

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION,
8TH FLOOR, B.W.S.S.B BUILDING, K.G.ROAD,BANGALORE-09**

**Complaint Case No. CC/159/2022
(Date of Filing : 16 Jul 2022)**

1. Ravikiran C

S/o Late Chidanandappa, Aged about 34 Years,
No.81,Ashirvada,4th Block, 6th Main Road,Near Maarish Food
Joint, Nandinilayout, Bengaluru,Karnataka-560096

.....Complainant(s)

Versus

1. Reliance Retail Limited

No.62/2,5th Floor, Richmond Road,Bengaluru,Karnataka,
India-560025 Rep by Managing Director,

2. The Manager.Reliance Smart Point

15th Main Road,4th Block, Sree Raghavendra Bhavan,
Nandinilayout,Bengaluru,Karnataka,India-560096

.....Opp.Party(s)

BEFORE:

**HON'BLE MRS. M. SHOBHA PRESIDENT
HON'BLE MS. Renukadevi Deshpande MEMBER
HON'BLE MR. H. Janardhan MEMBER**

PRESENT:

Dated : 04 Nov 2022

Final Order / Judgement

Complaint filed on:16.07.2022

Disposed on:04.11.2022

**BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION AT
BANGALORE (URBAN)**

DATED 04TH DAY OF NOVEMBER 2022

**PRESENT:- SMT.M.SHOBHA
SMT.RENUKADEVI**

**: PRESIDENT
MEMBER**

**DESHPANDE
SRI.H.JANARDHAN**

**:
MEMBER**

COMPLAINT No.159/2022

| | | |
|-----------------------|----------|--|
| COMPLAINANT | | Sri.Ravikiran C., S/o. Late Chidanandappa, Aged about 34 years, No.81, Ashirvada, 4 th Block, 6. Bengaluru, 560 096. |
| | | (SRI. Mohana C., Adv.) |
| • | | |
| OPPOSITE PARTY | 1 | Reliance Retail Limited, No.62/2, 5 th Floor, Richmond Road, Bengaluru, Karnataka, India 560 025. Rep. by Managing Director. |
| | 2 | The Manager, Reliance Smart Point, 15 th Main Road, 4 th Block, Sree Raghavendra Bhavan, Nandini Layout, Bengaluru, Karnataka, India 560 096. |
| | | (Exparte) |

ORDER**SMT.M.SHOBHA, PRESIDENT**

1. The complaint has been filed under Section 35 of C.P.Act (hereinafter referred as an Act) against the OP for the following reliefs:-

Pass an order/direction, directing the OPs to pay a sum of Rs.50,000/- jointly and severally, as compensation for unfair trade practice, mental agony, transport expenditures, litigation expenses and interest @ 12% per annum from the date of the complaint till the date of realization, besides refund of Rs.24.90 ps., which the OP2 has illegally collected from me towards carry bag; and (c). Grant such other reliefs.

2. The case set up by the complainant in brief is as under:-

It is the case of the complainant that the OP is a private limited company which is doing the business of retail sale of grocery and staples and essential commodities by name as Smart Point all over India.

3. The complainant is an advocate. On 10.07.2022 the complainant and his wife were returning from temple and they have visited the shop of OP2 and purchased few groceries and other house hold items, for a sum of Rs.2,007.30 ps., which was paid through credit card. The complainant has purchased totally 23 items wherein they were unable to carry that items because they had taken bike. Hence they had to purchase the carry bag. The complainant has not plan of visiting smart point, there was no occasion for him to take the carry bag. When he went to shopping it took almost 30 minutes and at the time of billing he requested for carry bag to carry the items purchased. It was surprise and shock to the complainant that when he has requested for the carry bag the person on the cash counter refused to give the carry bag and told him to pay Rs.24.90 ps. for the bag. As he has purchased several items and paid substantial amount the OP should have given the carry bag without insisting charge for it. Hence he has protested such unwarranted refusal by cash counter person. At the time of exiting the OP2 shop the complainant was shocked to see that the OP2 have charged Rs.24.90 ps., for the bag. The store has illegally charged 24.90 ps., towards carry bag under item No.18 in the bill.

