

Heading1

Heading2

Complaint Case No. CC/19/2023

(Date of Filing : 20 Jan 2023)

1. SUNIL KUMAR KHURANA

30/28, 2nd FLOOR, OLD RAJENDER NAGAR NEW
DELHI-110060.

.....Complainant(s)

Versus

1. M/S WEDDING OPERA

B-9, RING ROAD, LAWERANCE ROAD, DR. LOHIA
INDUSTRIAL AREA RAMPURA INDUSTRIAL AREA,
DELHI-110034

.....Opp.Party(s)

BEFORE:

**HON'BLE MR. INDER JEET SINGH PRESIDENT
HON'BLE MS. RASHMI BANSAL MEMBER**

PRESENT:

Dated : 15 Oct 2024

Final Order / Judgement

Before the District Consumer Dispute Redressal Commission [Central District] - VIII, 5th
Floor Maharana Pratap ISBT Building, Kashmere Gate, Delhi

Complaint Case No. 19 of 2023

Sh. Sunil Kumar Khurana s/o Late Sh. B.L. Khurana

r/o 30/28, Second Floor, Old Rajinder Nagar

New Delhi-110060

...Complainant

Versus

M/s Wedding Opera (Unit of M/s S.G. Hospitality)

Ch. Bhrama Singh Flyover, B-9, Ringh Road, Lawrence Road,

Dr. Lohia Industrial Area, Rampura Industrial Area,

Delhi-110034

...Opposite Party

Date of filing: 20.01.2023

Date of Order: 15.10.2024

Coram:

Shri Inder Jeet Singh, President

Ms Rashmi Bansal, Member -Female

FINAL ORDER

Ms Rashmi Bansal, Member

By the present order the Commission shall dispose-off complaint of the complainant against OP with respect to deficiency in services in not refunding the amount of advance deposited with OP for the wedding function of her daughter which was scheduled to be solemnized on 29.06.2020, but postponed due to corona pandemic that has caused him financial loss, harassment, mental agony and sufferings.

1. Brief facts of the case are that the complainant has booked a banquet hall of OP for wedding function of his daughter which was scheduled to be solemnized on 29.06.2020, by paying a sum of Rs. 1 lakh on the same day vide pay order no. 699245 dated 12.03.2020 issued by Bank of India which, complainant states, was duly en-cashed by OP. However, due to outbreak of Covid-19 Pandemic, the Government of India has imposed nationwide lockdown on 24.03.2020 for containment of impact of Covid-19 Pandemic in the country, which was extended from time to time up-to 30.06.2020 and the residential area, where the complainant was residing, was under containment zone starting from 20.06.2020 till July 2020. Due to above –stated circumstances, the wedding of the daughter of the complainant could not take place on the scheduled date i.e. 29.06.2020 and was rescheduled for 11.12.2020. The complainant requested to OP to shift the booking date to 11.12.2020 instead of 29.06.2020, however, the same was declined by OP citing reason of having other bookings of same day. Therefore, the complainant had to choose other banquet hall for the wedding function of his daughter on 11.12.2020. Complainant several times requested OP for refund of the advance amount paid by him as no services of OP was availed, however, OP only assured the complainant that the amount shall be refunded but failed to refund the same. Complainant’s notice dated 22.09.2021, 16.10.2021 and 22.12.2021 and also email dated 06.11.2021 seeking refund of the deposited amount remain unaffected and of no consequence and as such he is constraint to file the present complaint seeking refund of Rs. 1 lakh from OP. Complainant further submit that there is great deficiency in services and unfair trade practice on the part of OP as his hard-earned money illegally withheld by OP for wrongful gain to itself and wrongful loss to the complainant and using his money for its commercial purpose by depriving the complainant of the legitimate use and enjoyment of his money. Complainant submits that because of acts and deeds of the OP he suffered

