

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION,
ERNAKULAM**

Dated this the 26th day of September 2024

Filed on: 23/08/2023

PRESENT

Shri. D.B. Binu

President

Shri. V. Ramachandran

Member

Smt. Sreevidhia T.N

Member

C.C. No. 594/2023

COMPLAINANT

Arun M R, Madampilly House, Edavoor P.O, Onambilly, Koovappady,
Ernakulam Dist.-683544

(Rep. by Adv. Tom Joseph, Advocate, Court Road, Muvattupuzha – 686661)

V/s

OPPOSITE PARTIES

M/s RBL Bank Ltd., 1st Lane, Shahupuri, Kolhapur, Maharashtra -416001,
Represented by its Managing Director.

FINAL ORDER

D.B. Binu, President

1. A brief statement of facts of this complaint is as stated below:

The Complaint filed under Section 35 of the Consumer Protection Act, 2019. The complainant availed of a credit card facility from the opposite party, based on their assurances that the service would have no hidden or yearly charges. The complainant was issued the card bearing No. 4391 2308 7266 6799. He utilized the card to purchase fuel worth Rs. 50,000. Despite waiting for 40 days, the complainant did not receive any message regarding the payment. He made repeated phone calls to the opposite party, but there was no response. As a result, the complainant decided to close the credit card account. Upon inquiry, he was informed that Rs. 50,590 was due, which he paid through the PhonePe application on 03.01.2022.

On the same day, the complainant requested the opposite party to close the account, and they assured him of the same. However, instead of closing the account, the opposite party sent a message on 02.11.2022 demanding Rs. 4,718 and later increased the demand to Rs. 13,153. Subsequently, the complainant received a legal notice on 19.07.2023, demanding Rs. 14,859. The complainant responded, pointing out that the credit card mentioned in the notice was never issued to him and requested the opposite party to remove his name from the CIBIL defaulters' list.

Despite receiving the reply, the opposite party took no action to correct the CIBIL record. The complainant's credit score fell drastically from 760 to 390, preventing him from accessing any loan facility. The complainant argues that the opposite party's failure to close the account and update his CIBIL score amounts to a deficiency in service and unfair trade practice. Consequently, he claims compensation of Rs.4,00,000 for the financial loss, mental agony, and hardship caused and seeks the removal of his name from the CIBIL defaulters' list.

This complaint highlights a case of deficiency in service and improper handling of the credit card account closure by the opposite party.

2. Notice

The Commission issued notice to the opposite party, but they failed to file their version within the statutory period and were set ex-parte.

3. Evidence

The complainant submitted a proof affidavit along with three documents marked as **Exhibits A1 to A3**.

- **Exhibit A1:** A copy of the payment details dated 03.01.2023
- **Exhibit A2:** Copy of lawyer notice dated 19.07.2023
- **Exhibit A3:** Copy of reply notice dated 09.08.2023

4. Points for Analysis:

i) Whether the complaint is maintainable or not?

ii) Whether there is any deficiency in service or unfair trade practice from the side of the opposite party to the complainant?

iii) If so, whether the complainant is entitled to any relief from the side of the opposite party?

iv) Costs of the proceedings, if any?

This complaint is filed under Section 35 of the Consumer Protection Act, 2019, wherein the complainant alleges deficiency in service and unfair trade practices by the opposite party. The complainant availed of a credit card from the opposite party based on assurances of no hidden or yearly charges. Despite paying the outstanding dues and requesting the closure of the account, the opposite party failed to act on the request, leading to financial loss and a drastic reduction in the complainant's CIBIL score. The opposite party did not file their version and was set ex-parte.

5. Argument Notes Filed by Mr. Tom Joseph, Counsel for the Complainant

The complainant, after being assured by the opposite party that there would be no hidden charges or yearly fees associated with the credit card, availed their facility. He made a transaction of Rs. 50,000, which he cleared in full on 03.01.2022. Despite his payment and subsequent request to close the credit card account, the opposite party failed to do so, and instead continued to make unjustified demands for further payments.

Failure to Close the Account:

The complainant immediately cleared his outstanding dues on 03.01.2022 through the PhonePe application. On the same day, he requested the closure of his credit card account. Despite assurances from the opposite party that the account would be closed, they failed to do so. Instead, they continued to demand additional payments, first for Rs. 4,718, which later increased to Rs. 13,153, and subsequently to Rs. 14,859.

Issuance of Legal Notice:

The complainant was issued a legal notice on 19.07.2023 by the opposite party's lawyer, demanding Rs. 14,859, for a credit card that had not been issued to him. The complainant responded to the notice, denying the claim and requesting the removal of his name from the CIBIL defaulter list. Despite the

response, the opposite party took no action to address his concerns or update the CIBIL records.

Deficiency in Service and Unfair Trade Practice:

The failure of the opposite party to close the credit card account as per the complainant's request constitutes a clear deficiency in service. Furthermore, the continued and unwarranted demands for payment, and the failure to update the complainant's CIBIL record, amount to an unfair trade practice. The complainant's CIBIL score was unjustly reduced from 760 to 390, causing him significant financial loss and mental distress.

Impact on the Complainant:

Due to the opposite party's inaction, the complainant has been deprived of accessing loan facilities, as his CIBIL score has been severely impacted. The opposite party's actions have caused the complainant undue financial hardship and mental agony, for which he seeks compensation.

Relief Sought:

The complainant requests the Commission to direct the opposite party to:

Remove his name from the CIBIL defaulter list.

Restore his CIBIL score to its original state.

Compensate him for the financial loss, mental agony, and hardships he has endured, amounting to Rs. 4,00,000.

Conclusion:

The complainant prays that the Commission allows his plea and grants the relief sought.

