

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION, BHIWANI.

CONSUMER COMPLAINT NO. 164 of 2020

DATE OF INSTITUTION: 19.11.2020

DATE OF ORDER: 20.11.2023

Deepak Soni son of Sh. Ram Niwas Soni, Advocate R/o 266, Old H.B. Colony, Bhiwani.

.....Complainant.

VERSUS

1. The Manager, National Highway Authority of India, House No.1397, Sector-13, HUDA, Bhiwani.

2. The Manager, National Highway Authority of India, G-5 & 6, Sector-10 Dwarka, New delhi-110075.

..... Opposite Parties.

COMPLAINT U/S 34/35 OF CONSUMER PROTECTION ACT, 2019.

BEFORE: Hon'ble Mrs. Saroj Bala Bohra, Presiding Member.

Hon'ble Ms. Shashi Kiran Panwar, Member.

Present:- Sh. R.N. Soni, Advocate for complainant not present rather requested virtual hearing being senior citizen & physically disabled person in light of decision of Hon'ble Supreme Court of India in CWP (CrI.) No.351 of 2023.

Sh. Mehtab Singh Punia, Advocate for OPs.

ORDER:

Saroj Bala Bohra, Presiding Member.

1. Brief facts of the present complaint are that complainant paid a sum of Rs.105/- as toll charges under ticket No.AGB11012 to the OPs on 16.08.2019 while going to Mathura with his family members by Car No.HR-26-CA-889. It is averred that as per NHAI Rules, waiting period to cross the toll plaza is 2:50 minutes whereas complainant had to wait for more than three minutes. So, complainant requested the official of toll plaza concerned to allow him for crossing free of cost/charge but they refused rather misbehaved. Complainant wanted to get lodged a complaint qua this matter but complaint book was not provided by the OPs. So, a legal notice dated 19.08.2019 subsequently reminder dated 29.11.2019 were served upon the OPs but of no avail. Hence, the present complaint has been preferred by complainant alleging deficiency in service on the part of OPs and for issuance of directions them to refund Rs.105/- paid as toll plaza charges, further to pay Rs.10,000/- as compensation for harassment and mental agony. Any other relief to which this Commission deem fit may also be awarded in favour of complainant.

2. Upon notice, OPs appeared the filed written statement raising preliminary objections qua maintainability of complaint; cause of action, locus standi; estoppel from filing this complaint and jurisdiction. On merits, it is averred that the alleged Toll Plaza Receipt has not issued by the OP No.1. The alleged rule qua time limit of 2.5 minutes for crossing of toll plaza has been denied. However, it is added that to wait for, by a person, does not entitle him to get compensation as claimed for. Rest of material contents of complaint have been denied and prayed for dismissal of the complaint with exemplary costs.

3. No evidence tendered on behalf of complainant despite availing sufficient opportunities. As such, evidence was closed by court order dated 03.08.2023.

4. Likewise, no evidence tendered on behalf of OPs and it was closed by a statement of learned counsel for OPs.

5. We have heard learned counsel for the OPs and have gone through the case file including written arguments on behalf of complainant and documents annexed at the time of filing the complaint.

6. Written submission on behalf of complainant alongwith rules of NHAI qua the present complaint received through electronic mode which taken on record as Mark-A.

7. The grievance sought redressal by complainant is that he had to wait at the toll plaza concerned for more than three minutes whereas as per rules of NHAI sought through RTI (Mark-A), the vehicle was to pass free of cost after lapse of 2:50 minutes but the complainant was charged despite being so. Complainant to ascertain his version has placed on record toll fee slip as Annexure C-1 which reveals that on 16.08.2019 at 4:33:26 P.M., Rs.105/- was charged from him for vehicle No.HR260889 by the NHAI Toll Plaza. Complainant to strengthen the contents of complaint has annexed his duly sworn affidavit with the complaint wherein specifically mentioned that the contents of the complaint are true and correct and nothing has been concealed therein. In support of his case, complainant has also placed on record copy of legal notice issued to OPs (Annexure C-3).

8. Contrary to the said rule, learned counsel for OPs, during the course of arguments, has placed on record, a letter dated 20.07.2017 of NHAI, which taken on record as Mark-B says that "*there is no specific exemption applicable relating to either time taken or distance or queuing of vehicles at Plaza, as part of transaction. As such, it is clarified that there is no provision of exemption to User Fee in case time taken for crossing the place is more than 3 minutes.*" We have gone through the rival contention from both the sides and have come to the conclusion that the letter Mark-B, is much relevant in the present case and the information in the present matter sought through RTI (Mark-A) is not helpful to the facts of the present case. Accordingly, we do not see any merit in the present complaint and the same is hereby dismissed with no order as to costs. Certified copies of this order be sent to parties concerned, free of costs, as per rules. File be consigned to the record room, after due compliance.

Announced.

Dated:20.11.2023.

(Shashi Kiran Panwar)

Member

Daily Order

(Saroj Bala Bohra)

Presiding Member

District Consumer

Disputes Redressal

Commission, Bhiwani.