

CC/168/2023

Date of filing: 15.06.2023
Date of Disposal: 22.02.2024

**BEFORE THE BANGALORE URBAN II ADDITIONAL
DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION,
SHANTHINAGAR, BANGALORE - 560027**

DATED THIS THE 22nd DAY OF FEBRUARY 2024

CONSUMER COMPLAINT NO.168/2023

PRESENT:

SRI.VIJAYKUMAR.M.PAWALE, B.A., LL.B., (Spl.), ... PRESIDENT
SRI B.DEVARAJU, B.A.L., LL.B., PGDCLP., (NLSIU) ... MEMBER
SMT.V.ANURADHA, B.A., LL.B., ... MEMBER

COMPLAINANT:

Rao N.D.M
Mr.K.S.Govindarama Rao,
S/o Late K.V.Subba Rao,
Aged about 53 years,
Residing at No.302, 4th Floor,
"Krupa Enclave", Papireddypalya,
6th Cross, near "Deepa Complex",
Nagarabhavi,
Bengaluru - 560 072.

(Complainant is In-Person)

V/s

OPPOSITE PARTY:

The Manager,
Central Bank of India,
Post Box No.9560,
Grand Majestic Mall,

N.D.M
22/2/24

Santhosh Complex,
Br.Code: 00850,
Bengaluru - 560 009.

(OP is Rep. by Sri. S.Nagaraja, Advocate)

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BY SRI. B.DEVARAJU, MEMBER:

// JUDGMENT //

1. This complaint is filed by the complainant under Section 35 of the Consumer Protection Act, 2019, (hereinafter referred as the Act) seeking a direction against the opposite party to release the sanctioned subsidy amount of Rs.2,65,000/-, to pay Rs.1,00,000/- towards deficiency in service, to pay Rs.30,000/- towards mental agony and to pay Rs.5,000/- towards litigation cost.
2. The case of the complainant in brief is as under;

The complainant had availed a house construction loan of Rs.25,00,000/- on 01.10.2016 under loan account No.3584791415 in the scheme of PMAY EWS & LIG. The complainant was released part of the loan of Rs.10,00,000/- on 22.06.2016, Rs.5,00,000/-, Rs.5,00,000/-, Rs.1,00,000/- and Rs.4,00,000/-

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thereafter through the branch of opposite party. The complainant started to pay the EMI regularly out of his salary to the opposite party. Due to COVID-19 the complainant lost his job and stopped repayment of the loan amount. The opposite party instructed complainant to pay the remaining installments to avail the approval of PMAY subsidy amount. The complainant arranged for the remaining amount by selling his old house for a meager amount and paid entire loan amount to close the loan with the opposite party. The complainant made several requests orally as well as in writing to release this subsidy amount for which he is entitled, but the opposite party failed to comply the request and instead issued a letter dated 06.12.2022 by informing that the loan account of the complainant stands fully closed on 27.09.2021 and there are no dues/overdue as on date.

3. The complainant got issued a legal notice dated 11.05.2023 calling upon the opposite party to release the subsidy amount and the opposite party responded with reply dated 20.05.2023. The opposite party not complied with the demands made by the complainant in the said notice which caused great loss and hardship and the act of the opposite party in withholding the subsidy amount entitled to the complainant amounts to deficiency of

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service. The complainant is entitled for release of the subsidy amount of Rs.2,65,000/- along with compensation of Rs.1,30,000/- and litigation cost of Rs.5,000/- from the opposite party. Hence, this complaint.


4. Upon service of notice, the opposite party entered appearance by filing written version opposing the claim made by the complainant. The opposite party contends that the complaint is not maintainable either on facts or law. The complaint is filed with the intention to avoid legal liability and to harass the opposite party. The claims, demands, allegations, imputations and insinuations of the complainant are denied by the opposite party. The complainant has not disclosed correct factual details in the complaint to get sympathy of this Commission. The present complaint has no cause of action. It is admitted fact that the complainant had availed Home Purchase Loan of Rs.25,00,000/- under the EYS and PMAY Scheme. It is undisputed that the complainant has repaid the outstanding loan amount in full by way of foreclosure and the opposite party issued a letter dated 06.12.2022 about the clearing of said loan. The complainant was sanctioned the said

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loan and was eligible for interest subsidy as per PMAY Scheme and the same was also sanctioned. In the meanwhile, the complainant closed his account and paid entire past and future installment of the loan amount. The opposite party not asked the complainant to pay future installments and the entire loan to avail the PMAY subsidy. The complainant having foreclosed the loan availed by him is not eligible to subsidy under the PMAY scheme as per the terms and conditions. The complainant had sought for subsidy loan under the Central Government with the opposite party and accordingly all necessary documents were processed and sent for sanction by the competent authority and by the time the same was accorded, the complainant closed the said loan which is an admitted fact.

