

**Additional District Consumer Disputes Redressal Commission, Rajarhat (New Town)
Kreta Suraksha Bhavan,Rajarhat(New Town),2nd Floor
Premises No. 38-0775, Plot No. AA-IID-31-3, New Town,P.S.-Eco Park,Kolkata - 700161**

**Complaint Case No. CC/20/2019
(Date of Filing : 03 Jul 2019)**

1. Lokesh Rustogi

Shanti Bhawan, 80 Sarat Chatterjee Road, P.S- Lake Town
,Kolkata-700089

.....Complainant(s)

Versus

1. C.E.O. Goibibo

Tower B, 19th floor, Building no.5, DLF cyber city, Gurugram-
122002, & B-36,1St Floor Pusa Road, New Delhi -110005.

2. .

.....Opp.Party(s)

BEFORE:

**HON'BLE MR. Shri Sankar Kumar Ghosh PRESIDENT
HON'BLE MRS. Sagarika Sarkar MEMBER**

PRESENT:

Dated : 12 Sep 2023

Final Order / Judgement

In epitome the complaint case is that complainant made a booking through OP no.1's website for a hotel namely, "Hotel Santosh" in Allahabad (OP no.2) for the period from 01.03.2019 to 02.03.2019 as complainant wanted to visit "Kumbha Mela". Be it mentioned that after going through and verifying all the pictures of the rooms of said hotel through website complainant booked four rooms which were supposedly 'SUPER DELUX ROOMS' and complainant duly made payment of Rs.14, 550/-only through his concerned Bank Account lying in ICICI Bank on 28.02.2019. Further it may be noted that said booking was done for 10 people and 4 of them were senior citizens and medically unfit. Complainant also got confirmation mail from OP no.1 and accordingly complainant and his other companions reached Allahabad at the said hotel (OP no.2) on 01.03.2019 around 10.30am but, after inspection it came to the notice of complainant that rooms were much smaller than what those appeared in the website. Moreover, bed sheets and towels were dirty, bathrooms were not clean, cable and telephone wires were hanging in the wall and Air Conditioners of these four rooms were not functioning. Immediately complainant contacted the manager of OP no.2 and asked for changing the rooms since those were not up to the standard he booked but, hotel manager asked complainant to contact OP no.1. Complainant tried to contact OP no.1 over phone but it was unfortunate that complainant was unable to get through, so he sent a mail on 01.03.2019. Thereafter due to such pathetic and unhygienic condition of the said rooms complainant searched for rooms of different hotels situate nearly in Allahabad but, could not get any single room. Then he were forced with his companions to travel to Varanasi about 130km away from Allahabad and they lodged at Bagla Attihi Bhavan at about 10:30pm on 01.03.2019 and stayed there up to 02.03.2019 and thereafter returned to Kolkata. On 04.03.2019 complainant was informed by representative of OP no.1 over phone that his concerned complaint had been registered. Then after continuous calls and mails including follow ups on 07.03.2019 complainant received a call from one executive of OP no.1 informing him (complainant) that OP no.1 had decided to refund complainant 50% of the paid amount by

the complainant. Initially on hearing the same complainant refused to accept 50% of that amount he paid. Then said executive informed the complainant that he would refer the matter to his management within 24 hours and complainant would get feedback from them, but which never happened. On 08.03.2019 OP no.1 informed complainant that as complainant did not accept such offer of 50% of the amount he paid and as such they would not process even the 50% offer and it stood cancelled.

On 07.04.2019 complainant received one mail from Mr. Jitendra Sharma (Customer Delight goibibo) informed that OP no.1 had nothing to do with the management of hotel of OP no.2 and OP no.1 is just intermediary between customer and hotel. Further he informed that OP no.1 is ready to refund 50% of the amount of which complainant became agreed to avoid for any further dispute but, it is utmost shocking on the part of complainant that said 50% of the total paid amount of the complainant has not sent to the complainant till date. Thereafter on 30.04.2019 complainant sent legal demand notice via e-mail and also through speed post. Complainant states that on 13.06.2019 OP no.1 replied putting all the blame upon OP no.2 and denying all the facts as mentioned in the said legal notice.

Accordingly complainant initiated this case making his prayers details of which have been mentioned in the petition of complaint.

OP no.1 has contested the case by filing W/V denying all materials allegations and highlighted that OP no.1 is a company and enjoys immense goodwill and reputation for providing superlative services to the thousands of consumers and OP no.1 is a consumer centric company which manages through on line web portal i.e. www.goibibo.com.

It is also stated by OP no.1 that its act merely as a facilitator for booking and confirming of air tickets/hotel bookings on behalf of its customers with concerned service providers. OP no.1 also states that upon requests received from its customers, it forwards the same to the concerned service providers and upon receiving the confirmation from concerned service provider the Booking ID is generated and confirmed booking is shared with the concerned customer.

