

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION-I,  
U.T. CHANDIGARH**

Consumer Complaint No.	:	CC/483/2021
Date of Institution	:	26.7.2021
Date of Decision	:	3/1 /2024

1. Inderpal Singh S/o Jagjit Singh Ahluwalia R/o #172 Sector 16, Chandigarh.
2. Gurjeet Singh S/o Jagjit Singh Ahluwalia R/o #172 Sector 16, Chandigarh.
3. Arshnoor Bhalla S/o Harinder Singh Bhalla R/o #254, Sector 15-A, Chandigarh.
4. Navdeep Singh S/o Jaspal Singh R/o #12 Street No.2, Bhaibala Colony, Pakhowal Road, Ludhiana, Punjab.
5. Amandeep Brar S/o Bhim Singh Brar R/o 327, Sector 38-A, Chandigarh.
6. Amanpreet Kaur Brar D/o Bhim Singh Brar R/o 327, Sector 38-A, Chandigarh.
7. Tejpal Singh S/o Lt. Nachattar Singh R/o #50 Village Khuda Alisher, Chandigarh.
8. Lakhwinder Singh S/o Sucha Singh R/o 295, Village Khuda Alisher, Chandigarh.
9. Manjeev Sabherwal S/o Jivinder Sabherwal R/o #524, Sector 8-B, Chandigarh.
10. Sandeep Saini S/o Rajinder Kumar Saini R/o #521, Sector 20-A, Chandigarh.

... Complainant(s)

V E R S U S

1. Code fitness SCO 112 to 114, Phase 10, Sector 64, Sahibzada Ajit Singh Nagar, Punjab 1600062.
2. 4<sup>th</sup> floor, Ansal Boulevard mall, Mall road, Ludhiana 141001 (**OP No.2 deleted vide order dated 15.9.2022**).
3. Swan Group Plot No.F-453, phase 8-B, Industrial Area, SAS Nagar, Mohali Punjab 160055.



manner, the aforesaid act of OPs amounts to deficiency in service and unfair trade practice on their part. OPs were requested several times to admit the claim, but, with no result. Hence, the present consumer complaint.

- b. OPs No. 1 resisted the consumer complaint and filed its written version, inter alia, taking preliminary objections of maintainability, cause of action, concealment of facts. However, it is alleged that the answering OP was operating its fitness centre since 2015 and had been providing the best services. In fact due to strict regulations of the local authorities, the answering OP could not expand their business. Due to unforeseen events the answering OP was unable to carry on with its service from January 2020 and unfortunately they had to relocate. Even at the time of relocation of the centre, the OP had offered the complainants and all members to continue availing services in Zirakpur and mohali but at that time no request for refund of the amount was made. Even the answering OP issued notification to the effect that all its members to apply for refund of their amount for remaining period but they had failed to apply for the same even the OP had offered the complainants to refund the due amount from January 2020 in the following manner:-

Name	Amount paid	Date of payment	Refund due (from January 2020)
Navdeep Singh (Fitness 6+3)	Rs.14000/-	7.9.2019	Rs.9,333/-
Tejpal Singh (12+2)	Rs. 15000/-	3.7.2019	Rs.9,642/-
Gurjeet Singh (12+3)	Rs.22000/-	26.2.2019	Rs.7,333/-
Inderpal Singh (12+3)	Rs.22000/-	28.2.2019	Rs.7,333/-
Manjeev Sabherwal (2 year)	Rs.34000/-	19.2.2019	Rs.26,916/-
Amandeep Brar (12 months)	Rs.17999/-	1.5.2019	Rs.6000/-
Amanpreet Brar (12 months)	Rs.17999/-	31.3.2019	Rs.5000/-
Arshnoor Singh Bhalla (12 months)	Rs.17999/-	5.5.2019	Rs.7,499/-
Lakhwinder Singh (12+2)	Rs.15000/-	3.7.2019	Rs.9,642/-
Sandeep Saini (12 months)	Rs.17999/-	1.7.2019	Rs.7,499/-

It is further alleged that the complainant have not come before this Commission with clean hands. On merits, the facts as stated in the preliminary objections have been re-iterated. The cause of action set up by the complainant is denied. The consumer complaint is sought to be contested.

