

**Distt Consumer Disputes Redressal Commission
Ladowali Road, District Administrative Complex,
2nd Floor, Room No - 217
JALANDHAR
(PUNJAB)**

**Complaint Case No. CC/129/2020
(Date of Filing : 24 Feb 2020)**

1. Rahul

Rahul s/o Nank Kishore, R/o Hno. S/183, New Krishan Wali
Gali, Rama Mandi, Jalandhar Cantt, Ekta Nagar, Phase-II,
Jalandhar.

Jalandhar

Punjab

.....Complainant(s)

Versus

1. Easy Day

Easy Day, Jay Kay Palace, Hoshiarpur Road, Rama Mandi,
Jalandhar, Punjab, Through its Manager/Authorised Person.

Jalandhar

Punjab

.....Opp.Party(s)

BEFORE:

Harveen Bhardwaj PRESIDENT

Jyotsna MEMBER

Jaswant Singh Dhillon MEMBER

PRESENT: None for the Complainant.

.....for the Complainant

Sh. Rohit Dogra, Adv. Counsel for OP.

.....for the Opp. Party

Dated : 31 Jan 2024

**Final Order / Judgement
BEFORE THE DISTRICT CONSUMER DISPUTES
REDRESSAL COMMISSION, JALANDHAR.**

Complaint No.129 of 2020

Date of Instt. 24.02.2020

Date of Decision: 31.01.2024

Rahul s/o Nand Kishor, R/o H. No.S/183, New Krishna Wali Gali, Rama Mandi, Jalandhar
Cantt, Ekta Nagar, Phase-II, Jalandhar.

.....Complainant

Versus

Easy Day, Jay Kay Palace, Hoshiarpur Road, Rama Mandi, Jalandhar, Punjab, Through its
Manager/Authorized Person.

Complaint Under the Consumer Protection Act.

Before: Dr. Harveen Bhardwaj (President)
Smt. Jyotsna (Member)
Sh. Jaswant Singh Dhillon (Member)

Present: None for the Complainant.

Sh. Rohit Dogra, Adv. Counsel for OP.

Order

Jaswant Singh Dhillon (Member)

1. The instant complaint has been filed by the complainant, wherein he has alleged that the complainant visited at the showroom of the OP on 17.01.2020 to purchase some items of grocery and after selecting items, the complainant went to bill counter where the OP issued bill receipt No.3563003000086933 of Rs.2187.79/-. The OP had charged Rs.10/- extra for non-woven fabri "x22"/carry bag, for which the complainant raised objections that the OP do not have any right to charge extra money for carry bag and it is their duty to provide the carry bag and it is deficiency in service if someone charge extra money for carry bag. The complainant also got served legal notice dated 20.01.2020 upon the OPs, but all in vain and as such, necessity arose to file the present complaint with the prayer that the complaint of the complainant may be accepted and OPs be directed to pay a compensation of Rs.2,00,000/- for causing mental tension and harassment to the complainant and Rs.11,000/- as litigation expenses.

2. Notice of the complaint was given to the OP, who filed reply and contested the complaint by taking preliminary objections that the complainant is not entitled to any claim or to get any relief claimed therein. The complaint is not maintainable in law or on any the facts and the same is liable to be dismissed in limine. It is further averred that the complainant had concealed material facts and approached this Forum with unclean hands with ill-motive for wrongful gain to the complainant and wrongful loss to the answering OP. It is imperative to mention that it is required for any buyer/customer to carry any bag (paper/cloth) as per the need and since the complainant failed to carry any bag for carrying away the goods/articles purchased, firstly demanded a big plastic bag for carrying the articles/goods purchased by him, as the complainant was aware that the carry bags (cloth material) available with store is subject to cost, and thereafter when it was informed to complainant regarding restrictions/ban imposed by the government for using/selling plastic carry bags, the complainant agreed to buy the carry bag from the store. It is further averred that the complainant agreed for purchasing the carry bag against the minimum charges of Rs.10/- as it was pre-informed to complainant that purchasing of carry bags is optional and it was not compulsory for every customer to purchase the carry bag from the store if any article/goods were purchased by the customer. It is further averred that the complainant on his own free will purchased the carry bag, however, the complainant after billing started throwing tantrums and even called Store Manager and warned of dire consequences yelling that he will get the store closed as the complainant was not supposed to pay for the carry

bags and the store has wrongly charged from him. It is pertinent to mention that requisite information regarding the availability of the carry bag towards payment of the minimum charges had been displayed at the entrance of the store so as to encourage the customers to carry their own bags for keeping the goods/articles purchased by the customers. It is further averred that in year 2011, Ministry of Environment and Forest (MoEF) had framed the rules under the Plastic Waste (Management and Handling) Rules, 2011 whereby 'use of plastic carry bag was ban/stopped and further restricts that 'No plastic bags shall be made available free of cost by retailers to customers/consumers'. It is submitted that the said rules were made to increase awareness among the consumers to carry their own bags (other than plastic bag) so as to avoid use of cheap plastic material bags which caused Environmental degradation thereby damaging the atmosphere and environment. In accordance to the said rules, answering OP provided 'environment friendly carry bags at the minimum cost' firstly, to protect the environment from degradation and secondly, to facilitate and provide customer related services. No statute directs the retailers/ stores/shopkeepers to provide free of cost any carry bag to the customers. It is submitted that fragmented beliefs being spread by various digital and media platforms that retailers are compelling the customers to buy carry bags from their stores/shops as a money minting business which is totally false as not a single customer is bound to purchase carry bags from any vendors/hawkers/retailers/stores/ shopkeepers, etc. Hence, the present complaint is illegally designed to extract huge amount from answering OP. It is further averred that the Complainant has allegedly filed the present complaint regarding the deficiency of services/unfair trade practice of the answering OP. It is appositely mentioned that the Complainant had submitted distorted facts pertaining to answering OP in the entire complaint, hence the Complainant's case is sheer reflection of misrepresentation in order to gain wrongfully. The Complainant has made unsubstantiated allegations against the answering OP that have no legs to stand and falls flat from the very burden of their own contradictions. The answering OP understands and respects its consumer's wants and needs and therefore, enjoys tremendous goodwill through its large chain of hypermarkets across the country and thus, the complaint filed by the Complainant deserves outright dismissal. On merits, the factum with regard to purchase of grocery is admitted and charged Rs.10/- for carry bag is also admitted, but the other allegations as made in the complaint are categorically denied and lastly submitted that the complaint of the complainant is without merits, the same may be dismissed.

