

**BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL
COMMISSION KANGRA AT DHARAMSHALA, H.P.**

Date of Institution: 24.12.2022
Date of final hearing: 05.12.2023
Date of Pronouncement: 26.12.2023

Consumer Complaint No.-498/2022

IN THE MATTER OF

Bharat Bhushan son Shri Parkash Chand, R/O V.P.O. Har, Tehsil
Jawali, Distt. Kangra, H.P.

(Through: Ms. Neha Singh, Advocate)

.....Complainant

Versus

1. M/S Mahindra Tractors Anand Automobiles, through its Owner
cum proprietor Puneet Gautam, Opposite Bachpan /Master Mind
Public School Bodh, Tehsil Nurpur Distt. Kangra H.P.

(Through: Mr. Sanjay Kalia, Advocate)

2. Mahindra Financial Services Limited, through its Manager, First
Floor, 967287, Dharamshala Road, Near Bus Stand, Kangra Tehsil &
Distt. Kangra H.P. -176001.

(Already ex-parte)

3. Registering Licensing Authority Cum Sub Divisional Officer (Civil),
Indora, Distt. Kangra H.P.

(Through: Mr. Sanjeev Kumar, Clerk)

.....Opposite Party(s)

CORAM:

President: Mr. Hemanshu Mishra

Members: Ms. Arti Sood & Sh. Narayan Thakur

PER: Mr. Hemanshu Mishra, President:-

ORDER

The complainant has filed instant complaint seeking
direction to the opposite party(s) as under:-

i) The opposite party No.1 may kindly be directed to supply the
registration certificate, number plate and insurance with immediate
effect.

ii) The opposite party No.1 may kindly be further be directed to pay the compensation to the tune of Rs.2,00,000/- for causing mental, physical and financial/loss of earning harassment.

iii) The complaint of the complainant may kindly be allowed and special cost for filing this present complaint to the tune of Rs.1,00,000/- may also be granted.

2. Facts giving rise to filing of this complaint are that the complainant for the purpose of earning his & others family members livelihood by means of self employment being agriculturist approached opposite party No.2 for financing the vehicles and completed all the codal formalities and opposite party No.2 financed Rs.2,10,588/-. After getting the vehicle financed, the complainant approached opposite party No.1 for purchasing Mahindra Tractor for an amount of Rs.7,20,000/- i.e. Rs.5,00,000/- the true value of the old tractor. The opposite party No.1, at the time of delivery of the vehicle assured to supply all the documents with 20 to 25 days from the date of purchase i.e. 25.08.2020. In spite of repeated requests the opposite party No.1 failed to supply the registration certificate, number plate and insurance of the tractor. The complainant after receiving the NOC from the opposite party No.2 Dt. 07.09.202 had only came to know that the vehicle is registered with the RLA Indora vide registration No.HP-97-9721, but it was never supplied to the complainant by the opposite party No.1. Alleging deficiency in the service on the part of opposite party(s), the complainant has filed the present complaint.

3. Upon notice, opposite party(s) No.1 appeared through counsel and contested the complaint by taking preliminary objections of maintainability, cause of action, jurisdiction, locus standi etc. It is submitted that the complainant had purchased new tractor from the opposite No.1 for an amount of Rs.7,20,000/- and also got fixed fibre hood amounting to Rs.18,000/- on the top of his tractor. In this way the complainant has purchased the tractor and fibre hood from the opposite party for a total sale consideration of Rs.7,38,000/-. Out of the said total sale consideration of new A tractor and Fiber hood an amount of Rs.5,00,000/- was adjusted on

account of old tractor sold by the complainant to the opposite party No.1. The complainant also transferred an amount of Rs.2,10,588/- in the account of opposite party No.1. In this way the complaint has paid an amount of Rs.7,10,588/- to the opposite party no.1 out of total sale consideration of New Tractor and Fiber Hood. After adjusting the above payment an amount of Rs.27,412/- is outstanding on the part of the complainant to be paid to the opposite party which he is not paying despite repeated requests and reminders of opposite party No.1. The opposite party has sent many messages to the complainant for the collection of number plates of the tractor, but of no use.

4. On the other hand, opposite party No.2 did not appear before this Commission and as such, proceeded ex-parte.

5. Whereas opposite party No.3 filed the separate reply taking preliminary objections of maintainability, locus standi and cause of action. It is submitted that the complainant and OP No.1 applied for registration of his vehicle before the office of OP No.3 on 15-12-2021 and same is approved on 15-12-2021 and after that it is the duty of the OP No.1 who is the dealer of the aforesaid vehicle for applying a High Security number plate and when the High security number plate is available, at that time registration certificate's printout can be obtained. Moreover the complainant has also visited the replying OP No.3 one time for registration certificate. The High security number plate was not affixed at that time so printout of registration certificate couldn't be obtained.

