

DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION-II,
U.T. CHANDIGARH

Consumer Complaint No : 860 of 2021
Date of Institution : 01.12.2021
Date of Decision : 15.06.2023

1] Abha Dobriyal

2] Om Parkash

ants

Versus

1] Bank of Baroda, SCO No.62-63, Madhya Marg, Sector 17-B, Chandigarh through MD/Authorized signatory.

2] Bank of Baroda, Branch Mullanpur Garibdass, SAS Nagar, Mohali through its Branch Manager

3] National Housing Bank, Core 5-A, India Habitat Centre, Lodhi Road, New Delhi 110003 through its authorized signatory/Incharge.

4] Housing and Urban Development Corporation Limited, Corporate Office:- HUDCO Bhawan, Core 7-A, India Habitat Centre, Lodhi Road, New Delhi 110 003 through its authorized signatory/Incharge.

2nd Address:-

Housing & Urban Development Corporation Ltd., (HUDCO), Regional Office:- Shreyas Chamber, 2nd Floor, 175, Dr.D.N.Road, Fort, Mumbai 400 001 Maharashtra

..... Opposite Parties

BEFORE: SMT.SURJEET KAUR PRESIDING MEMBER

SH.B.M.SHARMA

MEMBER

BLACKBOX AI

Argued by : Sh.Devinder Kumar, Counsel of complainant

Sh.Sandeep Kapoor, Adv. proxy for Sh.Anil Johar, Counsel of OPs No.1 & 2

Sh.Deepander Singh, Counsel of OP NO.3.

Ms.Mannu Choudhary, Counsel of OP No.4.

PER SURJEET KAUR, PRESIDING MEMBER

Concisely put, the complainants obtained a housing loan of Rs.50 lacs from the OP Bank on 8.10.2018 and to avail benefit under the Pradhan Mantri Awas Yojana, submitted necessary documents to OP Bank. Thereafter, the complainants received an SMS in August, 2020 that Application ID bearing NO.C0001605112 has been generated from Pradhan Mantri Awas Yojana - PMAY (U) – Class and have been advised to retain the ID for status tracking (Ann.C-2). However, waiting for long, the complainants neither got any response or benefit. It is stated that the complainants also sent numerous emails/reminder to the OPs time & again but to no avail. Hence, this complaint has been preferred alleging deficiency in service and unfair trade practice on the part of the OPs due to which the complainants suffered financial loss, harassment and mental agony.

2] The OP Bank i.e. OPs No.1 & 2 have filed joint reply and while admitting the factual matrix about disbursement of loan to the complainants, stated that the complainants never approached them to register themselves under the said scheme. It is submitted that the complainant never approached the OPs No.1 & 2 with regard to the application in PMAY Scheme after the sanction of loan. It is also submitted that neither the complainants executed any application for the said scheme nor they submitted any documents regarding the same with answering OP bank. It is stated that the complainants might have applied for the said Scheme of PMAY Scheme Online which resulted in the generation of application number of which the OP Bank has no knowledge. It is also stated that the OP Bank has no clue about any application made by the complainant in the PMAY Scheme, therefore, there was no point of consideration of any such e-mails by the side of the OP Bank. It is further stated that the complainants have availed the services of the OP Bank just for the disbursement of the home loan and no other services were availed by the complainants from them. It is submitted that the complainants never approached the OP bank for the said scheme, so no cause of action arisen against them. Denying all other allegations and pleading no deficiency in service, the OPs NO.1 & 2 have prayed for dismissal of the complaint.

The OP No.3-National Housing bank has also filed written version stating that w.e.f. 1.10.2019, the Bank of Baroda (BoB) has executed MOU with HUDCO for implementation of PMAY-CLSS, who will be the focal Central Nodal Agency for processing subsidy applications with regard to home loans provided by BOB and answering OP has nothing to do with the case of the complainant being not related in any sense. It is submitted that as on date no record matching the Loan Account number as provided by the complainant has been found among the claim accepted by answering OP. Denying other allegation, the OP NO.3 has prayed for dismissal of the complaint qua it.

The OP NO.4-HUDCO has also filed its written version stating that the dispute in question does not pertain to it as the OP NO.4 is merely a Central Nodal Agency which works on the data/facts received from the Primary Lending Institutions. It is stated that bank uploads the claim of the borrower on web portal i.e. Awas Portal and after demographic verification of borrower, an application ID is generated and once the Bank uploads the eligible claims on Central Nodal Agency with Application ID earlier generated, the Central Nodal Agency will process the claim on record basis based on uploaded data and in case of any mismatch, the claims are queried or rejected and such queried and rejected claim will appear on the bank page. It is submitted that the subsidy claim of the complainants was uploaded by the OP Bank on 23.7.2020 but it was rejected by the Portal on 23.7.2020 due to wrong installment number (5) and mismatch of the cumulative loan disbursement with the loan disbursement submitted upto previous installment. It is stated that after the

said rejection the OP No.1 & 2 bank have not uploaded the revised claim form, so it is not the answering OP No.4 which is at fault, rather the bank OP No.1 & 2 which have been lax. It is also submitted that the answering OP No.4 is working only as a facilitator for channelizing the subsidy to Bank/PLI out of the fund released by the Govt. of India on first come first serve basis and the complainant is not consumer of answering OP NO.4. Pleading no deficiency in service and denying all other allegations, the OP No.4 has prayed for dismissal of complaint qua it.

4] Parties led evidence in support of their contentions.

5] We have heard the Id.Counsel for the contesting parties and have perused the entire record including written arguments.

6] The complainants admittedly availed Home Loan from the OP No.1 & 2 Bank.

