

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

Consumer Complaint No.	:	CC/190/2022
Date of Institution	:	11.2.2022
Date of Decision	:	4/10/2023

Sh. Ankit Singla S/o late Sh. Mahavir Prasad resident of House No.106-B, Society Metro Town, Peermuchalla, Dhakoli, Zirakpur, Pin 140603.

Address given in passport:

House No.448, First floor, Sector 12, Panchkula, Haryana 134112. (stayed here till 25th October 2020)

... Complainant

V E R S U S

1. Regional Passport Office SCO 28-32, Sector 34-A, Chandigarh through passport officer.
2. Passport Seva Kendra, Plot No.50, Industrial Area Phase-2, Chandigarh.
3. Indian Postal Office Sector 8, Panchkula through its Chief Post Master General.

... Opposite Parties

CORAM : **SHRI PAWANJIT SINGH** **PRESIDENT**
 MRS. SURJEET KAUR **MEMBER**

ARGUED BY : complainant in person.
 : Sh. Indresh Goel, Advocate for OPs No.1&2.
 : Sh. Chinmay Gupta, Public Relation Inspector(P) of OP No.3.

Per Pawanjit Singh, President

1. The present consumer complaint has been filed by the complainant under Section 35 of the Consumer Protection Act 2019 against the opposite parties (hereinafter referred to as the OPs). The brief facts of the case are as under :-
 - a. It transpires from the averments as projected in the consumer complaint that the passport of the complainant had expired on 10.7.2018 copy of which is annexed as Annexure C-1 and accordingly the complainant had applied for renewal/reissue of passport vide application No. CH4074456498819 which was acknowledged vide receipt Annexure C-2. The complainant runs a company related to web designing and development etc. and he

had applied for renewal of the passport for the reason that he had to scale his IT business and in that connection he wanted to visit Australia where his brother's family also resided and wanted to meet the family. Accordingly the complainant had planned to visit Australia alongwith his mother in the month of January 2020. On 7.1.2020 the complainant received an mail Annexure C-3 from the OP No.1 intimating the complainant that passport has been dispatched on 6.1.2020 with passport No.U6505348 file No.CH4074456498819 tracking No.PP844769068IN. Thereafter the complainant started tracking the status of the passport with the given tracking number but every time it was told that there is no tracking number available. When the complainant did not get the passport within the reasonable time he contacted OP No.3 the postal department but when it was intimated to the complainant that no such passport has been received by the postal department, the complainant contacted OPs No.1&2 and again he was informed that his passport has been dispatched on 6.1.2020. During the COVID19 when the first lockdown in March 2020 was clamped and the complainant did not get his passport, he left with no other option but to wait for the situation to ease. Thereafter in the month of September 2020 on the improvement of COVID19 situation, the complainant again made several requests in reference to his passport to OPs No.1&2 but again he received email from the OPs No.1&2 Annexure C-6 intimating that the passport of the complainant has already been dispatched on 6.1.2020. Due to non-availability of passport, the complainant could not travel abroad in November 2020 for honeymoon. Not only this even his wife had also suffered due to the non-availability of the passport of the complainant. The complainant also tried to contact the OPs on twitter but could not succeed. Thereafter he applied for information under RTI Act from OPs No.1&2 and again vide Annexure C-10 informed the complainant that the passport was dispatched on 6.1.2020. As the complainant could not get the renewed passport within the reasonable time, the aforesaid act amounts to deficiency in service and unfair trade practice on the part of OPs. OPs were requested several times to admit the claim, but, with no result. Hence, the present consumer complaint.

- b. OPs No.1&2 resisted the consumer complaint and filed their written version, inter alia, taking preliminary objections of maintainability, jurisdiction, cause of action and also that there is no malafide intention on the part of answering OPs. However, it is alleged that the subject passport of the complainant was received by the answering OPs and the same was renewed and is valid till 2.1.2030, which was accordingly dispatched to the complainant. It is further alleged that when the answering OPs came to know about the aforesaid fact they immediately arranged fresh passport without charging any fee in the month of April 2022 and the same has been duly received by the complainant. However, it is alleged that the fault if any is with the Postal authorities who had not delivered the passport to the complainant due to different address of the complainant where he has been residing. 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. OP No.3 in its written version took preliminary objection of maintainability, jurisdiction and non-joinder of necessary part and locus standi. On merit it is specifically denied that if any such article bearing No.PP844769068IN was received at the delivery post office. The cause of action set up by the complainant is denied. The consumer complaint is sought to be contested.
 - d. In replication, complainant reiterated the claim put forth in the consumer complaint and prayer has been made that the consumer complaint be allowed as prayed for.
2. In order to prove their case, parties have tendered/proved their evidence by way of respective affidavits and supporting documents.
 3. We have heard the complainant in person, learned counsel for the OPs and also gone through the file carefully, including the written arguments and supplementary written arguments.
 - i. At the very outset, it may be observed that when it is an admitted case of the parties that the complainant had applied for renewal of the subject passport with OPs No.1&2 on 17.12.2019 and intimation through email Annexure C-3 was received by the complainant from OPs No.1&2 that the passport has been dispatched on 6.1.2020 and when the same was not received, the complainant approached the OPs No.1&2 with the request to track the subject passport, the case is reduced to a narrow compass as it is to be determined if the subject passport was dispatched by the OPs No.1&2 to the complainant and the same was not delivered to the complainant within the reasonable time and the aforesaid act of OPs amounts to deficiency in service and the complainant is entitled for