6. The complainant has filed rejoinder denying the contents of the reply filed by opposite party(s) and reiterating those of complaint.

7. The parties were called upon to produce their evidence in support of their contentions and accordingly the parties have adduced their respective evidence.

8. We have heard learned counsel for the parties and also gone through the case file carefully.

9. During the pendency of this complaint, registration certificate and HSRP/number plate of vehicle number HP-97-9721 were handed over to the complainant.

10. Ld. Counsel for complainant has stated that the vehicle was purchased on 25.08.2020, but due to delay in providing High Security registration plate/number plate and registration certificate, the complainant has suffered financial loss as well as harassment. On the other hand, Ld. counsel for opposite party No.1 has stated that the complainant has purchased new tractor from the opposite party No.1 for Rs.7,20,000/- and got affixed fiber hood amounting to Rs.18,000/- and total sale consideration was Rs.7,38,000/-. Out of said total sale consideration of new tractor and fiber hood, an amount of Rs.5,00,000/- has been adjusted on account of old tractor replacement by the complainant to the opposite party No.1 and the complainant has also transferred an amount of Rs.2,10,588/- in the account of opposite party No.1. Per opposite party No.1, after adjusting the payment an amount of Rs.27,412/- is outstanding on the part of the complainant. Per opposite party No.1, immediately applied for the number plates after receiving the registration certificate from the complainant and the number plates are lying in the office of opposite party No.1 for the last more than one year.

11. The opposite party No.3 has also stated that as per notification issued by HSRP Morth No.S.O.6052 (E) on dated 06.12.2018 direction has been made to the dealers of the vehicle to supply and affix the HSRP after placing the registration mark of the vehicle. The RLA Indora registered the vehicle of the applicant on 15.12.2021. It is duty of the dealer of the vehicle to supply and affix the HSRP as per notification referred above. In the absence of HSRP, the final R.C cannot be generated for print/hard copy.

12. As per record of RLA on 15.12.2021 at 12.40 Noon vide application No.HP211215-52838162 the particulars of the vehicle was uploaded for the office purpose without fees and registration No.HP-97 9721 was issued to the said tractor. Mobile No.98168 75705 was mentioned in the particulars. The competent authority approved the new registration of the same on 15.12.2021 at 4.03 PM. R.C was printed on 10.01.2023 at 4.37 PM as the message was given in the mobile No.98168 75705.

13. The affidavit of Sh. Sanjeev Kumar representing opposite party No.3 is most important wherein he has stated that complainant and opposite party No.1 applied for registration of his vehicle before the office of opposite party No.3 on 15.12.2021.

14. The dispute between the complainant and opposite party No.1 is regarding the nonpayment of Rs.27,412/- by the complainant and non issuance of Registration certificate and HSRP by the opposite party No.1. The opposite party No.1 can claim this amount from the complainant after following a due course of law. The opposite party No. 1 can file recovery suit before a civil court, if advised so.

15. At this stage, we observe that after sale of vehicle on 25.08.2020 the R.C was applied on 15.12.2021 by the complainant and opposite party No.1 and the message was sent to the mobile No.98168 75705. It is not sure whose mobile No.98168 75705 is this, but there is delay on the part of the opposite party No.1 as the opposite party No.1 has itself admitted that number plate was lying in the office of opposite party No.1 for the last more than one year and the opposite party No.1 has sent many messages to the complainant for collection of number plate. But we have not found any such messages in the record.

16. When complainant and opposite party number 1 on 15.12.2021 jointly applied for registration of vehicle before RLA Indora then it is presumed that delay is contributory on the part of

complainant as well as opposite party No.1. So we conclude that in the facts and circumstances of the complaint token compensation is required to be paid by the opposite party No.1 to the complainant. Hence complaint deserves to be allowed against opposite party No.1. As there is no deficiency on the part of opposite parties No.2&3, hence complaint is dismissed against opposite parties No.2&3.

17. The observation made herein before shall remain confined to the disposal of this complaint and will have no bearing, whatsoever, on the merits of case regarding recovery by opposite party No.1 if preferred by the opposite party No.1.

18. Accordingly, the complaint is partly allowed and opposite party No.1 is directed to pay a token compensation to the complainant to the tune of Rs.10,000/-, besides litigation cost quantified as Rs.10,000/-.

19. Applications pending, if any, stand disposed of in terms of the aforesaid judgment.

20. A copy of this judgment be provided to all the parties free of cost as mandated by the Consumer Protection Act, 1986/2019. The judgment be uploaded forthwith on the website of the Commission for the perusal of the parties.

21. File be consigned to record room along with a copy of this Judgment.

(Hemanshu Mishra)
President

(Narayan Thakur)
Member

(Arti Sood)
Member