7] The grouse of the complainants is that they submitted all the requisite documents and applications to the OPs No.1 & 2 banks for forwarding the same to the quarter concerned for getting benefit of PMAY available to Home Loan borrowers, but the OPs slept on the matter and did nothing fruitful, causing loss and harassment to them.

8] The stand of the OP No.1 & 2 Bank (Bank of Baroda) is that the complainants never approached the bank with regard to said Scheme; they neither executed any application for the said scheme nor they submitted documents in this regard with answering OP bank and that the complainants might have applied for the said Scheme Online and they have no clue about any such application made by the complainants in the said Scheme.

9] However, this stand of the OPs No.1 & 2 Bank expressing complete ignorance about receipt or processing of any such application of the complainants has been falsified & disapproved from the version of the OP No.4-HUDCO with whom the OP Bank admitted has MOU in respect of said scheme. The OP No.4 has categorically stated in their written reply supported by duly sworn affidavit that the OP Bank had uploaded the claim of the complainants with it on 23.07.2020, which was rejected by the portal on that very day i.e. 23.7.2020 due to wrong installment number (5) and mismatch of the cumulative loan disbursement with the loan disbursement submitted upto previous installment. It is also mentioned that after the said rejection, the OP No.1 & 2 bank have not uploaded the revised claim form, so it is not the answering OP No.4 which is at fault, rather the bank OP No.1 & 2 which have been lax. Further it is also clear and proved from the version of the OP No.4 with whom the claim has been uploaded/filed by the OP Bank that the Present Status of said claim is Rejected - due to wrong installment number (5) and Cumulative Loan disbursement mismatch with the Loan disbursement submitted upto previous installment and the revised claim form has not been uploaded. Therefore, it is clearly made out that the OP No.1 & 2 Bank failed to remove the objection/query raised by the OP No.4 in respect of application of complainants and also failed to upload the revised claim form, which certainly had to be done by the OP Bank only and not the complainants, which amounts deficiency in service on their part. The OP Bank was under legal obligation to perform their part of the service, in respect of their customers/consumer, by uploading the revised claim form of the complainants with the OP NO.4, as required. However, the OP Bank failed to do so. It appears that the OP Bank, in order to hide their said deficient act, preferred to take a false plea of showing complete ignorance about receipt & forwarding of any such application of the complainants thereby misleading this Commission, which fall flat after the OP No.4 filed reply controverting their stand categorically. The OP Bank has not denied or disputed that the email addresses mentioned on Ann.C-3 Colly sent by the

complainants in respect of their claim case, which means they must have in receipt of said emails. It is also not the case of the OP Bank that the complainants can get their application processed & finalized at their own end without any role of the OP Bank. Meaning thereby that the claim of the complainants must have been processed & validated from the end of OP Bank being Prime Lending Institute and the complainants could not get it finalized at their own, as has been tried to be projected by the OP Bank in their reply, in order to cover-up their error and deficient act. Infact the OPs No.1 & 2 Bank did not correct the mistake, as highlighted by OP NO.4 nor did they upload the revised claim form of the complainants with OP No.4, as required from their end, which is a clear act of negligence and carelessness on their part.

10] Further the plea taken by the OP Bank in their written arguments that the preliminary objections taken by the OP No.4 shows that the claim of the complainant is received well within the time period prior to closing of scheme and the same was also approved, is also false as no such plea has been taken by the OP No.4 either in their written reply or written arguments. More so, the OP Bank cannot be allowed to blow hot and cold in the same breath as on the one hand they showed their complete ignorance about any such application of the complainants ever received or forwarded by them and on the other hand stated in the arguments that the claim of the complainants is received by the OP No.4 well within the time period and same has not been approved by the OP No.4, which further goes to prove that the OP Bank now trying to take a U-turn from their earlier stand of complete ignorance in the matter.

11] It is not disputed by either of the OPs that the credit benefit or subsidy under the scheme was to be granted by the Govt. of India and not by them and at the most it would have been approved through the OP NO.4 only. The Govt. of India is not a party to the present complaint. Therefore, the present complaint qua the OP Bank with regard to deficiency in service is very well maintainable. However, the complaint qua OP No.4 in respect of the credit benefit or subsidy claim is not maintainable before this Commission. Further, we do not find any deficiency on the part of the OP NO.4 as it has timely attended the application of complainants but the same stands Rejected due to fault on the part of the OP Bank in not correcting/resolving the query timely as raised by the OP No.4 as well as by not uploading the revised claim form of the complainants with the OP NO.4, which establishes deficiency on the part of OP Bank. Thus the act & conduct of the OP Bank clearly proves their deficiency in service, as a result, the complainants have to suffer mental agony, harassment, loss and has been forced to enter into present litigation.

12] Taking into consideration the above discussion and findings, we are of the opinion that the deficiency in service on the part of the OPs NO.1 & 2 has been proved. Therefore, the present complaint is partly allowed with direction to the Opposite Parties No.1 & 2 to pay a compensation of Rs.One Lakh to the complainants for rendering deficient services along with litigation cost of Rs.15,000/-. However, the claim of complainants for grant of subsidy is dismissed being not maintainable before this Commission.

This order shall be complied with by the OPs No.1 & 2 within a period of 45 days from the date of receipt of copy of this order, failing which they shall be liable to pay additional cost of Rs.20,000/- apart from above relief.

13] The complaint qua the OPs NO.3 & 4 stands dismissed.

Certified copy of this order be sent to the parties, free of charge. After compliance, file be consigned to record room.

Announced

15th June, 2023

sd/-

(SURJEET KAUR)

PRESIDING MEMBER

Sd/-

(B.M.SHARMA)

MEMBER

