

GOVERNMENT OF JAMMU & KASHMIR
DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION
BARAMULLA/BANDIPORA

Coram: -

1. Peerzada Qousar Hussian President
2. Ms Nyla Yaseen Member

Consumer Complainant No: 67/2024

Ali Mohammad Ganie S/o Ghulam Mohi ud Din Ganie R/o Druroo,
Tehsil Tangmarg, District Baramulla
.....(Complainant)

Versus

KC Marbles, Gulmarg Road, Agrikalan Magam, Tel: 9596438795
.....(opposite party)

Date of Institution: 07-10-2024
Date of Decision: 15-04-2025

Appearing Counsel
Adv. Sheikh Irshad for the complainant.
Nemo for the O.P

Judgement

The present complaint has been filed by the complainant on 07-10-2024, alleging therein unfair trade practice against the O.P and with prayer to direct the O.P to pay an amount of Rs.2,21,209/- with 12% interest per annum from the date of loss.

Factual matrices: -

The complainant is a bonafide citizen of India, hailing from Tangmarg District Baramulla of UT of J&K. He purchased marble, granite and other material for the construction and improvement of his residential house, however, the complainant witnessed that the said material was defective and consequently he approached the O.P with the verbal complaint and requested to either replace the granite or to refund the equal amount paid for the same. However, the O.P refused to refund the amount or to replace the aforesaid granite on one pretext or the other. The contention of the complainant is that he approached the O.P several times to redress his legitimate claim, even he was constrained to serve a legal notice on 14-08-2023, consequent upon which, the O.P deputed a representative to the construction site of the complainant to assess the actual situation. The representative so, deputed by the O.P on site found the aforesaid material defective and assured the complainant for replacement of the same, however, the O.P again slept over the matter and the complainant served another legal notice to the O.P on 10-07-2024. However, nothing was done to redress the grievance of the complainant, which caused not only monetary loss to the complainant but mental agony and tremendous harassment, eventually, the complainant was constrained to approach the Consumer Commission Baramulla for redressal of his grievances.

Notice was issued, however, despite service, the O.P did not appear to contest the case, resultantly the Ex-Parte proceedings were initiated against the O.P.

The complainant submitted evidence affidavits of Waseem Ahmad Magray S/o Ghulam Hassan Magray R/o Chandi bagh Narikhari Tangmarg, Mohammad Ismail Khan S/o Late Ghulam Mohammad Khan R/o Khanpora Baramulla and Ali Mohammad Ganaie S/o Ghulam Mohi ud din Ganie R/o Duro Tangmarg Baramulla, the complainant as witness in his own case. The witnesses on affidavits stated that the complainant purchased Moon White Granite and other material for the construction use of his residential house, against the amount of Rs.1,27,950/- which material was used by the complainant for improvement of his residential house, however, despite promise and assurance of best quality, the material purchased from the O.P proved to be defective in nature, which caused him problems in applying the material, as the same was unsafe to use, moreover, the complainant suffered huge loss due to the defective material purchased from the O.P. The complainant approached the O.P for replacement of the material or refund of the amount paid, but nothing was done.

The complainant as witness in his on case on affidavit stated that he purchased the Moon White Granite and other material from the O.P for improvement of his residential house against the payment of Rs.1,27,950/-, however, despite hollow promises and assurance of best quality, the said material was proven to be defective, which caused loss to him. The complainant as witness further stated that he several times approached the O.P with the request to either replace the material or to refund the amount paid, but nothing was done.

Heard the complainant's counsel, perused the records placed on the file, along with the written arguments advanced by the complainant's counsel, which reflects that the complainant as a matter of fact purchased the Moon White Granite and other items from the O.P to improve the developmental works of his residential house against the consideration cost of Rs.1,27,950/-. The material was utilized by the complainant as per the requirement, however, the moon white granite purchased under invoice No.5678 vide dated 04-10-2021 proved to be defective in nature and on applying the said material, it made the building unsafe for use, which caused mental agony to the complainant. Additionally, the complainant after witnessing the defects of the purchased material approached the O.P for redressal of his legitimate grievances and also left no stone unturned to get the matter resolved amicably, however, nothing was done in the matter to redress his grievances.

Since the O.P is under bounden duty to sell the defect free material to the customers. Selling defective material and failure to respond to consumer complaints or to redress the grievances amounts to unfair trade practice under Section 2 (47) of Consumer Protection Act, 2019. Furthermore, the O.P was also under obligation to hear the complainant and either replace the defective material or to refund the amount paid by the complainant for purchase of the said material.

The Hon'ble National Commation in the case titled "Smt. Usha Rani versus Principal Saint Joseph's Convent School Delhi (2018)" has held that denial of redressal of consumer grievances amounts to unfair trade practice.

Against the above backdrop, the complaint of the complainant is allowed and disposed-off with the following directions: -

1. The O.P is directed to either replace the defective marble purchased by the complainant or to refund the amount paid by the complainant for purchase of the material in question.
2. The O.P is further directed to pay an amount of Rs.30,000/-(Thirty Thousand Rupees) to the complainant within a period of four weeks for indulging in unfair trade practice and putting him into mental agony.
3. The O.P is further directed to pay an amount of Rs.10,000/-(Ten Thousand Rupees) to the complainant as litigation charges.

Order announced
Date: 15-04-2025

Nykh
15/04/25
Nyla Yaseen
Member
District Consumer Disputes
Redressal Commission
Baramulla

Peerzada Gousar Hussain
15/04/25
Peerzada Gousar Hussain
President
District Consumer Disputes
Redressal Commission
Baramulla

Copy of this order be provided to the parties for compliance and after completion, the file be consigned to records.