

**BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL  
COMMISSION KANGRA AT DHARAMSHALA, H.P.**

Date of Institution: 25.02.2024  
Date of final hearing: 03.06.2024  
Date of Pronouncement: 03.06.2024

Consumer Complaint No.-93/2024

IN THE MATTER OF

Kamal Nain s/o late Sh. Vyas Gir alias Roshan Lal r/o Ward no. 4, House no. 1317, Suraj Kund Road, Kangra Pin code-176001.

(Through: Mr. Sushil Jamwal, Advocate)  
.....Complainant

Versus

Managing Director Vibrill Hospitality Limited 501-A, Pinnacle Corporate Park, Bkc Bandra (East) Vill Kole Kalyan, Mumbai (400051).

(Already Ex-parte)  
.....Opposite Party(s)

CORAM:

President: Mr. Hemanshu Mishra  
Members: Ms. Arti Sood & Sh. Narayan Thakur

Present:- Mr. Sushil Jamwal, Ld. counsel for complainant.  
Opposite party already ex-parte.

PER: Mr. Hemanshu Mishra, President:-

**ORDER**

The complainant has filed instant complaint seeking direction to the opposite party(s) as under:-

- i. The amount of Rs. 69,000/- be paid to the complainant as insured declared value of the vehicle as mentioned in the policy at the time of issuance of policy document.
- ii. Sum of Rs.50,000/- as compensation for unfair trade practices/cheating/breach of trust.
- iii. Payment of Rs.20,000/- as litigation expenses.

2. Brief facts of the present complaint are that the Opposite Party made a phone call regarding some plan regarding stay on holidays in various hotels and asked the complainant to meet the representatives of Opposite Party at venue Clarks Hotel Kangra. The complainant along with his family members visited the Opposite Party on 14/01/2023 at Hotel Clarks Kangra and as per the plan the Opposite Party advised the complainant to have a membership in Vibrill Hospitality scheme. The Opposite Party told the complainant that the Opposite Party will arrange the complainant to have holidays in number of hotels for a definite period of five years and accordingly the complainant agreed to same. It was stated by the Opposite Party that

membership price will be Rs.1,65,000/- and the down payment for the said membership was Rs.69,000/-. The complainant was apprised from the plans of Opposite Party and the complainant transferred an amount of Rs.69,000/- through Google pay. It was assured by the Opposite Party that one kit will be provided alongwith a confirmation letter for the said membership within 15 days of the membership.

3. It is further pleaded that in the third week of February, 2023 the complainant along with his family members planned for a trip for Shimla as per the assurance given by the Opposite Party. The complainant demanded for the confirmation letter but the Opposite Party delayed the matter on one pretext or other. At last the complainant had to cancel his tour along with his family members to Shimla. The son of the complainant again approached the representative of the Opposite Party with second email on 26 April, 2023 with the prayer to look into the matter regarding the refund of the amount. On 4/7/2023 the email was received by the son of the complainant vide which the details were given that the cancellation charges to the tune of Rs.17700/- and bank charges to the tune of Rs.1725/- total amounting to Rs.19425/- will be deducted and the amount of Rs.49,575/- will be credited in the bank account of the complainant. The complainant waited for more than 90 days and thereafter many a times approached the Opposite Party with mobile calls as well as whatsapp messages to which the replies were sent by the representatives of the Opposite Party for certain period and thereafter the Opposite Party did not reply to the whatsapp messages as well as mobile calls. Alleging deficiency in the service on the part of opposite party(s), the complainant has filed the present complaint.

4. Notices were sent to opposite party(s) by this Commission, which were duly served, but none appeared on behalf of opposite party(s) and opposite party(s) were proceeded ex-parte.

5. The complainant was called upon to produce evidence. In order to prove his complaint, complainant has filed affidavit Ext.CW-1 along with documents Annexures A to L.

6. On the other hand, opposite party despite of valid service did not bother to contest the complaint and opted to remain ex-parte.

7. We have heard learned counsel for the complainant and have gone through the case file minutely.

8. Admittedly, the complainant had paid Rs.69,000/- to Vibrill Hospitality Ltd. i.e. opposite party on 14.01.2023. The opposite party

issued annexure-B, the membership card having No.VHL2202211138, which is valid from 14.01.2023 to 13.01.2028. As per affidavit of the complainant annexure CW-1, the complainant waited for confirmation letter of said membership, but no confirmation letter was received. Thereafter, the complainant telephonically asked the opposite party about the confirmation letter and it was told that the confirmation letter was to be prepared by Bombay agency of the opposite party and more time was sought.

9. The complainant in his affidavit has further stated that in the 3<sup>rd</sup> week of February, 2023 the complainant alongwith his family planned trip for Shimla, but opposite party delayed the confirmation letter and the complainant had to cancel his tour to Shimla. In the first week of March, 2023, the complainant again planned the trip, but the same was also cancelled due to non availability of confirmation letter. The complainant again sent an email to the opposite party vide annexure-E. In response of this email on 03.04.2023 the opposite party assured the complainant that refund will be done within 15 days from the approval date. Thereafter, again the complainant got email on 04.07.2023 to the effect that Rs.19,425/- will be deducted and the complainant will get an amount of Rs.49,575/- and it will take 45 to 90 days, but till now no amount has been refunded to the complainant.

10. After receiving the advance amount of Rs.69,000/-, no confirmation letter was issued. Two trips of the complainant along with his family were cancelled and earlier refund was allowed, but no amount has been refunded to the complainant. Without giving any confirmation letter the opposite party on 04.07.2023 informed the complainant that Rs.19,425/- will be deducted and the complainant will get an amount of Rs.49,575/- and it will take 45 to 90 days.

11. On the other hand, opposite party despite of valid service did not bother to contest the complaint and opted to remain ex-parte. Thus, the evidence adduced by the complainant remains unrebutted and unchallenged. There is no reason to disbelieve the cogent and convincing evidence adduced by the complainant.

12. In our considered opinion once the opposite party has not issued the confirmation letter than the opposite party cannot deduct any amount in lieu of refund. The opposite party is liable to refund entire amount received through the complainant. The opposite party had committed gross unfair trade practice by alluring the complainant initially and then delaying the refund on one pretext to another. Hence, complaint deserves to be allowed.

13. Accordingly, the complaint is allowed and opposite party is directed to refund an amount of Rs.69,000/- to the complainant along with interest @ 9% per annum from the date of complaint i.e. 25.02.2024 till its realization. Apart from this, opposite party is also directed to pay compensation to the complainant to the tune of Rs.50,000/-, besides litigation cost quantified as Rs.10,000/-.

14. Applications pending, if any, stand disposed of in terms of the aforesaid judgment.

15. A copy of this judgment be provided to all the parties free of cost as mandated by the Consumer Protection Act, 1986/2019. The judgment be uploaded forthwith on the website of the Commission for the perusal of the parties.

16. File be consigned to record room along with a copy of this Judgment.

(Hemanshu Mishra)  
President

(Narayan Thakur)  
Member

(Arti Sood)  
Member