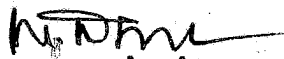
5. The opposite party further contends that the complainant has stated in the complaint that he sold his old house to clear the outstanding loan with the opposite party for a meager amount goes to show that the complainant suppressed the facts of holding ownership of a property to avail benefits from the HUDCO. The complainant has not furnished any documents to show that he sold his old house. The complainant is not


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entitled for any relief. Hence, the opposite party seeks dismissal of the complaint as not maintainable.

6. The complainant filed evidence by way of affidavit and relies on 7 documents marked as Ex.P1 to P7. The opposite party represented by its Chief Manager filed affidavit evidence and got marked 5 documents marked as Ex.R1 to R5. The complainant and the opposite party filed written arguments. Heard oral arguments by both sides. We have perused the entire records along with written arguments.
7. The following points do arise for our consideration;
 1. **Whether the complainant proves the deficiency of service on the part of the opposite party?**
 2. **Whether the complainant is entitled to the relief claimed in the complaint?**
 3. **What order?**
8. Our findings on the above points are as under;
 1. **POINTS NO.1 & 2:** Partly in the Affirmative,
 2. **POINT NO.3:** As per the final order.


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REASONS

9. **POINTS NO.1 & 2:** To avoid repetition of reasoning, both the points are taken together. It is an admitted fact that the complainant had availed Home Loan of Rs.25,00,000/- from the opposite party by entering into Loan Agreement. Ex.P1 is the certificate under Section 65B of Indian Evidence Act. Ex.P2 is the copy of the Loan Account Statement which shows that Rs.25,00,000/- was sanctioned as home loan by the opposite party to the complainant. The availing of loan on 01.10.2016, the repayment in full on 27.09.2021 and the release of subsidy by the competent authority on 11.02.2022 is also not in dispute. Ex.P3 is the copy of certificate issued by the opposite party that the loan availed by the complainant stands fully closed on 27.09.2021. Ex.P4 is the copy of legal notice dated 11.05.2023 issued by the complainant calling upon the opposite party seeking release of Rs.3,00,000/- towards subsidy amount sanctioned under PMAY Scheme. Ex.P5 is the copy of the reply dated 20.05.2023 by the opposite party to the complainant by clarifying that since the loan account is closed before release of the subsidy amount to the loan account of the complainant, the bank has to

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refund the subsidy back to the CNA and subsidy shall not be passed on to the applicant as he has no longer housing loan and not bearing any interest burden. The reply by the opposite party clearly refused to accede with the demands made by the complainant. Ex.P6 is the copy of screen shot dated 31.01.2022 sent by PMAY authority that the subsidy to PLI for onward crediting to the home loan account of the complainant. Ex.P7 is the copy of PMAY-Urban shows the subsidy date as 11.02.2022. The opposite party has relied on same documents relied upon by the complainant from Ex.R1 to R4. Ex.R4 is the downloaded copy of the Operational Guidelines issued by the PMAY (Urban), Credit Linked Subsidy Scheme for Middle Income Group along with copy of the MOU draft.

10. The Home Loan was sanctioned and released on 01.10.2016 of a sum of Rs.25,00,000/- as against which the EMI was required to be paid to the opposite party by the complainant along with interest at 7.10% p.a. as could be seen at Ex.P2 being the statement of account of the loan account. The complainant claims that on the insistence of the opposite party he was forced to foreclose the said loan. In this context, it is relevant to peruse the very own averments of the complainant at

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para No.2 of the complaint that ***"I started repayment of respondent Opposite party's loan amount regularly from my salary. But due to Covid-19 I lost my job and stopped repayment of the loan amount. Later the opposite party instructed me to pay the remaining installments and then only the opposite party can approve the Prime Minister's Awas Yojana subsidy amount. After that with great difficulty I arranged for the remaining amount by selling my old house for a meager amount and paid the entire loan amount and closed the housing loan account"***.

