

BEFORE THE PRESIDENT, DISTRICT CONSUMER DISPUTES REDRESSAL  
COMMISSION, HISAR

Consumer Complaint No.:664/2022

Date of Institution: 02.12.2022

Date of Decision : 21.05.2024

Sumit Pannu son of Sh. Satyapal Singh Pannu, age 30 years, resident of H. No.1437,  
Sector-13, Hisar, Mobile No.8950504933.

.....Complainant

Versus

1. Xiaomi Technology India Private Limited, Building Orchid, Block E, Embassy Tech Village Marathahalli Outer Ring Road, Devarabisanahalli, Bengaluru 560103 through its Principal Officer.
2. Golden Telecom, 1<sup>st</sup> Floor, Scf-2, M C Area, Near HDFC Bank, Red Square Market, Railway Road, Hisar, Haryana-125001 through its authorized signatory.
3. Darshita Aashiyana Pvt. Ltd seller of Amazon India No.1/B, Indospace Logistics Park, Puduvoyal, Durainallur Village, Ponneri Taluk Thiruvalluvar, Tamil Nadu, 601206 through its authorized signatory.

.....Respondents

**Complaint under Section 35 of 2019 of Consumer Protection Act**

**Before: SHRI JAGDEEP SINGH, PRESIDENT  
MRS. RAJNI GOYAT, MEMBER  
DR. AMITA AGARWAL, MEMBER**

**Present:** Complainant in person.  
Sh. Abhishek Aggarwal, Advocate for respondent no.1.  
Respondent no.2 exparte vide order dated 28.02.2023.  
Respondent no. 3 exparte vide order dated 31.01.2023.

**ORDER BY:-**

**SHRI JAGDEEP SINGH, PRESIDENT**

Complainant has filed this complaint under Section 35 of the Consumer Protection Act against the respondents/Opposite Parties (hereinafter to be referred as

Ops) with the prayer for directing the Ops to pay the actual amount of smartphone to the complainant i.e. Rs.20999/- apart from an interest on bill amount alongwith compensation and other relief etc.

2. Brief facts of the present case are that after hearing of a lot about the product manufactured by OP no. 1 the complainant placed online order from OP no. 3 who is seller on amazon.in of one smartphone Redmi Note 11 Pro + 5G (Mirage Blue, 6GB RAM, 128 GB Storage) bearing IMEI No.860041050765885 of an amount of Rs.20,999/- on dated 17.3.2022. The complainant purchased the abvoesaid smartphone with such a higher capacity storage with a view to have access to his legal work and with a view to have storage of his legal drafting and after considering other aspects. Further submitted that initially the smartphone works up to mark but after passage of 1 months, the smartphone started troubling as follows:

- i) The incoming and outgoing calls automatically disconnect's without disconnecting, ii)malfunctioning of vibration in the smartphone, iii) later after few days the smartphone in question stopped catching signals.

3. The complainant requested the call back from the amazon on their toll free number about the issues faced by the complainant in just few days in the said smartphone and the executive of amazon.in on behalf of OP no. 3 stated that if the complainant wants to get the smartphone repair, then he should contact the OP no. 1 who is manufacturer

of the said smartphone or the OP no. 2 who is the service centre of the OP no. 1 in this regard. The complainant immediately rushed to the OP no. 2 who is authorized service centre of OP no. 1 on 4<sup>th</sup> May 2022 for the solution of the above stated problem. Further the complainant upon reaching the OP no. 2 service centre was shocked to see the rude behavior of the representative of the OP no. 2 and the OP no. 2 without issuing any job sheet has reinstalled the main software in the smartphone in question. Further the OP no. 2 assured the complainant that all the defects and problem will be resolved after reinstalling the main software in the smartphone and the smartphone in question will work smoothly without any problem or defect. Further submitted that the OP no. 2 have not issued any job sheet to the complainant and upon asking about the job sheet to the OP no. 2, the OP no. 2 replied that as per the policy and rules of the OP no. 1, updating and reinstalling the main software or inspecting software and hardware defect it is not necessary to issue job sheet to the consumer and further the OP no. 2 assured the complainant that smartphone in question will work properly and no such problem will arise against in future.