4. It is further grievance of the complainant that though the malls must provide free carry bags to intrinsic part of the customers satisfaction criteria which has been time and again pointed out by several Hon'ble consumer forums and also Hon'ble State Commissions and more over it is an criteria under Consumer Protection Act. The retailers should not always expect the customers to take carry bag with them. The retailers are trying to take advantage of prohibition of plastic carry bags and exploiting the customers by over charging for the bags to make money out of it which is nothing but unfair trade practice and mall practice and it amounts to deficiency of service so for as the customers who were deprived of free carry bags.

5. It is further grievance of the complainant that despite several clear verdict in this regard by the Hon'ble Consumer Forum and Commissions the retailers, hotels, shops etc., continued with such unethical mall practice and over charging amounts towards carry bags, which they ought not to have charge. There is a clear violation of Consumer rights. In this case the complainant being a practicing advocate protested to pay for carry bag highlighted above position of law and consumers rights the stores staff blatantly refused to supply the carry bag for free of cost and made him to pay unwarranted seen has been created by personnel and the said act of the OP resulted in mental agony and harassment.

6. It is further grievance of the complainant that the OPs are carrying business of selling goods of various brands, including its own brand in name and style. In the said circumstances, the OP ought to have supply carry bags for free of cost. They should have allocated the amount for the said purpose under over head expenses or under some other mode as it is they who will be benefited of the business. In fact the OP and their retailers hotels and shops are taking

advantage of the position advertising the product through carry bags without spending single pie which on the face of it is an illegal act. The act of the OPs are nothing but unfair trade practices, malpractice and deficiency of service. It needs to be viewed seriously by this Hon'ble Forum. Hence he has filed this complaint.

7. In response to the notice, OPs failed to appear before this Commission, hence OPs placed exparte.
8. The complainant has filed his affidavit evidence and relies on 2 documents.
9. Heard the arguments of the complainant. Perused the records.
10. The following points arise for our consideration as are:-

1. Whether the complainant proves deficiency of service on the part of OP?
2. Whether the complainant is entitled to relief mentioned in the complaint?
3. What order?

11. **Our answers to the above points are as under:**

Point No.1: Affirmative in part

Point No.2: Affirmative in part

Point No.3: As per final orders

REASONS

12. Point No.1: Perused the complaint, evidence of the complainant and the documents Ex.P1 and P2. Even though the notice was served n the OP they remained absent. The contents of the complaint and the evidence of the complainant remained unchallenged.

13. The grievance of the complainant is that, he is an advocate by profession. The OP1 is a private limited company, which is doing retail sale of groceries and staples and essential commodities, by its name as smart point all over India and OP2 is the showroom run by the OP1 company.

14. It is further grievance of the complainant is that on 10.07.2022 being a Sunday he along with his wife were returning from temple and they have visited the OP2 showroom and they have purchased few groceries and other household items, totally 22 items by paying Rs.2,007.30 ps., and he has paid the amount through credit card.

15. As the complainant purchased 22 items he was not able to carry the said items without the carry bag. Hence he has requested the OP to give a carry bag free of cost. But the OP2 shop staff have refused to give the carry bag free of cost and they have demanded the complainant to pay Rs.24.90 ps., to give the carry bag.

16. It is the main grievance of the complainant that the OP2 shop have given carry bag without insisting for charge and it is their bounden duty to supply carry bag free of cost to its customers to carry the items at their shop. The complainant came to know after verifying the bill that the OP2 shop have illegally charged Rs.24.90 ps., towards carry bag as per item No.18 in the bill produced as per Ex.P1.