- relief as prayed for as is the case of the complainant or if the complainant has filed false complaint against the OPs and this Commission has no jurisdiction to try the complaint and the same is liable to be dismissed as is the defence of the OPs.
- ii. In the back drop of the foregoing admitted and disputed facts on record, it is clear that the entire case of the parties is revolving around the point if the OPs No.1&2 had not dispatched the passport to the complainant, or if the same was dispatched by them and the same was not delivered by OP No.3 or if the complainant has filed false complaint against the OPs and in order to prove the fact if the passport was duly dispatched by OPs No.1&2 to the complainant, the onus lies upon the OPs No.1&2. Though OP No.1 has intimated through various emails to the complainant that the subject passport had been dispatched by it and it can be verified with tracking No.PP844769068IN but the OPs No.1&2 have failed to produce any record i.e. postal receipt, dispatch number etc. in order to show that the subject passport was ever dispatched from their office through the speed post and in this manner OPs No.1&2 had failed to discharge the onus to prove the fact that the subject passport was ever dispatched by them on 6.1.2020. As OPs No.1&2 have failed to prove on record that the subject passport was dispatched by their office on 6.1.2020, the OP No.3 postal office cannot be held liable for the non delivery of the parcel containing the subject passport, which was not received by it from OPs No.1&2 and as such it can be safely held that in fact the OPs No.1&2 had not dispatched the subject passport to the complainant on 6.1.2020, which was not received by the complainant. However, when it is an admitted case of the parties that the complainant had received the subject passport during the pendency of the instant complaint which fact has been admitted by the complainant in replication, it is further safe to hold that complainant is not entitled for the first relief through which he sought direction of re-issuance of the subject passport to the complainant. However, as it stands proved on record that the OP No.1&2 failed to prove on record that the subject passport was dispatched by them on 6.1.2020 to the complainant through speed post and due to their negligent act the subject passport was not delivered to the complainant within reasonable time, the aforesaid act of OPs No.1&2 amounts to deficiency in service as it was the duty of OPs No.1&2 to ensure if the department has delivered the passport to the addressee i.e. the complainant or not.
- iii. The learned counsel for the complainant has relied upon the judgment of Hon'ble Gujarat High Court in case titled as **Chandrakant Narsinghbhai Patel Vs. Regional Passport Office and Others in Special Civil Appeal No.11008 of 2002 decided on 23.12.2002** wherein held as under: _

“Passports Act, 1967, Section – Passport- Delivery of Method-Held passport is a property of person which is to be delivered property person concerned-when passport is send through postal department then it is duty of passport officer to ensure whether department has delivered to the addressee or person concerned or nor.”

- iv. The complaint has also been resisted by OPs No.1&2 on the ground that the complaint of the complainant is not maintainable before this Commission as this Commission cannot direct OPs No.1&2 to re-issue the passport and also that the passport authorities cannot be equated with the meaning of service and the complainant cannot be held to be a consumer, which is also held by the Hon'ble State Commission, Punjab, Chandigarh in case titled as **Passport Officer, Ranjeet Avenue, Amritsar Vs. Avtar Singh Gondara in First Appeal No.856 of 2012 decided on 8.10.2015.**
- v. On the other hand learned counsel for the complainant relied upon the judgment of the Hon'ble National Commission in case titled as **Passport Officer vs. Richa Bhandari in Revision Petition No.120 of 2015 decided on 17.3.2016.** wherein held as under:-

“Consumer Protection Act, 1986 Sections 2(1)(d), 2(1)(f), 2(1)(g) and 21(b)- Consumer- Passport-Delay in issuance-A person who applies for passport and to whom a passport is ordered to be issued, is a consumer-He will be consumer only in respect of activities which the passport office or agency to which such activities are outsourced, undertakes,

after decision of passport officer to issue a passport to applicant-Unjustified delay in preparation, issue, dispatch and delivery of passport, occurring after the decision to issue passport to applicant or any other defect or deficiency in activities would constitute defect or deficiency in service as defined in Sections 2(1)(f) and 2(1)(g) respectively of the Act-Consumer complaint, seeking compensation for such a defect or deficiency is maintainable”.

- vi. In view of the ratio of law laid down in the order passed by the Hon’ble National Commission which are also in lines with the facts of the present case, since the complainant is not seeking direction at the time of arguments to OP No.1 to re-issue the passport as the same has already been received by the complainant during the pendency of the complaint. The ratio laid down in the case of **Passport Office, Ranjeet Avenue Amritsar(supra) is not applicable in the instant case and the case of complainant is fully covered with case Passport officer(supra) since the complainant is only aggrieved** with regard to the deficient act of the OPs No.1&2 who failed to explain the delay in preparation, issue, dispatch and delivery of the subject passport, which caused harassment to the complainant, the aforesaid act of OPs No.1&2 amounts to deficiency in service and the complainant is entitled for compensation for harassment suffered due to the aforesaid act of the OPs No.1&2.
4. In the light of the aforesaid discussion, the present consumer complaint succeeds, the same is hereby partly allowed and OPs No.1&2 are jointly and severally directed as under :-
- i. to pay an amount of ₹10,000/- to the complainant as compensation for causing mental agony and harassment to him;
 - ii. to pay ₹10,000/- to the complainant as costs of litigation.
5. This order be complied with by the OPs No.1&2 within thirty 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) above, with interest @ 12% per annum from the date of this order, till realization, apart from compliance of direction at Sr.No.(ii) above.
6. Complaint against OP No.3 stands dismissed.
7. Pending miscellaneous application(s), if any, also stands disposed off.
8. Certified copies of this order be sent to the parties free of charge. The file be consigned.

Announced

4/10/2023

mp

Sd/-

[Pawanjit Singh]

President

Sd/-

[Surjeet Kaur]

Member