4. Further submitted that the smartphone in question again started malfunctioning after few days and the complainant again rushed to the OP no. 2 on 10.6.2022 and the complainant explained the malfunction of vibration as well as network problem to the OP no. 2 and requested the OP no. 2 to solve all the defects in the smartphone. Further submitted that the OP no. 2 reinstalled the software without issuing

any job sheet and the OP no. 2 technician stated that if the defect again arises then the OP no. 2 have to open and check the hardware of the smartphone. Further submitted that the smartphone in question again started malfunctioning after 15-16 days and the complainant as usual rushed to the OP no. 2 on 27.6.2022 and the complainant shocked and surprised that again third time technician of the OP no. 2 without issuing the job sheet tried to open the smartphone in question. Further submitted that the OP no. 2 refused to issue the job sheet and stated that if the defect or problem is detected in said smart phone then only job sheet will be prepared and issued to the complainant. Further, the OP no. 2 told to the complainant that the smartphone in question suffers from serious defect and to repair the network related issue as well as malfunctioning of vibration of the said smartphone, the repair work will be done on chargeable basis by the OP no. 2 and if the complainant agreed to get the smartphone repair on chargeable basis, then only job sheet will be prepared. There is deficiency in service on the part of Ops. Hence this complaint.

5. On receiving notice, the OP no.1 appeared through his counsel resisted the complaint by filing a written version mentioning therein that the allegations of the complainant are baseless and he has not taken any service from the OP no. 1 or any of its authorized service centre. Further submitted that the complainant has not submitted the product at any authorized service centre of the OP no. 1. Further submitted that the complainant failed to produce any technical evidence/report establishing any

manufacturing defect in the product and the complainant in his complaint admittedly stated that the product was working fine and he used the product for more than a month. Further submitted that the complainant has provided the false information in the complaint to mislead the Commission and prayed for dismissing the present complaint.

6. Notice was sent to Op no.2 & 3 which was received back served but none appeared on their behalf. Hence the OP no. 2 & 3 were proceeded against exparte.

7. Complainant in person tendered affidavit Ex.CW1/A, documents Ex.C1 to Ex. C4 into evidence and closed the evidence on behalf of complainant vide his separate recorded statement on 26.09.2023.

On the other hand, Ld. Counsel for respondent no.1 tendered into evidence affidavit Ex.RW1/A and closed the evidence vide order dated 16.2.2024.

8. Complainant in his arguments reiterated the version as mentioned in the complaint. Ld. Counsel for OP no.1 in his arguments reiterated the version as mentioned in the written statement. We also perused the entire record of file including documents placed on file with the kind assistance of counsel for the complainant and respondent no. 1.

9. It is admitted fact that the OP no. 1 is engaged in the marketing, sale and service inter alia of mobile phones and electronic devices in India under the brands “Mi”, “Redmi”, “Poco” and “Xiaomi”. It is also undisputed that the complainant purchased a

handset under Redmi brand namely Redmi Note 11 Pro + 5g (Mirage Blue, 6GB RAM, 128GB Storage) for an amount of Rs.20,999/- on dated 17.3.2022.

10. The allegation of the complainant is that the complainant purchased the above said smartphone with such a higher capacity storage with a view to have access to his legal drafting and after considering other aspects. But after a passage of one month the smartphone started giving trouble such as automatically disconnection of calls, malfunctioning of vibration in the smartphone and in catching signals. He approached to OP no. 1 manufacturer of the smartphone and OP no. 2 service centre of the OP no. 1. He visited to OP no. 2 on 4<sup>th</sup> May, 10<sup>th</sup> June and 27<sup>th</sup> June in year 2022 but every time OP no. 2 re-installed the software but OP no. 2 did not issue any job sheet. The defence of OP no. 1 is that the complainant has not deposited the product with authorize service centre of OP no. 1 for inspection examination in connection with the alleged defect. Hence it is not possible to resolve any issue pertaining into product. In order to fortify his version the complainant has filed an affidavit Ex.CW1/A. He placed on filed tax invoice Ex.C-2, copy of email dated 26.9.2022 by the complainant Ex. C-3 and reply of Xiaomi India Grievance Desk Ex. C-4. During the pendency of complaint this Commission appointed the expert for expert opinion regarding the manufacturing defect of said mobile phone. This commission received the expert opinion vide letter no.5034 dated 15.9.2023. The complainant exhibited the same as Ex.C-1. This report reveals that the expert re-examined the smart phone Redmi Note 11 Pro+5G (Mirage

Blue, 6GB RAM, 128 GB storage) bearing IMEI no.860041050765885 and found phone running slow, frozen screen or not responding, battery draining issue, charge port is not working properly, overheating issue, signal responding problem or camera problem during use. In conclusion the expert Smt. Suman Devi, electronics Instructor (Expert) GITI Hisar the smartphone not working properly and these problem occurred due to any technically reason in the said smartphone Redmi Note 11 Pro + 5G 9MIRAGE Blue, (6GB RAM, 128 GB STORAGE.