Hence, the pleadings of the complainant goes to show that the opposite party had sought for payment of remaining installments which were unpaid due to difficult situation during Covid-19 and to get the approval for the PMAY subsidy amount. The complainant further claims in the complaint that he sold his old house and paid the entire loan amount resulting in closure of the loan account. That being the case, it cannot be said that due to the pressure tactics of the opposite party, the complainant was forced to foreclose the loan account.

11. It is relevant to rely upon Ex.R4 being the operational guidelines along with the draft MOU. At para 8 of the

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MOU, it is mentioned ***"In case of pre-closure of housing loan by the borrower/beneficiary any time before the expiry of the contracted loan tenure, the Second Party/Lender will recover the interest subsidy credited in the home loan account of the borrower/beneficiary on proportionate basis (i.e. in proportion to the tenure), and refund the amount to the First Party after deducting 10% of the recovered amount for meeting the administrative expenses."*** Further, Para No.9 of the MOU states that ***"In the event of default in repayment of the loan by the borrower/beneficiary to the Second Party/Lender and the loan becoming Non-performing asset (NPA), the Second Party/Lender will processed for recovery of the dues through such measures as considered appropriate, including foreclosure of the property, as per law. In all such cases, the amount of the recoveries will be charged on first charge basis to the subsidy amount and shall be appropriated on proportionate basis (i.e. in proportion to the loan outstanding and subsidy disbursed)."***

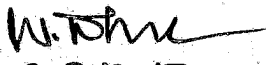
12. The opposite party has not claimed the complainant's loan as NPA and as such Para No.9 of the MOU is not applicable to the present case. However, Para No.8 of

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the MOU is applicable for the complainant's home loan account which was pre-closed. As per the terms of the MOU, the opposite party can recover interest subsidy credited in the home loan account of the borrower/beneficiary on proportionate basis i.e. in proportion to the tenure, and refund the amount to the complainant after deducting 10% of the recovered amount for meeting the administrative expenses. In the present case, complainant is entitled to the benefit of proportionate interest subsidy from 01.10.2016 when the loan was sanctioned to the complainant, to the date of pre-closure effected on 27.09.2021, after deducting 10% of the recovered amount for meeting the administrative expenses of the opposite party.

13. The complainant claims subsidy amount of Rs.2,65,000/- along with other reliefs. For claiming the subsidy amount of Rs.2,65,000/- the complainant has not produced any supporting documents. As per the scheme details of the PMAY the beneficiaries of MIG seeking housing loans for acquisition/construction of houses (including re-purchase) from Banks, Housing Finance Companies and other such notified Institutions


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will be eligible for an interest subsidy with the following features:-

Particulars	MIG I	MIG II
Household Income (Rs. p.a) ²	12,00,000	18,00,000
Interest loan tenure (% p.a)	4.00%	3.00%
Maximum loan tenure (in years)	20	20
Eligible Housing Loan Amount for interest Subsidy (Rs.)	9,00,000	12,00,000
Dwelling Unit Carpet Area	90sq.m	11 sq.m
Discount Rate for Net Present Value (NPV) Calculation of interest subsidy (%)	9.00%	9.00%

14. As per the scheme details, the interest subsidy is 4% p.a. for MIG I. As per the terms of the draft MOU, in case of pre-closure of loan by the borrower the lender will recover the interest subsidy credited in the home loan account on proportionate basis and refund the amount to the borrower after deducting 10% of the recovered amount for meeting administrative expenses as per Clause 8 of the MOU marked as Ex.R4. By applying the said principle, the complainant is entitled for the interest subsidy in proportionate to the term of the loan from 01.10.2016 to 27.09.2021. There is no material produced by the complainant to substantiate his claim

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that the opposite party forced him to pre-close the said loan. The pleadings of the complainant himself shows that since the complainant was irregular in re-payment of EMI, the opposite party sought for up to date payment of EMI to consider the interest subsidy under the PMAY Scheme. Instead of paying the outstanding, the complainant went ahead and pre-closed the loan. This caused ineligibility to claim PMAY interest subsidy to the complainant. But as per the terms of the MOU marked as Ex.R4, the complainant was entitled for the proportionate interest subsidy during the term of the loan. The CLSS for MIG (Credit Linked Subsidy Scheme for Middle Income Group) had formulated an operational guidelines under para 3.1 of the scheme details showing interest subsidy of 4.00% for MIG-I and 3.00% for MIG-II. The eligible housing loan amount for interest subsidy is Rs.9,00,000/- for MIG-I and Rs.12,00,000/- for MIG-II. The exact amount entitled to the complainant towards the subsidy under PMAY Scheme has to be arrived considering the term of the said loan. Looking into the records and documents, the complainant availed said loan of Rs.25,00,000/- on 01.10.2016 and repaid the total outstanding of the said loan on 27.09.2021. Thereafter, the Competent Authority released the

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subsidy on 11.02.2022 by which time the complainant had foreclosed the loan by making full payment towards the loan outstanding and the opposite party issued an endorsement dated 06.12.2022 which is marked as Ex.P3 certifying that the housing loan availed by the complainant stands fully closed on 27.09.2021 and there are no dues/over dues of the said loan.

