

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

REVISION PETITION NO. 1663 OF 2022

(Against the Order dated 15/09/2022 in Appeal No. 81/2020 of the State Commission
Telangana)

1. SHANKAR SARANPetitioner(s)

Versus

1. CHAIRMAN APOLLO HOSPITALSRespondent(s)

BEFORE:

HON'BLE DR. INDER JIT SINGH, PRESIDING MEMBER

FOR THE PETITIONER : MR. SHANKAR SARAN, IN PERSON (THROUGH VC)

FOR THE RESPONDENT : EX-PARTE VIDE ORDER DATED 21.12.2023

Dated : 12 July 2024

ORDER

1. The present Revision Petition (RP) has been filed by the Petitioners against Respondents as detailed above, under section 58(1)b of Consumer Protection Act, against the order dated 15.09.2022 of the State Consumer Disputes Redressal Commission, Telangana (hereinafter referred to as the 'State Commission'), in First Appeal (FA) No. 81/2020 in which order dated 10.12.2019 of District Consumer Disputes Redressal Forum-III, Hyderabad (hereinafter referred to as District Forum) in Consumer Complaint (CC) No. 158/2018 was challenged, inter alia praying for: (i) setting aside the order passed by the State Commission, (ii) directing the Respondent to pay Rs.5,000/- towards compensation for causing immense mental and physical agony, (iii) directing the Respondent to pay Rs.20,000/- towards cost of litigation and (iv) directing the Respondent to refund the Registration Fee of Rs.200/- along with 9% interest w.e.f. 28.07.2017 to the date of full realization.

2. While the Revision Petitioner(s) (hereinafter also referred to as Complainant) was Appellant before the State Commission and Complainant before the District Forum and the Respondent (hereinafter also referred to as Opposite Party) was Respondent before the State Commission and Opposite Party before the District Forum.

3. Notice was issued to the Respondent(s) on 28.03.2023. Respondent did not appear despite service, hence was proceeded against ex parte. Written arguments were not filed by the parties.

4. Brief facts of the case, as emerged from the RP, Order of the State Commission, Order of the District Forum and other case records are that: -

The complainant went to Hyderabad from Vishakhapatnam on 28.07.2017 at about 8:00 A.M., on some personal work. He developed high blood pressure and found it was 140/90 on checking with digital BP instrument and thereafter went to Opposite Party hospital for checkup. The receptionist of the OP hospital asked for registration of name before the medical checkup. The complainant told the receptionist that he does not want to Register since he is from Vishakhapatnam, but he was compelled by the Receptionist for the registration and the complainant paid Rs.200/- for registration. After Registration, the medical checkup was done by the consulting physician and found his BP was normal, i.e. 120/80. The complainant paid Rs.500/- towards the consultation charges. The case of the complainant is that the "Registration" has been created in recent times to squeeze money from the patients, which amounts to unfair trade practice. Hence, the complainant filed complaint before the District Forum.

5. Vide Order dated 10.12.2019, in the CC N. 158/2018, the District Forum dismissed the complaint, the complaint being devoid of merits.

6. Aggrieved by the said Order dated 10.12.2019 of District Forum, Petitioner appealed in State Commission for setting aside the order passed by the District Forum. The State Commission vide order dated 15.09.2022 dismissed the appeal FA No. 81/2020 and confirmed the order of the District Consumer Forum.

7. Petitioner has challenged the said Order dated of the State Commission mainly/ inter alia on following grounds:

- i. The State Commission did not adjourn the final hearing even on the request of complainant on serious medical condition.
- ii. By denying the complainant for consultation of the doctor without prior Registration is in gross violation of the Hippocratic Oath (---will maintain the utmost respect for human life) and also amounts to deficiency in service under Section 2(1)(g) of the C.P.Act, 1986. This important point has been ignored and not found any mention in the orders of both the Fora below.

- iii. The Compulsorily Registration of patients and charging “Registration Fee” has no legal basis and is, therefore, illegal. In fact, there are still a few hospitals and Nursing Homes in Visakhapatnam that do not charge any Registration fee.
- iv. Registration does not provide any service or goods to the patient in lieu of the registration fee paid. Hence, it violates Section 2(1) (r)(1)(vi) of the C.P. Act, 1986.
- v. The District Forum –III drawn wrong conclusion in its order by stating that the complainant has, therefore, failed to prove that there was unfair trade practice on the part of the OP hospital in providing medical services to the complainant.
- vi. Violation of Section 13 (2) (a) of C.P.Act 1986- since day one, the OP absented from several hearings and did not submit its Counter which was due on 21.05.2018. The OP then filed IA dated 05.09.2018 after a delay 76 days, though complainant strongly objected to it in his reply, which was over-ruled. Hon’ble Supreme Court has passed orders that not more than 30 days +15 days=45 days total extension may be provided to any party to submit their version.