- financial loss as well as mental pain, agony, harassment and prays for refund of 1 lakh rupees along with interest at the rate of 18% p.a. from the date of payment i.e., 12.03.2020 till its realization, a compensation of Rs. 50,000/- in favor of complainant towards his sufferings for mental agony, harassment, pain etc. and litigation costs of Rs. 25,000/-.
2. Upon notice, OP has filed the memo of appearance on 21.04.2021 after service of notice on 18.03.3034, however, it failed to file the reply within statutory period and the opportunity to file WS was closed on 18.05.2023.
 3. Complainant has led his evidence, with the support of all documents filed with complaint, viz. copy of the estimate dated 12.03.2020; reply dated 17.01.2023 of Bank of India; copy of notice dated 22.09.2021, 16.10.2021, along-with postal receipt and internet generated track reports; copy of email dated 06.11.2021; copy of notice dated 22.12.2021 along-with postal receipt.
 4. The written arguments were also filed by the complainant. OP never participated in the proceedings. Arguments are heard on behalf of the complainant and documents on record are perused.
 5. As OP chose not to contest the complaint, the averments adduced by the complainant remained uncontroverted and unrebutted.
 6. OP's banquet hall was booked for wedding function of complainant's daughter on 12.03.2020 and an amount of ₹1,00,000/- was paid to OP which is evident from the letter dated 17.01.2023 of the branch manager, Bank of India, by which it is certified that pay order number 699245 of ₹1,00,000/- in favour of S.G. Hospitality has been issued by debiting account number 601012110000029 (Sunil Kumar Khurana) by cheque number 134071, on 12.03.2020.
 7. In memo of appearance filed by counsel for OP, it is specified by the counsel for OP that 'Wedding Opera' is the name of the Banquet, which is just a brand of S.G. Hospitality and has no identity of its own. Complainant's memo of parties, mentions M/s Wedding Opera as a unit of M/s S.G. Hospitality. Therefore, it is clear the payment of Rs. 1,00,000/- made by the complainant to S.G. Hospitality.
 8. This is also fact that due to COVID-19, there was worldwide lockdown and restrictions were imposed on gatherings by the Government of India as well as the Government of NCT, Delhi, which continued to extend from time to time and because of these compelling circumstances, the complainant had to reschedule the wedding of his daughter from 29.06.2020 to 11.12.2020. Complainant's request for refund through his verbal communications with OP and then by notices dated 22.09.2021, 16.10.2021 and 22.12.2021 and email dated 06.11.2021, however, were not accepted by OP despite the fact that no service was provided by OP. Upon no positive response from the OP, the present complaint is filed by the complainant.
 9. Hon'ble State Commission in 'Brilliant Tutorials vs. Rahul Das' in appeal number 509/2006 decided on 09.01.2017 held: "Any such terms of contract between the parties, which allows the provider of service to forfeit the amount of service, which he has not provided is against the public policy and good conscious, unjust and unconscionable as the provider of service has the right to charge consideration only if it provides the service".
 10. The OP had unjustly retained the amount paid by the complainant, especially when there was order from the Government for Nationwide lockdown and complainant was bound to reschedule the wedding date due to unprecedented condition in country and there is no fault on the part of the complainant. As such, non-refund by the OP without providing any services amounts to unfair trade practice and deficiency in service. No function could be held on the day fixed for wedding due to covid restrictions and because of Government notifications, which are applicable to all over India, therefore, no loss occurred to OP just because of cancellation of the wedding booking of the complainant, as no expenses were incurred by it, therefore, invoking the principle of equity, the refund of the amount is

justiciable in the matter.

11. In view of the judgment supra and discussion herein above, OP cannot keep the money paid by the complainant without providing any services. It is not the case that the complainant has chosen to change the wedding date as per his own convenience, rather it was due to the restrictions imposed by the Government of India as well as State Government on account of the worldwide pandemic that the complainant had no option but to shift the date of the wedding function of his daughter.

Therefore, the present consumer complaint succeeds in favour of the complainant and OP is directed to refund the amount of Rs. 1,00,000/- with interest at the rate 6% per annum from 12.03.2020, within 45 days from the date of order, failing which the OP shall pay the interest at the rate of 9% per annum till its realisation by the complainant, besides the payment of Rs. 10,000/- towards harassment and mental suffered by the complainant and Rs. 5000/- towards the litigation charges.

12. Announced on this 15th day of October 2024. Copy of this Order be sent/provided forthwith to the parties free of cost as per rules for compliances, besides to upload on the website of this Commission.

**[HON'BLE MR. INDER JEET SINGH]
PRESIDENT**

**[HON'BLE MS. RASHMI BANSAL]
MEMBER**