17. It is further grievance of the complainant that the shopping malls must provide free carry bag to intrinsic part of the customer satisfaction criteria, which has been time and again pointed out by several Hon'ble consumer forums and also Hon'ble State Commissions and more over it is a criteria under C.P.Act. The retailers should not always expect the customers to carry, carry bag with them.

18. The retailers are trying to take advantage of prohibition of plastic carry bags and exploiting their customers by charging for the bags to make money out of it, it is nothing but unfair trade practice and mall practice which in a way amounts to deficiency of service, so far as the customers who were deprived of free carry bags. Despite several wordicts in this regard by the Hon'ble Consumer forums and as well as State Commissions, the retailers, hotels, shops etc., continued with such unethical malpractice and over charging amounts towards carry bags which they ought not to have charge. There is a clear violation of consumer rights. Even though the complainant being an advocate protested to pay for carry bags highlighted about position of law and consumer rights however the store staff blatantly refused to supply the carry bags for free of cost and compelled the complainant to pay for the same. An unwarranted seen has been created by the personnel at the shop, which caused mental agony and harassment.

19. It is further grievance of the complainant that the OPs are carrying business of selling goods of various brand including his own brand in name and style. In the said circumstances, they ought to have supplied carry bags for free of cost. They should have allocated the amount for the said purpose under over head expenses or under some other mode. As it is they who would be benefited of the business. The OPs and other retailers, hotels and shops are taking advantages of the benefits advertising the product through carry bags without spending single pie, which on the face of it an illegal act. The act of the OPs are nothing but unfair trade practices, deficiency of service and malpractice and so far as customers are concerned which needs to be viewed seriously by this Commission. The complainant being a consumer it is his bounden duty to create awareness to the society, more so, to make the OP consumer friendly and restraining themselves indulging in such unfair trade practice and malpractice.

20. The complainant in support of his contention has also produced the carry bag which is marked as Ex.P2. He has clearly deposed before the court all the allegations made in the complaint. The OP neither appeared before this Commission nor contested the matter. The averments made in the complaint and the evidence of PW1 and Ex.P1 and P2 remained unchallenged and there is no reason to disbelieve the evidence of PW1 and Ex.P1 and P2 and allegations made in the complaint.

20. The complainant in support of his contention has also relied on the decision reported in 2020 SCC online NCDRC 495 in a copy of RP 975/2020, Big Bazaar and Ashok Kumar and others.

21. The Hon'ble NCDRC has confirmed the order passed by the Hon'ble District Commission and also Hon'ble **State Commission in these Revision petition No.975/2020, Big bazaar vs Sahil Davar.**

22. It is clearly observed by the Hon'ble NCDRC and the Hon'ble State Commission that the factum of charging additional price for providing carry bags to its customers has not been disputed by the OP. The purchase of carry bag is made optional and voluntary in the malls but at the same time the consumer is not allowed to enter the shop with their own carry bags containing some goods purchased from their shop premises. In such circumstances, we cannot

expect that for every single items/articles intended to be purchased by a customer, he or she needs to carry separate carry bags. The malls by not allowing the customers to carry their own carry bags to their premises, there was no option left to the customers to buy the carry bags along with the goods purchased to carry the same from the shop premises. One cannot be expected to take the goods like dettol, oreo, cop urad etc., purchased in hands. By not allowing the customers to bring in the shop premises their own carry bags and thrusting its own carry bags against consideration the appellant i.e., the big bazaar is deficient in providing service and also indulge into unfair trade practice.

23. In view of the above observation made by the Hon'ble NCDRC the order passed by the Hon'ble District and State Commission were upheld.

