

**STATE CONSUMER DISPUTES REDRESSAL COMMISSION
WEST BENGAL
11A, Mirza Ghalib Street, Kolkata - 700087**

**First Appeal No. A/817/2019
(Date of Filing : 02 Dec 2019)**

**(Arisen out of Order Dated 07/11/2019 in Case No. Complaint Case No. CC/308/2018 of District
Kolkata-I(North))**

1. Chira Ranjan Dass

Mahadevi Birla Niketan, Bagirhat, D.H. Road, P.O. -
Bishnupur, Dist. South 24 Pgs., W.B.

.....Appellant(s)

Versus

1. Shri Sajjan Kumar & Another

Member, Mahadevi Birla Niketan, C/o Jayashree Charity Trust,
Birla House, 9/1, R.N. Mukherjee Road, P.S. Hare Street,
Kolkata -700 001.

2. Sri B.K. Yadav, Manager, Mahadevi Birla Niketan

Bagirhat, D.H. Road, P.O. & P.S. - Bishnupur, Dist. South 24
Pgs., Pin- 743 503.

.....Respondent(s)

BEFORE:

HON'BLE MR. AJEYA MATILAL PRESIDING MEMBER

HON'BLE MR. NITYASUNDAR TRIVEDI MEMBER

PRESENT:In-person, Advocate for the Appellant 1

Ms. Mala Mukherjee., Advocate for the Respondent 1

Dated : 21 Nov 2024

Final Order / Judgement

Hon'ble Mr. Ajeya Matilal, Presiding Member

Appellant, Mr. Chira Ranjan Das is present in person.

Ld. Counsel appearing for the Respondents is also present.

Being aggrieved by and dissatisfied with the order no. 15 dated 07.11.2019 passed by the Ld. DCDRC, Unit—I, Kolkata dismissing the Complaint Case being no. 308/2018, the Appellant/Complainant preferred this appeal.

Heard the submission of both sides.

Considered.

The fact of the case is in short like that the Complainant and his wife were residing at Mahadevi Birla Niketan, an old-age home on and from 2016 and he paid Rs. 54,000/- for the advance payment of six months for the period of 06.02.2018 to 05.08.2018. According to the Complainant he paid Rs. 4,500/- per person per month and OP took Rs.4,000/- extra from the Complainant for the month April-July, 2018. It is also stated by the Complainant that the said 'Niketan' provided a private sub meter to the Complainant for using of 15 Amp. Plug points. But he was not allowed any access to the said plug point although he paid for 4.68 Unit every month. It is also stated by the Complainant that though the Complainant requested the OPs on several

occasions to refund the excess amount received by the OPs for food and electricity charges and to rectify the sub-meter and to allow her access to the switch of the plug point, but the OPs did nothing to that effect for which the Complainant filed this case praying for direction upon the OPs to pay back the excess amount taken for food and electricity charges. The Complainant also prayed for rectification of the sub meter and to have access to the switch of the plug point. Complainant prayed for compensation of Rs. 1,75,000/- and litigation cost.

The OPs have contested this case by filing written version denying and disputing all the material allegations of claim petition along with technical pleas. According to them the “Mahadevi Birla Niketan” was a non-profit making organization caring the old person in society for almost 30 years. Accordingly, to their rules and regulations an intending resident requires to submit application in prescribed manner before the management Committee and he has to deposit an amount for six months charges.

Ld. Commission below dealt following points:-

i) Whether the complainant is consumer under the C.P.Act, 1986?

ii) Whether there is deficiency in providing service on the part of the Ops?

iii) Whether the Complainant is entitled to get the relief as prayed for?

It appears from the impugned judgment the Complainant and his wife took admission as a resident under the OPs by paying the prescribed amount on 05.12.2016. Thereafter, he paid six months charges at a time to the OPs as per terms and conditions.

Thus, the Complainant becomes a Consumer as per Provisions of Consumer Protection Act, 1986.

According to the OPs, as per Rules of the said ‘Niketan’ they received the charges for six months at a time but after two years of the admission of the Complainant the OPs revised the charges w.e.f. 01.04.2018, more than two years after the Complainant took admission there.

Ld. Commission below observed that it was not unfair/unjust that charges were of Rs. 500/- extra per month for food, lodging and electricity expenses etc. It was held that there was no deficiency in service on the part of the OPs.

It appears from the impugned judgment that the specific defence of the OPs that to substantiate such allegation the Complainant did not pray for appointment of an expert to detect the defective meter but in this instant case the Complainant did not pray for the expert opinion in this context. We reiterate the point that we did not find anything to that effect that the Complainant prayed for appointment of any expert to ascertain whether the meter concerned was defective or not. It was further observed that during the pendency of the case the OPs considering the age of the Complainant and also showing good gesture, installed a new sub-meter in presence of the Complainant. So, we find that there is no irregularity or illegality in the impugned judgment and the impugned order does not require any interference from this Commission.

With view of the above observation, we find that there is no merit in the appeal.

So, the Appeal being no. A/817/2019 is dismissed on contest but without any order as to costs.

The impugned order is upheld.

Let a copy of this order be sent to the Ld. Commission below and to both the parties free of cost.

**[HON'BLE MR. AJEYA MATILAL]
PRESIDING MEMBER**

**[HON'BLE MR. NITYASUNDAR TRIVEDI]
MEMBER**