11. On the other hand, notice was sent to the OP no. 2 & 3 and despite service of notice none appeared on behalf of the OP no. 2 & 3. Therefore OP no. 2 proceeded against exparte vide order dated 28.2.2023 and OP no. 3 proceeded against exparte vide order dated 31.1.2023. So in this manner the fact regarding filing of the present complaint for non working of mobile was very much in the knowledge of Ops no. 2 & 3 but Ops no. 2 & 3 neither appeared before this Commission to contest the case nor filed the written statement regarding averments made in the complaint. OP no. 2 being service centre of the OP no. 1 was duly duty bound to provide proper service to the complainant by making the mobile in question in proper working order. But OP no. 2 did not take any such action to resolve the problem of the complainant. OP no. 2 did not rebut the allegation of the complainant regarding his visit dated 4<sup>th</sup> May, 10<sup>th</sup> June, 27<sup>th</sup> June, 2022. The averments made in the complaint that the OP no. 2 did not issue the job sheet supported by the affidavit of the complainant remains unrebutted and unchallenged one and there is no reason to disbelieve

the same. From the evidence adduced it is well established on file that the mobile phone purchased from OP no. 3 manufactured by OP no. 1 was having manufacturing defect from the beginning and despite making so many complaints by the complainant OP no. 1 & 2 did not take any action. Hence OP no. 1 & 2 hereby are held guilty for not providing proper service and adopting unfair trade practice. Complainant duly established that he has cause of action against the Ops. Hence application for dismissal of complaint under Order VII Rule 11 (A) is dismissed accordingly. The complainant failed to prove any deficiency in service on the part of Op no. 3. Hence OP no. 3 is discharged from his liability. The Ops no. 1 & 2 did not provide proper response to the complainant regarding his genuine problem in the mobile phone. Hence the complainant was constrained to file the present complaint for the redressal of his genuine claim. Therefore the complainant is also entitled for interest, compensation and litigation expenses.

12. As a result, we are of the considered view that there is merit in the complaint and the same is hereby accepted. Hence OP no. 1 & 2 are directed to lift over the defective mobile phone from the premises of the complainant at their own expenses and further Ops are directed either to replace the defective mobile phone with new one of same make or higher make or to refund the amount of Rs.20,999/- alongwith interest @ 9% per annum from the date of first complaint i.e. 02.12.2022 till its realization. The Ops no. 1 & 2 are further burdened with the cost of Rs.6,000/- as compensation and Rs.6,000/- as litigation expenses to the complainant jointly and severally. This order be complied with by the Ops no. 1 & 2

within 45 days, from the date of passing of this order, otherwise in case of refund the amount of Rs.20,199/- shall carry an interest at the rate of 12% per annum for the default period i.e. after 45 days of this order. If the compliance of this order is made by OP no. 2 then OP no. 2 is at liberty to recover the so deposited amount alongwith interest @ 9% p.a. from the OP no. 1 i.e. seller of the product.

If the order of this Commission is not complied with, then the complainant shall be entitled to file execution petition under section 71 and to file complaint/application under Section 72 of the Consumer Protection Act in that eventuality, the Ops no. 1 & 2 may also be liable for prosecution under Section 72 of the said Act which envisages punishment of imprisonment which may extend to three years or fine upto Rs.one lac or with both. Copies of this order be sent to the parties free of costs, as per rules, and this order be promptly uploaded on the website of this Commission. File be consigned to the record room after due compliance.

Announced

Dated:21.05.2024

(Jagdeep Singh),  
President,  
District Consumer Disputes  
Redressal Commission,Hisar

(Rajni Goyat)  
Member

(Amita Agarwal)  
Member

Typed by:Varsha Rani, Stenographer.



