

DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION, ERNAKULAM
Dated this the 27th day of June, 2025

PRESENT

Shri. D.B. Binu
Shri. V. Ramachandran
Smt. Sreevidhia T.N

Filed on: 04/12/2023

Hon'ble President
Hon'ble Member
Hon'ble Member

CC.No. 931 of 2023

Complainant:

Manuel Vincent, S/o K.T. Manuel, Aged 62 yrs, Kattassery House, Karthedom, Malippuram.P.O, Kochi-682511.

(Adv. Denizen Komath, Komath & Associates, Kochi-682 508)

VS

OPPOSITE PARTY:

My G Future, Lagoon Plaza, Perumbilly, Narakkal.P.O, Kochi-682505, Rep by its Manager.

FINAL ORDER

D.B. Binu, President

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

The complaint was filed under Section 35 of the Consumer Protection Act, 2019. The complainant, a senior citizen purchased a 10-litre Biriyan Pot from the recently inaugurated shop of the opposite party on 11.02.2023. The purchase was made in response to an advertisement published in a Daily on the same date, which claimed a 64% discount on the product, originally priced at Rs. 3,299/-. Believing this to be a genuine offer, the complainant purchased the product for Rs. 1,199/-.

However, upon receiving the invoice (No. 22-1-VPF-1257), the complainant discovered that the actual original price of the product was only Rs. 1,890/-, indicating that the advertised discount was deceptive and misleading. This inflated pricing and false discount constituted an unfair trade practice and fraudulent inducement. When the complainant approached the shop to seek clarification, the store manager behaved rudely and refused to address the grievance. A legal notice was subsequently issued by the complainant through an advocate, demanding redress and a public apology, but the opposite party failed to respond.

The complainant now seeks a refund of the excess amount paid, compensation for mental agony, and the cost of proceedings.

2. NOTICE:

Notice was issued to the Opposite Party by the Commission on 05.01.2024. The notice was duly served on the Opposite Party on 09.01.2024. However, as the Opposite Party failed to file its version within the statutory period prescribed under the Consumer Protection Act, the Commission proceeded to set the Opposite Party ex parte.

3. EVIDENCE:

The Complainant filed a Proof Affidavit along with four documents before the Commission, which were marked and admitted in evidence as **Exhibits A1 to A4**, as detailed below:

- **Ext.A1** – Original of the daily newspaper (*Malayala Manorama*) dated 11.02.2023, containing the impugned advertisement.
- **Ext.A2** – Original Tax Invoice dated 11.02.2023 issued by the Opposite Party.

- **Ext.A3** – Photocopy of the Legal Notice dated 25.02.2023 issued by the Complainant's counsel to the Opposite Party.
- **Ext.A4** – Original Postal Receipts dated 25.02.2023 evidencing dispatch of the legal notice.

4. POINTS FOR CONSIDERATION:

- i) Whether the complaint is maintainable or not?
- ii) Whether there is any deficiency in service or unfair trade practice by the opposite parties?
- iii) If so, whether the complainant is entitled to any relief?
- iv) Costs of the proceedings, if any?

5. Summary of Written Argument of the Complainant:

The complainant, a senior citizen, filed this complaint alleging fraudulent and deceptive trade practices by the Opposite Party. On 11.02.2023, the Opposite Party published a misleading advertisement in *Malayala Manorama Daily* claiming a 64% discount on a 10-litre Biryani Pot, with the original price shown as Rs. 3,299/-, prompting the complainant to purchase it for Rs. 1,199/- (**Exhibit A1**). However, the tax invoice issued on the same day (**Exhibit A2**) revealed that the actual original price of the product was only Rs. 1,890/-, exposing the false discount claim as an unfair trade practice. When the complainant approached the store for clarification, he was mistreated and turned away. A legal notice dated 25.02.2023 was sent through counsel, demanding a public apology and compensation (**Exhibit A3**), which was dispatched with proof of postal receipt (**Exhibit A4**). The Opposite Party failed to respond or appear before the Commission despite due notice. The complainant qualifies as a 'consumer' under Section 2(7) of the Consumer Protection Act, 2019, and the Opposite Party's actions fall under Sections

2(6)(1) and 2(28). As the matter was uncontested and supported by valid documents, the complainant prays for a refund, compensation, and costs. We have also noticed that a Notice was issued by the Commission to the opposite party, but they did not file their version. Hence, the opposite party set ex parte. The complainant had produced four documents marked as Exbt.A-1 to A-4. All in support of his case. However, the opposite party did not make any attempt to appear in the case and participate in the above proceedings before this commission or set aside the ex-parte order passed against it. It was further stated that this illegal, arbitrary and unjustified act of the Opposite Party amounted to a deficiency in service, indulgence in unfair trade practice, and caused mental agony and hardship to the complainant.

The opposite parties' conscious failure to file their written version in spite of having received the Commission's notice to that effect amounts to an admission of the allegations levelled against them. Here, the case of the complainants stands unchallenged by the opposite party. We have no reason to disbelieve the words of the complainant. **The Hon'ble National Commission held a similar stance in its order dated 2017 (4) CPR page 590 (NC).**

We have meticulously considered the detailed submissions of the complainant, as well as thoroughly reviewed the entire record of evidence, including the argument notes. It is noted that the opposite party have failed to submit argument notes or participate in the proceedings.

i) Whether the complaint is maintainable or not?

