

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION, CENTRAL MUMBAI**  
**Puravatha Bhavan, 2nd Floor, General Nagesh Marg, Near Mahatma Gandhi Hospital**  
**Parel, Mumbai-400 012 Phone No. 022-2417 1360**  
**Website- www.confonet.nic.in**

**Complaint Case No. CC/23/232**  
**( Date of Filing : 10 Apr 2023 )**

1. Garima Gairola Nanda

503, Shubhda Towers A-Wing, Sir  
Ponchkhawala Road, Worli Seaface,  
Mumbai-400030

.....Complainant(s)

Versus

1. Vlcc Health Care Ltd.

M-14 Greater Kailash - Ii, Commercial Complex,  
New Delhi-110048

.....Opp.Party(s)

**BEFORE:**

**HON'BLE PRESIDENT MRS. VANDANA MISHRA**  
**HON'BLE MEMBER MR. SANJAY S. JAGDALE**

**PRESENT: Complainant in person**  
**Opposite Party Absent**

**Final Judgement**  
**(05<sup>th</sup> November, 2024)**

**(Per - HON'BLE PRESIDENT MRS. VANDANA MISHRA)**

1. The present Complaint is filed by the Complainant alleging deficiency in service and unfair trade practice against the Opposite Party herein.
2. The facts giving rise to the present Complaint is as under.
  1. On 25<sup>th</sup> February, 2023, the Complainant booked the services of the Opposite Party which consisted of seven sessions for the Laser hair removal treatment. The Complainant made an advance payment of Rs.47,200/-. The procedure started on 25<sup>th</sup> February, 2023 and it had to be stopped midway as the Complainant's skin started burning due to the laser. The Technician carrying out the procedure informed the Complainant that it's not an issue

and applied a moisturizing cream assuring that the Complainant will be OK. There was no doctor at the clinic attend to the Complainant.

2. On 26<sup>th</sup> February, 2023 the Complainant informed the Opposite Party over phone that there is no improvement in her condition and requested to speak to their doctor as the burn marks had become darker and extremely painful. The Complainant by her email dated 27<sup>th</sup> February, 2023 sought refund of the amount paid by her. The Opposite Party refused to refund the advance paid by the Complainant. Even writing to the CEO of the Opposite Party and sharing the burn pictures with him didn't help and the Complainant had to seek the consultation of a private dermatologist to treat her burn injury.
3. The Opposite Party instead of refunding the amount paid by the Complainant offered to issue the credit note to use it for any other services of the Opposite Party or to give it to her family and friends. The Complainant however, refused as due to her harrowing experience, the Complainant did not wish to avail any services of the Opposite Party.
4. As the Opposite Party refused to refund the amount paid by the Complainant, the Complainant complained on National consumer helpline (NCH) on 20<sup>th</sup> March, 2023. The Opposite Party responded to the said Complaint on 20<sup>th</sup> March, 2023 stating that as per company policy, the advance amount cannot be refunded but can be used for other services or gifted to someone else.
5. Being aggrieved by the refusal of the Opposite Party to refund the advance payment made by the Complainant, the Complainant filed the present Complaint seeking the following reliefs.
  - a. Direct the Opposite Party to stop the unfair trade practice and to conduct the medical procedure under the supervision of the medical practitioner to safeguard public.
  - b. Refund of the advance amount Rs.47,200/-
  - c. Compensation for mental harassment and medical negligence Rs.1,50,000/-

- d. Cost Rs.20,000/- and
- e. Interest at the rate of 18% on the above sums from the date of payment  
i.e. February 25<sup>th</sup>, 2023 till the date of payment.
3. Despite receipt of notice the Opposite Party failed to file their Written Statement within the stipulated period and hence an order to proceed without Written Statement of the Opposite Party was passed on 13<sup>th</sup> December 2023.
  4. The Complainant filed her affidavit in evidence alongwith documents wherein in addition to the fact stated in the Complaint, the Complainant alleged illegal operation of the Opposite Party in contravention to the provisions of the Clinical Establishments (Registration and Regulation) Act, 2010.
  5. Both the Parties filed their written arguments and orally argued the matter. The Complainant filed supporting judgments of various District Commission passed against the Opposite Party in similar facts. The Complaint being proceeding without Written Statement, the Opposite Party was permitted to file the Written Arguments as well as argue the matter on legal points only.
  6. On perusal of the papers and proceedings of the present Complaint including the judgments relied upon by the Complainant and the oral arguments of both the parties, the following issues arise for our consideration.

Sr.No	Issues	Findings
1.	Whether this Commission has territorial jurisdiction to entertain the present Complaint?	Yes.
2.	Whether there is any negligence and or deficiency in the services of the Opposite Party?	Yes.
3.	Whether the Complainant is entitled to the relief claimed by her in the present Complaint?	Yes Partly.
4.	What order?	As Per The Final Order.

## **REASONING AND OBSERVATIONS**

7. **As to Issue no. 1 -**

- i. In their Written Argument the Opposite Party has raised the issue of territorial jurisdiction claiming that the cause of action arose at Haryana and the registered address of the Opposite Party is in New Delhi. The Complaint is filed under the Consumer Protection Act, 2019. As per section 34(2)(d) of Consumer Protection Act, 2019, a Complaint can be instituted in a District Commission within the local limits of whose jurisdiction the Complainant resides or personally works for gain. The address given by the Complainant in the cause title is within the Jurisdiction of this Commission and no evidence is brought before us by the Opposite Party to prove otherwise. Therefore, we hold that this Commission has territorial jurisdiction to entertain the present Complaint.

