2 and the role of Opposite Party No.1 is to make the e-commerce market places user friendly for the independent third party sellers to list necessary details of the product and for the buyers to search and browse the said products. The Opposite Party No.1 submitted that as the customers who visit into the e-commerce market place enter into a condition of use and sale and the legal position of Opposite Party No.1 that is merely operates an e-commerce market place to facilitate sale transactions entered by and between the third party seller. With the above contentions, the Opposite Party No.1 sought for dismissal of the complaint.

4. During the course of enquiry, the Complainant filed his evidence affidavit and the documents filed by him are marked as Ex.A1 to Ex.A4 whereas the evidence affidavit of Opposite Party No.1 through its authorized signatory namely Mr.Rahul Narayanan filed and got marked documents as Ex.B1 to B4. Opposite Party No.1 has filed its Written arguments whereas despite of several opportunities, the Complainant (Party-in-Person) failed to file written arguments. Hence, after hearing the oral arguments of the Opposite Party No.1, the matter is reserved for orders.

5. Heard the Learned Counsel of Opposite Party No.1, based on the facts and material available on the record/written arguments and oral submissions, the following points came up for consideration.

- a) Whether the Complainant made out the case of deficiency of service and unfair trade practice on the part of the Opposite Parties?
- b) Whether the complainant is entitled for the claim/compensation/punitive damages made in the complaint?
- c) If so, as to what relief?

5.1. Point No.a:

It is undisputed fact that the Complainant had purchased a book with a title as “A History of Ancient and Medieval India” (Upindhar Singh) [published by Pearson Publications] on 25.01.2023 from Opposite Party No.1 through e-commerce platform and the seller of the said book is

Opposite Party No.2 i.e. Saraswathi Book House. It is also an undisputed fact that the Complainant paid an amount of Rs. 1,517/- vide Order No. 407-1692692-417-2310 and Invoice No. IN-1280 with invoice details: UP-154826281-2223. But, after receiving the courier, the complainant noticed the MRP on the book as Rs. 845/-. On perusal of Ex.A1 i.e. Tax Invoice/Bill of Supply/Cash Memo, it shows that the rate of the said book is Rs. 1,517/- whereas on perusal of Ex.A2 MRP of the book is Rs. 845. Ex.A3 is a whatsapp chat filed by the Complainant which is a conversation with speedy books dated: 28.01.2023 responded as "All the payment related matters are handled by Amazon itself". Another document i.e Ex.A4 is the pricelist of various books. That on perusal of Ex.A1 and Ex.A2, it is crystal clear that the original price of book purchased by the complainant is only Rs. 845/- and an amount of Rs. 672/- is collected more than the MRP. Whereas the Opposite Party No.1 contended that as the Complainant purchased the said book from Opposite Party No.2 who is one of the book sellers registered on online platforms of Opposite Party No.1 and the function of an e-commerce entity is trusted in providing access to a communication system on which information made available by the publisher. The Opposite Party No.1 further submitted that as Opposite Party No.1 is an online market place e-commerce and acts as an intermediary to sell the products, that as per contention of Opposite Party No.1 they does not directly or indirectly sell any products on Opposite Party No.1 platform and all the products are sold by third party sellers who use the online market place of Opposite Party No.1 and it is contended that as the Opposite Party No.1 has no role in listing of product specifications, price or any discount for the product and no was associated or involved in the offers / discounts offered by respective independent third party sellers and also it is further contended as product listed on its e-commerce market place by way of independent third party seller, hence cannot be held liable for any deficiency in service.