3. Rejoinder not filed by the complainant.

4. In order to prove their respective versions, both the parties have produced on the file their respective evidence.

5. We have heard the learned counsel for the OP only as none has appeared on behalf of the complainant since last so many dates and have also gone through the case file very minutely.

6. From perusal of the bill receipt, it shows that the OP had charged Rs.10/- from the complainant as price of the carry bag and even in the written statement the OP did not deny the charging of the price of the carry bag from the complainant but offered explanation that it was supplied for the convenience and on asking of the complainant. Moreover, the OP No.1 has stated in his written statement in Para No.2 that the complainant agreed for purchasing the carry bag for Rs.10/- and in another Para No.3 the OP has stated that the complainant after billing started throwing tantrums and even called Store Manager and warned of dire consequences. So, this contradictory statement of the OP creates doubt. Section-2(9) of the Consumer Protection Act has recognized six rights of the consumer mainly:-

- (i) the right to be protected against the marketing of goods, products or services which are hazardous to life and property;
- (ii) the right to be informed about the quality, quantity, potency, purity, standard ad price of goods, products or services, as the case may be, so as to protect the consumer against unfair trade practice;
- (iii) the right to be assured, wherever possible, access to a variety of goods, products or services at competitive prices;
- (iv) the right to be heard and to be assured that consumer's interests will receive due consideration at appropriate fora;
- (v) the right to seek redressal against unfair trade practice or restrictive trade practices or unscrupulous exploitation of consumers;
- (vi) the right to consumer awareness.

7. The **Hon'ble National Consumer Disputes Redressal Commission, New Delhi in Revision Petition No.275 of 2020 reported in 2020 in SSC (NCDRC) 495 titled as Big Bazaar (Future Retail Ltd.) Vs. Ashok Kumar** has held that the consumer has a right to know before he exercises his choice to patronize a particular retail outlet, and before he makes his selection of goods for purchase, that additional cost will be charged for carry bags and also the right to know the salient specifications and price of the carry bags. It has further been held that prominent prior notice and information has necessarily to be there to enable the consumer to make his choice of whether or not to patronize the concerned outlet and the consumer is necessarily required to be informed of the additional cost for carry bags and of their salient specifications and price before he makes his selection of goods for purchase. It has been further held that it cannot be that a notice is displayed at the payment counter or that the consumer is informed at the time of making payment that additional cost will be charged for carry bags. Such notice or information at the time of making the payment not only causes embarrassment and harassment to the consumer and burdens him with additional cost, but also affects his unfettered right to make an informed choice of patronizing a particular outlet at the initial stage itself. It has further been held that arbitrarily and highhandedly deviating from its past practice, deviating from the normal, not giving adequate prominent prior notice or information to the consumer before he makes his choice of patronizing the retail outlet and before he makes his selection for purchase, imposing additional cost of carry bags at the time of making payment, after the selection has been made, forcing carry bags without disclosing their salient specifications at price as fixed by the OP company putting the consumer to embarrassment and harassment, burdening the consumer with additional cost, in such way and manner, is decidedly unfair and deceptive.

8. In the light of the law laid down in the cited case, it is clear that the consumer cannot be taken by surprise that he would be charged additional cost of the carry bag at the billing counter. In the instant case also, the complainant was made to pay a sum of Rs.10/- towards the cost of the carry bag when he purchased grocery items from the OP. The OP has not proved that any such prominent notice was displayed at the entrance of the premises as alleged. No photograph of such display and entrance has been proved nor any photocopy of the said display board has placed on record by the OP from where it ascertained that consumer has to pay extra for carry bag.

9. As a result of above discussion, the complaint of the complainant is partly allowed and OP is directed to return the price of the carry bag i.e. Rs.10/- with interest @ 6% per annum from the date of filing complaint till its realization. Further, OP is directed to pay a compensation including litigation expenses of Rs.7000/- for causing mental tension and harassment to the complainant. Compliance of the order be made within 45 days from the date of receipt of copy of order.

10. Copies of the order be supplied to the parties free of cost, as per Rules. File be indexed and consigned to the record room.

Dated	Jaswant Singh Dhillon	Jyotsna	Dr.Harveen Bhardwaj
31.01.2024	Member	Member	President

[Harveen Bhardwaj]
PRESIDENT

[Jyotsna]
MEMBER

[Jaswant Singh Dhillon]
MEMBER