8. Heard Petitioner in person. Contentions/pleas of the Petitioner, on various issues raised in the RP, and Oral Arguments advanced during the hearing, are summed up below.

8.1 In addition to the averments made under the grounds (para 7), the petitioner contended that the complainant got himself registered and paid Rs.200/- under duress and also paid Rs.500/- in advance the doctor’s fee of Rs.500/-. Then only Dr. J. Anish Anand examined the complainant. The complainant raised three issues (i) does the hospital have any legal right to compulsorily ‘Register’ patients and charge ‘Registration Fee’ for the same in a whimsical manner and that too for no service or goods rendered to the patient in lieu of the registration fee? (ii) Can a hospital/doctor refuse to see a patient if the patient refuses to get ‘Registered’ but wants to see the doctor urgently? (iii) Are the actions (i) & (ii) of the hospital/doctor not violative of the ‘Hippocratic Oath’ taken by doctors worldwide? It is further contended that the registration

Charges are collected by the OP hospital, without providing any services. Many other hospitals, doing the registration, but not charging any registration fee. Hence, the OP

be directed to refund Rs.200/- with interest from the date of deposit and also OP be directed to pay compensation for causing immense mental and physical agony to the complainant and also to pay cost of litigation.

8.2 On the other hand Respondent contended before the Fora below that the complaint is not maintainable as there is no allegation of deficiency of service on the part of the opposite party. It was contended that the registration of a patient is to capture all the necessary demographics. Registration is done only once in a patient's life time. The details of the patients are preserved so as to be helpful for subsequent visits. A unique number (UHID) is provided to the patients at the time of registration. It is denied that the registration fee is wholly misplaced and misconceived. It was also contended that in case of emergency cases registration is not insisted as a condition precedent and only if the patient intends to undergo further treatment in the hospital, registration would be insisted. The complainant came to the hospital in non-emergency condition and since he wanted to get examined in the hospital, registration was insisted. It was contended that registration does not amount to unfair trade practice and it is not merely used to monitor the earnings of various doctors in the hospital and to distribute the earnings. The allegation made by the complainant are false, vexatious and baseless.

9. We have carefully gone through the order of the State Commission, District Forum, other relevant records and contentions of the Petitioner herein, who appeared in person and the plea of the Respondent as was taken before the Fora below. In this case, Appeal filed by the Petitioner herein before the State Commission was dismissed for non-prosecution on account of his absence. We have carefully gone through the order of the District Forum. The District Forum has given a well-reasoned order duly addressing the contentions of both sides. Extract of relevant paras of the order of the District Forum is reproduced below:-

“There is nothing in the evidence of PW1 that the opposite party misled the complainant with regard to the price at which medical service is provided and made any false representation with regard to service provided by them. All that was informed by the receptionist to the complainant is that registration is compulsory for the purpose of preserving his details for future reference. According to the complainant the receptionist informed him that in the absence of registration, the concerned doctor would not attend on him. This statement of the receptionist does not amount to unfair trade practice within the definition provided U/S 2(1) (r) of consumer protection Act 1986.

The Hon'ble Supreme Court in KLM Royal Dutch Airlines vs. Director General of Investigation and Registration, held as follows:- "in paragraph 24 thereof,

"Element of unfair trade practice definitely stands at a higher and onerous platform than the deficient service. For making out a case of unfair trade practice, an element is involved to the extent of making false and misleading statement and representation and in order to make a case of unfair trade practice. Such ingredients which are part and parcel of the concept of unfair trade practice have to be alleged and must be proved and established".

In the instant case there is neither such an allegation of any such false and misleading representation nor is there any proof provided by way of evidence as already pointed out.

The complainant has therefore failed to prove that there was unfair trade practice on the part of opposite party hospital in providing medical services to the complainant. This point is accordingly decided against the complainant."

10. We are in agreement of the observations/findings of the District Forum. The Revision Petition lacks merits, accordingly, the orders of the State Commission and District Forum are upheld. The Revision Petition is dismissed.

11. The pending IAs in the case, if any, also stand disposed off.

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DR. INDER JIT SINGH
PRESIDING MEMBER