It is also stated by OP no.1 that issue of complainant regarding the poor and bad services of hotel (OP no.2), the answering OP no.1 cannot be held liable for deficiency in service provided by the hotel i.e. OP no.2 and OP no.1's liabilities and obligations are limited to the confirmation of booking and in this case for the complainant which was duly done.

OP no.1 also states that however, being a customer centric company OP no.1 has refunded 50% amount to the complainant as a goodwill gesture and for the inconvenient cost to the complainant despite the fact that complainant raised the issue post availing the stay without any complaint being raised on real basis. In this connection it may be noted that in W/V OP no.1 has set forth one reference showing in details about sending of such 50% amount of the total amount complainant paid in connection with the said booking. OP no.1 also states that this Commission has no territorial jurisdiction to entertain the present complaint. OP no.1 also states that complainant has miserably failed to make out any case against OP no.1. OP no.1 also states that OP no.1 has discharged its duties and obligations completely to the complainant. Ultimately OP no.1 has prayed for dismissal of the instant complaint case with exemplary costs.

POINTS FOR DECISION

1. Whether the complainant is the consumer to the OPs?

2. Whether this Commission has territorial and pecuniary jurisdiction to try and entertain this case?
3. Whether there is any deficiency in service or there is any unfair trade practice on the part of the OPs?
4. Is the complainant entitled to get reliefs as prayed for?

DECISION WITH REASONS

For the sake of convenience and brevity of discussion all the points are taken up conjointly for discussion.

First of all it may be noted that on close scrutiny on the materials on record it is very much clear that complainant is none but he is a consumer to the OPs.

Considering the addresses of the complainant including OPs and also considering the nature of the case and the prayers of the complainant this Commission is of the view that it clearly indicates that the subject matter of dispute is nothing but a consumer dispute and it straightway gives clear signal that the pecuniary value of the case is within the limit of this Commission and this Commission is also has territorial jurisdiction to entertain and try this case.

In support of his case complainant has filed evidence on affidavit which appears to be a replica of the contents of the petition of complaint.

It may be noted that in spite of service of notice OP no.2 did not come forward to contest the case and vide order dated 20.07.2022 this Commission passed an order observing that case will run ex parte against OP no.2.

It is pertinent to mention that though OP no.1 has filed W/V but, in spite of availing opportunities OP no.1 did not adduce any evidence. In the result, it can safely be said that the version which has been highlighted by the OP no.1 in its W/V has not at all been supported either by any oral evidence or documentary evidence, rather the allegation of OP no.1 has become simply an allegation without any basis. It can further be said that mere allegation cannot stand as a proof. The allegation must be substantiated or proved by cogent and appreciable evidence, but which is completely absent in this case on behalf of OP no.1.

On the other hand considering the evidence on affidavit and the relevant documentary evidence filed on behalf of the complainant it can be said that it certainly goes to prove that the allegation of complaint is proved.

Complainant as well as OP no.1 in their respective petition of complaint and W/V have categorically mentioned that OP no.1 offered refund of 50% of the paid amount of booking to the complainant.

In view of the above discussions and considering the attending facts and circumstances of the case this Commission is of the view that complainant has succeeded in proving his case and as such complainant is entitled to get the reliefs as sought for.

Hence, it is,

Ordered

the instant case no.CC/20/2019 be and the same is allowed on contest against OP no.1 and on ex parte against OP no.2 but without costs.

OP no.1 and OP no.2 are hereby directed jointly and severally to pay Rs.14, 550/-only to the complainant being the booking amount within 2 months from the date of this order.

OP no.1 and OP no.2 are also directed jointly and severally to pay to the complainant Rs.11, 000/-only for his travelling with his family members from Allahabad to Varanasi and also to pay Rs.15, 000/-only towards boarding charges of the complainant and his family members at Varanasi and said amount be paid by the OPs within 2 months from the date of this order.

OP no.1 and OP no.2 are also directed to pay jointly and severally Rs.10, 000/-only to the complainant as compensation towards harassment and pain faced by the complainant and his family members within 2 months from the date of this order.

OP no.1 and OP no.2 are directed jointly and severally to pay Rs.10, 000/-only towards litigation cost to the complainant within 2 months from the date of this order.

Let plain copy of this order be supplied to the parties free of cost.

Dictated and Corrected by

[HON'BLE MR. Shri Sankar Kumar Ghosh]
PRESIDENT

[HON'BLE MR. Shri Sankar Kumar Ghosh]
PRESIDENT

[HON'BLE MRS. Sagarika Sarkar]
MEMBER