Relief Sought: The complainant is entitled to;

1. Rs. 4,00,000/- (Rupees four lakh only) as compensation for the financial loss, mental agony and hardships.
2. The cost of the proceedings.

The evidence presented included an ex-parte proof affidavit filed by the complainant, and it was unchallenged by the opposite party. Therefore, the complainant's claims were considered credible and supported by the evidence. The opposite party's conscious failure to file their written version despite having received the Commission's notice amounts to an admission of

the allegations levelled against them. The case of the complainant stands unchallenged by the opposite party. **The Hon'ble National Commission held a similar stance in its order dated 2017 (4) CPR page 590 (NC).**

We have carefully considered the submissions made by the complainant, as well as reviewed the entire evidence on record, including the argument notes presented by the complainant.

i) Maintainability of the Complaint:

The complaint is filed within the statutory period under the Consumer Protection Act, 2019. The complainant qualifies as a 'consumer' under the Act, having availed of the credit card facility provided by the opposite party. Since the complainant has alleged deficiency in service and unfair trade practices, this Commission has the jurisdiction to entertain the matter. The complaint is, therefore, maintainable.

ii) Deficiency in Service and Unfair Trade Practices:

The complainant has provided clear evidence, supported by **Exhibits A1 to A3**, that the opposite party failed to act on his instructions to close the credit card account, despite the outstanding dues being cleared. Moreover, the issuance of a legal notice demanding an unjustified amount and the failure to rectify the complainant's CIBIL record constitutes a clear case of deficiency in service under the Consumer Protection Act, 2019.

Legal precedent from Lucknow Development Authority v. M.K. Gupta [(1994) 1 SCC 243] holds that failure to provide a service as agreed or promised constitutes a deficiency in service. The opposite party's continued demands and neglect in updating the complainant's CIBIL score reflect not only negligence but also unfair trade practice as defined under Section 2(47) of the Consumer Protection Act.

iii) Entitlement to Relief:

The complainant's CIBIL score was reduced from 760 to 390 due to the opposite party's actions, resulting in significant financial loss and mental agony. This impact on the complainant's financial standing qualifies for compensation under Section 39(1)(d) of the Consumer Protection Act, 2019.

The Hon'ble National Consumer Disputes Redressal Commission held that failure to file a written version and rebut allegations amounts to an admission of those allegations. The opposite party, by remaining ex-parte, has not contested the complainant's claims, and thus the relief sought must be considered.

iv) Costs of Proceedings:

The opposite party's negligence in addressing the matter and failure to appear before the Commission justifies the awarding of costs to the complainant. The costs are awarded to cover the legal expenses and hardships endured during the proceedings.

Liability of the Opposite Party:

The opposite party is liable for the financial and mental hardships suffered by the complainant due to their inaction. Their failure to file a response within the statutory period and their ex-parte status solidify the complainant's case.

The complainant in this case, like many consumers, trusted the promises made by the opposite party, believing that there would be no hidden charges or additional fees. His disappointment and frustration grew when, despite his diligence in settling all dues and requesting the closure of his credit card account, the opposite party failed to act. What followed was a series of unjustified demands and a sharp drop in his CIBIL score, causing immense emotional and financial stress. It is unfortunate that in today's digital age, where communication and financial transactions should be seamless, a simple request to close a credit card account spiralled into a prolonged ordeal for the complainant. The pain and frustration he endured, relying on his creditworthiness for financial stability, serve as a reminder of the importance of prompt, responsible service by financial institutions. This Commission acknowledges the human toll this has taken on the complainant and recognizes the need for fair compensation to address both the tangible and intangible harm caused.

Conclusion:

In light of the evidence presented, the arguments made by the complainant, and the absence of any rebuttal by the opposite party, the Commission concludes that the complainant is entitled to the relief sought. The complainant has demonstrated that there was a substantial deficiency in service and unfair trade practices on the part of the opposite party. Issues (i) to (iv) have all been resolved in the complainant's favour, as the opposite party's negligence has caused significant inconvenience, mental distress, financial losses, and other hardships for the complainant. The opposite party's failure to act responsibly after repeated requests by the complainant exacerbated the situation, leading to a considerable decline in the complainant's financial standing and peace of mind.

Considering the gravity of these circumstances, we hold the opposite party liable to compensate the complainant for the damages suffered. Therefore, the opposite party is directed to provide the compensation awarded, ensuring justice is served in light of the hardship endured by the complainant.


Hence the prayer is partly allowed as follows:

- I. The opposite party will ensure removal of the name of the complainant from the CIBIL defaulter list and take immediate steps to restore the complainant's CIBIL score into its original status.
- II. The opposite party is further directed to compensate the complainant by paying an amount of **Rs. 1,00,000/-** (Rupees One Lakh only) for the financial loss, mental agony, and hardship caused by the opposite party to

- the complainant due to the negligent action deficiency of service and unfair trade practice which is endured by the complainant.
- III. The opposite party shall also pay **Rs. 10,000/-** (Rupees Ten Thousand only) towards the costs of the proceedings.

The opposite party is liable to fulfil the above orders, which must be executed within **45 days** from the date of receiving this order. Failure to comply with the payment orders under points (II) and (III) will result in interest at the rate of **9% per annum** from the date of filing the complaint (23.08.2023) until full payment is made.

Pronounced in the Open Commission on this the 26th day of September, 2024.


D.B. Binu, President


V. Ramachandran, Member


Sreevidhia F.N., Member

APPENDIX

COMPLAINANT'S EVIDENCE

- **Exhibit A1:** A copy of the payment details dated 03.01.2023
- **Exhibit A2:** Copy of lawyer notice dated 19.07.2023
- **Exhibit A3:** Copy of reply notice dated 09.08.2023

OPPOSITE PARTY'S EVIDENCE

Nil

Date of Despatch

By Hand ::

By post ::