8. **As to Issue No.2, 3 and 4:-**

- i. The Complainant has filed receipts issued by the Opposite Party to prove payment of Rs.47,200/- made by her in advance. The Complainant has annexed the photographs of the burn injury suffered by her due to the laser treatment of the Opposite Party. The Complainant has also annexed various emails exchanged between the Complainant and the Opposite Party recording the injury suffered by the Complainant during the said laser treatment. The Opposite Party in their email dated 1<sup>st</sup> March, 2023 recorded that the Opposite Party does not have any refund policy instead they can offer credit note which the Complainant can use next time when she buys something from the Opposite Party. The Opposite Party also recorded that the said offer was only in order to close the matter amicably and showed its readiness to adjust the unexecuted package amount to some other services either for the Complainant or any of her friends and relatives. The Complainant by her email dated 1<sup>st</sup> March, 2023 refused to

accept the said offer and asked to refund the entire advance amount paid by her.

- ii. The Opposite Party argued that the said terms and conditions are mentioned in the invoice and are thus within the knowledge of and accepted by the Complainant and hence binding upon her. The said laser treatment was done only on the consent of the Complainant. The Opposite Party denied any negligence or deficiency in their services and contended that in some cases some side effects of treatment are possible. The burn marks are nothing but hyper pigmentation which is normal and goes away within 3 to 4 days. The Opposite Party also argued that the side effects can also be attributable to the negligence of the Complainant. The Complainant has annexed prescription dated 1<sup>st</sup> March, 2023 of Dr. Solanki Hemendra Jayantilal, MD, Dermatology to prove the treatment taken by her for the burn injury which remains unchallenged. The Opposite Party has not filed any medical literature or any expert opinion to prove that the burn suffered by the Complainant is normal side effects of the laser treatment not attributable to any negligence of the Opposite Party.
- iii. From the email communication it is clear that the Complainant did suffer burn injury and had to discontinue the procedure mid way in the first session itself. Though the invoice records about the non refund policy, it doesn't warn the Customers of the possible side effects of the treatment. The Opposite Party has not proved that the procedure was as per protocol and by or under the supervision of any doctor. There is nothing on record to prove that the said procedure which is a medical procedure, was done by or under the supervision of any qualified doctor. There is nothing before us to prove that any doctor at the Opposite Party's clinic attended to the Complainant's burn injury. As per the response of the Ministry of Health and Family Welfare dated 4<sup>th</sup> May 2023 to the Complainant's RTI

Application, the minimum qualification for conducting the Laser Hair Removal procedure is MD, Dermatology.

- iv. The only defense of the Opposite Party is that the amount once paid is not refundable as per the Opposite Party's Company Policy. However, said amount was paid for different sittings or sessions of hair removal. The Opposite Party's said policy of non refund is unilateral, detrimental to the interest of the Customers and amounts to an unfair trade practice. The Opposite Party Can't insist on acceptance of credit note instead of refund of the advance paid for the services as the Complainant being dissatisfied with the Opposite Party's service may not be willing to avail any of their services in future. The Opposite Party can't be permitted to impose their services on the Complainant. The Opposite Party thus not only been deficient in there service but also indulged into unfair trade practice by refusing to refund the advance amount and insisting the Complainant to accept credit note.
- v. From the above discussion, we conclude that, the Complainant has proved that the Opposite Party was not only deficient in their service to the Complainant but has also indulged into unfair trade practice by insisting the Complainant to accept credit note instead of refunding the amount paid in advance by her. The Complainant is therefore, entitled to the refund of the amount paid by her. The Complainant was compelled to file this complaint to seek redressal of her grievances. The act of the Opposite Party has thus resulted in physical, mental and financial harassment and agony to the Complainant for which also she is entitled to be compensated.
- vi. The Complainant also submitted that the operations of the Opposite Party are illegal as the Opposite Parties clinics are not registered under the clinical establishments (Registration and Regulation) Act, 2016 and in order to prove the same the Complainant relied upon the RTI response

dated 12<sup>th</sup> October, 2023 from the Director General of Health Services. The Complainant can file separate Complainant/legal proceeding before the appropriate authority for this grievance as this is beyond the jurisdiction of this Commission to look into. We therefore pass the following order.

**ORDER**

1. Complaint No. CC/23/232 is partly allowed.
2. The Opposite Parties are held to be guilty of the deficiency in services and unfair trade practice.
3. The Opposite Party is directed to refund to the Complainant Rs.47,200/- (Rupees Forty Seven Thousand Two Hundred Only) paid by her as advance for laser hair removal treatment, with interest @9% from 25<sup>th</sup> February, 2023 till payment and realization .
4. The Opposite Party is also directed to pay to the Complainant Rs.30,000/- (Rupees Thirty Thousand Only) towards compensation for physical and mental pain, harassment and agony.
5. The Opposite Party is also directed to pay Rs.10,000/- (Rupees Ten Thousand Only) towards cost of Complaint.
6. The aforesaid order shall be complied within 45 days of receipt of copy of the order.
7. A certified copy of this order be supplied free of cost to the parties.
8. Members set be returned to the Complainant.

Place – Parel

Date – 05/11/2024

Sd/-  
[HON'BLE MRS. VANDANA MISHRA]  
PRESIDENT

Sd/-  
[HON'BLE MR. SANJAY S. JAGDALE]  
MEMBER