- 5.1.1. It is clear that as per Section 2(17) of the Consumer Protection Act, 2019 that electronic service provider means *a person who provide technologies or processes to enable a product seller to engage in advertising or selling goods or services to a consumer and includes any online market place or online auction given.*

- 5.1.2. The Consumer Protection (E-commerce) Rules, 2020 provides under Section 4(11), no e-commerce entity shall manipulate the price of goods or services offered on its platform as such a manner as to gain unreasonable profit by imposing on consumers any unjustified price having regard to the prevailing market condition, in the essential nature of the good or service in any extraordinary circumstances under which the good or service is offered and other relevant consideration in determining whether price charged is justified.
- 5.1.3. That the Opposite Party No.1 cannot shirk its responsibilities merely saying that *“it is only the provider of the online market place to buyer and seller of the product and saying as no role in the transaction of sale and purchase”*. It is clear that no e-commerce entity shall manipulate the price of the goods or service offered on its platform for wrongful gain and also it is the duty of seller on the market place as to not to adopt any un-fair trade practice.
- 5.1.4. Amazon e-commerce platform i.e. Opposite Party No.1 enables third party sellers to sell their product directly to customers on a fixed price online market place. The Opposite Party No.1 & 2 were in contract and agreement and they are bound by the contract and they are bound to provide about the original price to the customer but they failed to do so as such the Opposite Party No.1 & 2 comes within the purview of the deficiency of service and unfair trade practice under the Consumer Protection Act, 2019 and they are held for the consequences of the same. Hence, this point is answered in favour of the Complainant.

5.2. Point No.b:

In this case on hand, the original price of the books purchased by the Complainant is Rs. 845/- whereas the amount collected from the Complainant is Rs. 1517/- i.e. an amount of Rs. 672/- as such the Opposite Party No.1 & 2 are liable for deficiency of service and unfair trade practice as the Opposite Parties have not performed their duties as laid down in the Consumer Protection E-Commerce Rules, 2020. Hence, In view of the foregoing discussions and findings, the Complainant is entitled to the reliefs as mentioned infra. Hence, this point is also answered in favour of the Complainant.

In order to prevent unfair trade practice committed by the Opposite Parties by collecting excess amount on MRP from several students we are under the considered view to direct the Opposite Parties to stop unfair trade practices further.

5.3. Point No.c:

In the result, the Complaint is allowed in part and the Opposite Parties No.1 & 2 jointly and severally directed to:

- i. Refund an amount of Rs. 672/- (Rupees Six Hundred and Seventy Two Only) towards the excess amount collected than the MRP for the book along with interest @ 6% p.a. from the date of payment till the date of realization;
- ii. Pay Rs. 10,000/- (Rupees Ten Thousand Only) costs and compensation suffered by the Complainant;
- iii. discontinue the unfair trade practice and not to repeat the same.

Time for compliance is 45 days from the date of receipt of this order failing which the above mentioned amount under Sr.No. (i) shall attract an additional interest @ 3% p.a. from the date of non-compliance till the date of realization.

Dictated to stenographer, transcribed and typed by him, pronounced by us on this the 08th day of November, 2023.

MEMBER

MEMBER

PRESIDENT

APPENDIX OF EVIDENCE

WITNESS EXAMINED FOR THE COMPLAINANT:

Kethavath Naresh S/o. Teekya Complainant/Party-in-Person (PW1).

WITNESS EXAMINED FOR THE OPPOSITE PARTY No.1:

Rahul Narayanan S/o.M.Narayanan Rep. by the authorized person of the Opposite Party No.1 (DW1).

WITNESS EXAMINED FOR THE OPPOSITE PARTY No.2:

NIL

EXHIBITS FILED ON BEHALF OF THE COMPLAINANT:

- Ex.A1 Copy of invoice dated 19.01.2023.
- Ex.A2 Photocopy of page with printed MRP of the book dated: 25.01.2023.
- Ex.A3 Photocopy of conversion with seller dated: 28.01.2023.
- Ex.A4 Photocopy of other sellers are selling more than MRP of the book on Amazon dated: 30.04.2023.

EXHIBITS FILED ON BEHALF OF THE OPPOSITE PARTY No.1:

- Ex.B1 Copy of the Board Resolution dated: 21.02.2023.
- Ex.B2 Copy of invoice dated: 19.01.2023.
- Ex.B3 Screenshot of Complainant account details.
- Ex.B4 Copy of “Conditions of Use and Sale”.

EXHIBITS FILED ON BEHALF OF THE OPPOSITE PARTY No.2:

NIL

MEMBER

MEMBER

PRESIDENT

Read by:
Compared by:
DSK