24. When the OP2 has not allowed the customers to carry the carry bags inside the mall it is their bounden duty to provide the carry bags to the customers as they cannot carry the groceries and other items purchased in their hand. It is also the duty of the OPs to give prior notice or information to take their own carry bags. In spite of giving any notice or information the OP used to charge for the carry bags and it is an additional cost imposed on the consumers. Earlier the OP and other malls and retail shops were providing carry bags made of polythene to its customers without charging additional cost. Later it dispenses with polythene and substituted cloth instead and started charging additional charge for the cloth carry bags. There is no notice announcement or advertisement displayed by the OP before the consumers exercised their choice to make their purchases from the outlets of the OP company, that additional charge will be charged for carry bags was not there. The consumers were under the impression that as per the earlier practice of the OPs and as per the normal practice in retail outlets in general no additional cost would be charged for the carry bags.

25. Even though the notice issued by this commission was served on the OP they have not bothered to appear before this commission and filed their version and to contest the matter. The very conduct of the OP clearly discloses that they are not at all interested in providing service to the customers and they are only interested in grabbing the money from the customers by one way or the other to make profit. The Hon'ble NCDRC after making the aforesaid observations as stated in para-24 has clearly come to the conclusion that this is an unfair method or unfair or defective practice on the part of the OP.

26. The OPs in this case arbitrarily and high handedly deviating from its past practice and deviating from normal not giving adequate prominent prior notice and information to the consumers before he makes his choice as patronizing the retail outlet and before he makes his selection for purchasing imposing additional cost of carry bags at the time of making payment, after the selection has been made forcing carry bags without disclosing their salient specifications at price as fixed by them. Putting the consumer to embarrassment and harassment, burdening the consumer with additional cost in such a way and manner is decidedly unfair and undisciplined. As a matter of consumer rights the consumer has the right to know that there will be an additional cost for carry bags before makes his selection of goods for purchase from the retail outlet.

27. Under these circumstances the complainant has clearly established the unfair trade practice or defective practice on the part of the OP. In view of the unwanted seen created by the staff of the OP2 the complainant has suffered mental agony and also harassment. Hence the complainant is entitled for the relief claimed in the complaint. Hence we answer point No.1 in the affirmative

28. POINT NO.2: The complaint of the complainant is liable to o be allowed in part. The OP is directed to refund the amount of Rs.24.90 ps., The complainant has also claimed a compensation of Rs.50,000/- which is highly exorbitant, hence we have decided to award a compensation of Rs.5,000/-. The complainant himself is a practicing advocate and he has filed his complaint on his own without taking any assistance from anybody. Hence the complaint is only entitled for the litigation expenses of Rs.2,000/- Hence we answer point No.2 partly in affirmative.

29. Point No.3:- In view the discussion referred above,

ORDER

1. The complaint is allowed in part.
2. OP is directed to refund the amount of Rs.24.90 ps., along with compensation of Rs.5,000/- to the complainant.
3. OP is further directed to pay Rs.2,000/- towards cost of the litigation to the complainant.
4. The OP shall comply this order within 60 days from this date, failing which the amount of Rs.7,024.90 ps., will carry interest at 12% p.a. after expiry of 60 days till final payment.
5. Furnish the copy of this order and return the documents to the complainant with extra pleadings.

(Dictated to the Stenographer, got it transcribed and corrected, pronounced in the Open Commission on this 04th day of November, 2022)

(Renukadevi Deshpande)

MEMBER

(H.Janardhan)

MEMBER

(M.SHOBHA)

PRESIDENT

Documents produced by the Complainant-P.W.1 are as follows:

| | | |
|----|--------|----------------------------------|
| 1. | Ex.P.1 | Copy of Invoice dated 10.07.2022 |
| 2. | Ex.P.2 | Bag |

Documents produced by the representative of opposite party – R.W.1; NIL

(Renukadevi Deshpande)

MEMBER

(H.Janardhan)

MEMBER

(M.SHOBHA)

PRESIDENT

**[HON'BLE MRS. M. SHOBHA]
PRESIDENT**

**[HON'BLE MS. Renukadevi Deshpande]
MEMBER**

**[HON'BLE MR. H. Janardhan]
MEMBER**