- c. Counsel for OP No.3 vide his statement dated 15.9.2022 adopted the reply of OP No.1 as reply on behalf of OP No.3 also. Whereas the counsel for complainant vide his statement dated 15.9.2022 requested for deletion of name of OP No.2 and accordingly name of OP No.2 was ordered to be deleted from the array of OPs vide order dated 15.9.2022.
  - d. OP No.2 already deleted vide order dated 15.9.2022.
  - e. Despite grant of numerous opportunities, no rejoinder was filed by the complainant to rebut the stand of the OP.
2. In order to prove their case, contesting parties have tendered/proved their evidence by way of respective affidavits and supporting documents.
  3. We have heard the learned counsel for the contesting parties and also gone through the file carefully.
    - i. At the very outset, it may be observed that when it is an admitted case of the parties that the complainants had obtained the membership of the OPs' GYM in order to avail the GYM services by paying amounts as mentioned above in the table at para 1(a) on different dates as is also evident from Annexure C-1 to C-9 and the OPs had relocated their GYM from the original place w.e.f. 15.1.2020 where the services were being availed by the complainants and till date the OPs have not refunded the amount paid by the complainants after necessary deductions for the period for which they have availed the services and the OP No.1 had categorically admitted in its written version at para 9 of the preliminary objection that refundable amount is due towards the complainants as per details given above in the table at para 1(b), the case is reduced to a narrow compass as it is to be determined if the OPs are unjustified in not refunding the amount to the complainants and the complainants are entitled for the relief as prayed for or the complainants have not approached the Ops for refund of the amount and the complaint being false and frivolous is liable to be dismissed as is the defence of the contesting OPs.
    - ii. Perusal of Annexure C-10 clearly indicates that the OPs had put a notice on the GYM on 13.1.2020 intimating its member that it will stop to provide its services w.e.f. 15.1.2020 and asking the member to give bank account details on or before 11.2.2020 so that the refund can be initiated.
    - iii. The OP No.1 itself has admitted in its written version that after deduction of amount for the period, the complainants already availed the services, it is ready to refund the amount as calculated in para 1(b) in the tabulated form. Since nothing has come on record that the complainant have ever requested the OPs either through email or through notice before filing the complaint, providing their accounts details to the Ops for the refund of the amount, thus, the complainants are not entitled for interest w.e.f. the date of deposit of the amount especially when they were asked to provide the details of their account vide notice Annexure C-10 but they failed to provide the same. However, when it has come on record that the OPs have not refunded the amount as tabulated in para 1(b) above to the complainants even after filing of the instant complaint despite seeking several adjournment even from this Commission, it is clear that the OPs NO.1&3 are liable to refund the amount as tabulated in para 1(b) alongwith interest from the date of filing of the instant complaint especially when the complainants have proved cause of action as set up in the complaint that the OPs No.1&3 shifted the subject GYM by giving a short notice of three days only and had neither provided alternative service nor refunded the deposited amount partially even after filing of the present complaint till date. Thus, the aforesaid act of the OPs No.1&3 amounts to deficiency in service on their part.
  4. In the light of the aforesaid discussion, the present consumer complaint succeeds, the same is hereby partly allowed and OPs No. 1&3 are directed as under :-
    - i. to refund to the complainants the amounts as per details tabulated in para 1(b) above alongwith interest @ 9% per annum from the date of institution of the present consumer complaint till onwards.
    - ii. to pay an amount of ₹10,000/- to the complainants as compensation for causing mental agony and harassment to them;
    - iii. to pay ₹10,000.- to the complainants as costs of litigation.
  5. This order be complied with by the OPs No.1&3 within 45 days from the date of receipt of its certified copy, failing which, they shall make the payment of the amounts mentioned at Sr.No.(i) & (ii) above, with interest @ 12% per annum from the date of this order, till realization, apart

from compliance of direction at Sr.No.(iii) above.

6. Pending miscellaneous application(s), if any, also stands disposed off.

7. Certified copies of this order be sent to the parties free of charge. The file be consigned.

Announced

3/1/2024

*mp*

**Sd/-**

**[Pawanjit Singh]**

**President**

**Sd/-**

**[Surjeet Kaur]**

**Member**