

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

Consumer Complaint No.	:	CC/474/2023
Date of Institution	:	04/10/2023
Date of Decision	:	01/07/2024

Diksha Negi aged 28 years D/o Sh.Hukum Singh Negi

-Complainant

Versus

1. Nykaa E-Retail Pvt. Ltd., through its Director,

2. Padmanabhan Ganesh, Additional Director, Nykaa E-Retail Pvt. Ltd.

....Opposite Parties

CORAM :	SHRI PAWANJIT SINGH	PRESIDENT
	MRS. SURJEET KAUR	MEMBER

ARGUED BY : Sh.Anshul Jindal, Advocate for Complainant.
: Sh.Bhavraj Singh Gulati, Advocate for OPs (through VC).

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 OP's are running a business under the name and style of (Nykaa E-Retail Private Limited) and have been providing the beauty products by selling to their customers who can place the orders online through OP's mobile application and have also been attracting the customers by giving attractive deals and discounts on the products. Accordingly, being allured by the great deals and discounts offered by the OP's, the complainant had placed an order to OP's vide order ID: NYK-163477021-0247451-1 dated 26.07.2023 for which invoice of Rs.2823.24/- was generated (Ex.C-1) and also payment was paid by the complainant through online transaction. After placing the order on 25.07.2023, the complainant contacted the OPs through their help center and inquired about the status of her order on 06.08.2023 and it was replied by the OPs that they had forwarded her request for urgent delivery to the relevant team and also asked the complainant, to check her order through the mobile application and the conversation between the parties is Ex.C-2. When the complainant checked the status of her order, as informed by the OP's, it was found that the status of her order was never updated by the OPs. Not only this, the OPs have not also delivered the product and the last updated status of the order of complainant is Ex.C-3. After waiting for long time as the OPs have neither updated the status of her order, nor have delivered the product to the complainant, the complainant sent a legal notice Ex.C-4 dated 21.08.2023 asking the OPs to refund of the bill amount and to pay compensation to the complainant. However, after receiving legal notice sent by the complainant, the OPs had refunded the paid amount of Rs.2823.24/- to the complainant only after about one month of the placing of the order and this aforesaid act of the OPs amounts to deficiency in service and unfair trade practice. OPs were requested several times to admit the claim, but, with no result. Hence, the present consumer complaint.
 - b. The OPs resisted the consumer complaint and filed its written version, inter alia, taking preliminary objections of maintainability, cause of action, concealment of facts. However, it is admitted that the complainant had placed an order for 12 units of skincare products on 26.07.2023 and the subject products could not be delivered to the complainant. It is further alleged that in fact a full and final refund of Rs.2824.21/- was successfully credited to the bank account of the complainant through an online payment method vide the refund reference No.6613579 on 23.08.2023 and as no cause of action sustains against the OPs, the complainant is liable to be dismissed. It is also alleged that the answering OPs are intermediary and they cannot be held liable for any deficiency in service. On merits reiterated the facts as stated in the preliminary objections. The consumer complaint is sought to be contested.
2. Despite grant of sufficient opportunities, no rejoinder was filed by the complainant to rebut the stand of the OPs, hence, opportunity to file rejoinder was closed vide order dated 23.04.2024.
3. In order to prove their case, contesting parties have tendered/proved their evidence by way of respective affidavits and supporting documents.
4. We have heard the learned counsel for the parties and also gone through the file carefully.
 - i. At the very outset, it may be observed that when it is an admitted case of the parties that the complainant had placed one online order for purchase of 12 units of skincare products with the OPs by paying an amount of Rs.2823.24/- on 26.07.2023 as is also evident from the copy

of the invoice annexed as Annexure OP/2 and even after about one month of the placing of order with the OPs, the OPs could not deliver the subject product to the complainant nor had refunded the paid amount and when the complainant had issued a legal notice Annexure C-4 to the OPs on 21.08.2023 only after that the OPs had refunded the paid amount of Rs.2823.24/- by crediting the same in the account of the complainant, the case is reduced to a narrow compass as it is to be determined if there is any deficiency in service on the part of OPs and the complainant is not entitled for the relief as prayed for. Since, it is an admitted case of the parties that after placing the order dated 26.07.2023 for the purchase of subject products, the OPs had neither updated the status of the order in their website nor they had delivered the subject product to the complainant rather kept the complainant waiting for the product for about one month and on 23.08.2023 after receiving the legal notice from the complainant copy of which Annexure C-4, had refunded the paid amount to the complainant, it stands proved on record that the OPs had wrongly & illegally withheld subject amount with them for quite some time and without any reason and had refunded the same to the complainant only when she was compelled to engage an advocate who sent a legal notice to the OPs, the aforesaid act of OPs amounts to deficiency in service on the part of OPs.

5. In the light of the aforesaid discussion, it is safe to hold that there is deficiency in service on the part of OPs and the complainant is entitled for the compensation from the OPs. Hence, the present consumer complaint succeeds, the same is hereby partly allowed and OPs are directed as under :-
 - i. to pay an amount of ₹4000/- to the complainant as composite compensation for causing mental agony and harassment to her and litigation expenses.
6. This order be complied with by the OPs jointly and severally within a period of 45 days from the date of receipt of certified copy thereof, failing which the amount(s) mentioned at Sr.(i) above shall carry penal interest @ 12% per annum (simple) from the date of expiry of said period of 45 days, till realization.
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

01/07/2024

LS

Sd/-

[Pawanjit Singh]

President

Sd/-

[Surjeet Kaur]

Member