The complainant is a **consumer** as defined under **Section 2(7)** of the Consumer Protection Act, 2019, having purchased a product for consideration for personal use (**Ext.A2**). The claim pertains to refund, compensation, and cost, which squarely falls under the jurisdiction of the **District Consumer**

Disputes Redressal Commission as provided under **Section 34 of the Act**. Hence, the complaint is maintainable before this Commission.

ii). **Deficiency in Service and Unfair Trade Practice**

The Opposite Party's conduct amounts to both **unfair trade practice** under **Section 2(47)** and **deficiency in service** under **Section 2(11)** of the Consumer Protection Act, 2019. Misrepresentation of the original price of the product in an advertisement is a classic case of misleading advertisement defined under **Section 2(28)** of the Act.

Despite due service of notice, the Opposite Party failed to appear or file a written version. As per the settled position of law, failure to file a version within the statutory time leads to the complainant's case remaining unchallenged.

Furthermore, the conduct of the Opposite Party—misrepresenting prices, failing to resolve the grievance, and not appearing before the Commission—demonstrates gross negligence and arrogance in handling consumer interests.

Misleading Advertisements - Legal Position

Under **Section 2(28)** of the Consumer Protection Act, 2019, a **misleading advertisement** is one that falsely describes a product or service, gives a false guarantee, conceals important information, or is likely to mislead consumers regarding its nature, substance, quantity, or quality. The scope also includes advertisements that amount to an unfair trade practice or deceive consumers about material facts.

In the landmark judgment of *Lakhanpal National Ltd. v. MRTP Commission*, (1989) 3 SCC 251, the **Hon'ble Supreme Court** held that to determine whether an advertisement is misleading, the key is to evaluate its

effect on a reasonable person. Even technically accurate statements may be misleading if couched in tricky language that misrepresents facts. The test is whether a reasonable consumer, on reading the advertisement, is likely to form a belief contrary to the truth.

Furthermore, scholarly opinions emphasize that a misleading advertisement deceives or is likely to deceive consumers, thereby influencing their economic behaviour. Not every inaccurate statement qualifies, but where there is a **material misrepresentation or omission made willfully or recklessly**, the advertisement becomes misleading and actionable under the Act.

iii). Liability of the Opposite Party

The Opposite Party is squarely liable for:

- Publishing a misleading advertisement.
- Charging an excessive price from the complainant based on false representation.
- Failing to resolve the complaint even after issuance of a legal notice.
- Willfully avoiding the legal process, thereby necessitating an ex parte proceeding.

The Commission finds no reason to disbelieve the detailed narration and documentary evidence provided by the complainant, which have gone uncontroverted. The complainant has established his case with clarity, and the burden of proof shifted to the Opposite Party, which failed to rebut the same.

This case highlights the unfortunate reality faced by many unsuspecting consumers, especially senior citizens like the complainant, who place their trust in advertised offers, only to be misled and exploited. The complainant, acting in good faith, responded to what appeared to be a genuine promotional offer, only to discover that the discount was illusory and the pricing inflated. His experience,

from being enticed by a deceptive advertisement to being dismissed rudely by the store and ignored even after a legal notice, reflects not just a legal wrong but a moral failure on the part of the Opposite Party. Such disregard for consumer dignity and rights undermines public confidence and calls for firm redressal to restore justice and fairness in the marketplace.

We determine that issue numbers (I) to (IV) are resolved in the complainants' favour due to the significant service deficiency on the part of the Opposite Party. Consequently, the complainant has endured considerable inconvenience, mental distress, hardships, and financial losses as a result of the negligence of the Opposite Party.

In view of the above facts and circumstances of the case, we are of the opinion that the Opposite Party is liable to compensate the complainant.

Hence, the prayer is allowed as follows:

- I. The Opposite Party shall refund to the Complainant the excess amount charged by recalculating the price of the product based on a 64% discount on the actual price of ₹1,890/- (Rupees One thousand eight hundred and ninety only), which amounts to ₹680/- (Rupees Six hundred and eighty only). Since the Complainant was charged ₹1,199/- (Rupees One thousand one hundred and ninety nine only), the Opposite Party shall refund the excess amount of ₹519/- (Rupees Five Hundred and Nineteen only).
- II. The Opposite Party shall pay ₹10,000/- (Rupees Ten Thousand only) to the Complainant as compensation for the mental agony, inconvenience, and harassment suffered. This compensation is awarded on account of the Opposite Party's deficiency in service and engagement in unfair trade practices, as well as the emotional distress and physical hardship endured by the Complainant due to the said conduct.

- III. The Opposite Party shall pay ₹5,000/- (Rupees Five Thousand only) to the Complainant towards the cost of the proceedings.
- IV. The Opposite Party is hereby restrained from issuing such misleading advertisements in the future.

The opposite party is liable for the fulfilment of the above orders. These orders must be executed within 45 days from the date of receiving this order. Failure to comply with the payment orders under Points I and II will result in an interest rate of 9% per annum from the date of filing the complaint (04/12/2023) until the date of full payment realisation.

Pronounced in the Open Commission on this the 27th day of June, 2025.

D.B. Biju, President

V. Ramachandran, Member

Sreevidha T.N, Member

APPENDIX

Complainant's Evidence:

Date of Despatch

By Hand::

By post::

BR/