15. The complainant has established deficiency of service against the opposite party for not considering the credit to the extent of the proportionate interest subsidy during the tenure of the loan. The complainant is entitled to the proportionate interest subsidy from 01.10.2016 to 27.09.2021. The complainant has sought for subsidy amount of Rs.2,65,000/- but not produced any documents to substantiate the said extent of amount. Accordingly, the complainant is entitled to the proportionate interest subsidy under the PMAY Scheme from 01.10.2016 to 27.09.2021 only. The complainant further claims Rs.1,30,000/- towards compensation and Rs.5,000/- towards cost of litigation expenses which according to us is excessive and exorbitant. We award a compensation of Rs.5,000/- and litigation cost of Rs.2,500/- to the complainant. Hence, we answer points No.1 & 2 partly in the affirmative.

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16. **POINT NO.3:** In view of the discussion referred above, the complaint requires to be allowed in part. The opposite party is liable to pay proportionate interest subsidy under the PMAY Scheme of the said loan availed by complainant from 01.10.2016 to 27.09.2021. The opposite party is also liable to pay compensation of Rs.5,000/- and litigation cost of Rs.2,500/- to the complainant. In the result, we proceed to pass the following;


ORDER

The complaint is allowed in part.

The opposite party is directed to pay proportionate interest subsidy under the PMAY Scheme of the said loan availed by complainant from 01.10.2016 to 27.09.2021.

The opposite party is also directed to pay Rs.5,000/- (Rupees Five Thousand only) towards compensation and Rs.2,500/- (Rupees Two Thousand Five Hundred only) towards litigation cost to the complainant.

The opposite party shall comply the above said order within 60 days.


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Supply free copy of this order to the parties. Return spare copies of the pleading and evidence to the parties.

(Dictated to the Steno, typed by her, transcript corrected, Revised and then pronounced by the open Commission on **22nd day of FEBRUARY 2024**).

V. A. *[Signature]*
22/02/24
(V. ANURADHA)
MEMBER

M. D. *[Signature]*
22/2/24
(B. DEVARAJU)
MEMBER

[Signature]
22/2/2024
(VIJAYKUMAR. M. PAWALE)
PRESIDENT

//ANNEXURE//

Witness examined for the complainant's side:

Mr. K. S. Govindarama Rao, who being the complainant has filed his affidavit.

List of documents filed by the complainant:

1. Ex.P1: Certificate under Section 65B of Indian Evidence Act,
2. Ex.P2: Copy of the statement of account,
3. Ex.P3: Copy of the letter dated 16.12.2022,
4. Ex.P4: Copy of legal notice dated 11.05.2023,
5. Ex.P5: Copy of the reply dated 20.05.2023,
6. Ex.P6: Copy of the SMS screenshot,
7. Ex.P7: Copy of the online beneficiary status.

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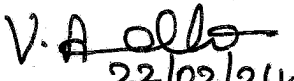
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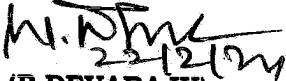
Witness examined on behalf of the Opposite Party:

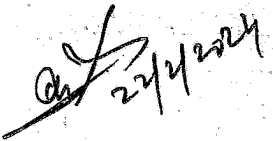
Mr.N.Edwin Rajkumar, who being the Chief Manager of the opposite party has filed his affidavit.

List of documents filed by the Opposite Party:

1. Ex.R1: Copy of the Statement of Account,
2. Ex.R2: Copy of the No Objection Certificate,
3. Ex.R3: Copy of the Reply to legal notice dated 20.05.2023,
4. Ex.R4: Copy of the PMAY operational guidelines,
5. Ex.R5: Copy of the Reply to legal notice dated 20.05.2023.

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(V.ANURADHA)
MEMBER

M. D. 
22/02/24
(B.DEVARAJU)
MEMBER


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(VIJAYKUMAR.M.PAWALE)
PRESIDENT

