

IN THE HON'BLE CONSUMER REDRESSAL COMMISSION, ERNAKULAM

Dated this the 18th day of November 2024

PRESENT

Shri.D.B.Binu

Shri.V.Ramachandran

Smt.Sreevidhia.T.N

President

Member

Member

I.A. NO. 1009 OF 2024

IN

C.C. No. 278 of 2023

Petitioner/Complainant:

Nithin Ramakrishnan, Aged 32 years, S/o Dr. N. Ramakrishnan, A31, Jal Vayu Vihar, Shihab Thangal Road, Panampilly Nagar, Ernakulam - 683 026

(Complainant Rep. By. Adv. Anjali Anil A, "Nyayanishta Legal Associates", 2nd Floor, Mulloor Building, Market Road, Near Saritha Junction, Shenoyo, Kochi - 682 031.)

Vs

Respondents/Opposite Parties:

1. Bajaj Finserv Ltd, represented by its Manager, Bajaj Finserv Ltd Regd Office, Bajaj Auto Limited Complex Mumbai, Pune Road, Pune-411 035 (IN)
2. Manager, Bajaj Finserv Ltd, Bajaj Finserv Ltd Regd Office, Bajaj Auto Limited Complex Mumbai, Pune Road, Pune-411 035 (IN)
3. Regional Manager, Bajaj Finserv Ltd, 4th Floor & 6th Floor, Dd Trade Towers, Kaloor- Kadavanthra Rd, Ernakulam - 682017.
4. Regional Manager, Bajaj Finserv Ltd, 77, Anna Salai, Triplicane, Chennai, Tamil Nadu 638 501.

(OPs' 1 to 4 Rep. By. Adv. B.S Suresh Kumar, B.S. Suresh Kumar & Co., 2nd Floor, PRRA -51, Ayyappankavu, Chittoor Road, Ernakulam - 682 018)

5. Bajaj Finance Ltd, represented by its Manager, Registered Office - Pune Road, Akrudi, Pune - 411 034, Corporate Office - 4th Floor, 'Bajaj Finserv', Off Pune - Ahmednagar Rd, Viman Nagar, Pune - 411 014.
6. Manager, Bajaj Finance Ltd, Registered Office - Pune Road, Akrudi, Pune - 411 034, Corporate Office -4th Floor, 'Bajaj Finserv', Off Pune - Ahmednagar Rd, Viman nagar, Pune 411 014, Maharashtra.

ORDER

D.B. Binu, President

This application has been filed by the complainant under Section 38(8) of the Consumer Protection Act, 2019, seeking a direction from this Commission against the respondents to cease unsolicited calls and messages. The complainant also prays for his number to be registered on the ***Do Not Disturb (DND)*** list of the respondents and their subsidiary companies.

Facts and Contentions:

1. The petitioner alleges that despite repeated requests, the respondents and their subsidiaries continued to make unsolicited calls, causing severe disturbance. Even after the filing of the complaint on 14.03.2023, the respondents persisted in contacting the petitioner, creating a nuisance during his work hours by calling 3 to 4 times a day from various numbers.
2. The complainant contends that this behaviour infringes on his right to privacy and peaceful life. The respondent companies failed to address the grievances and continued these intrusive calls despite assurances to include his number in their DND list.
3. The petitioner argues that such persistent harassment constitutes an unfair trade practice under the Consumer Protection Act, 2019, and is violative of his fundamental right to privacy.

Legal Reasoning:

This Commission has thoroughly examined the submissions, facts, and applicable laws. The issues for determination are:

- (a) Whether the respondents are liable for making unsolicited calls despite requests from the complainant;
- (b) Whether such behaviour amounts to an unfair trade practice under the Consumer Protection Act, 2019; and

(c) Whether the petitioner's right to privacy has been infringed by the actions of the respondents.

Violation of Consumer Rights and Unfair Trade Practice:

The Consumer Protection Act, 2019, defines unfair trade practices to include conduct that causes unnecessary harassment to consumers. Persistent unsolicited calls despite requests to refrain fall squarely within the ambit of this provision. Section 2(47) of the Act prohibits harassment in the course of promoting goods or services, and Section 38 empowers this Commission to grant interim relief in such cases.

Infringement of Right to Privacy:

The Hon'ble Supreme Court of India in *Justice K.S. Puttaswamy (Retd.) & Anr. v. Union of India & Ors.* [(2017) 10 SCC 1] unequivocally recognized the right to privacy as a fundamental right under Article 21 of the Constitution of India. The right to privacy encompasses protection from unsolicited intrusion into one's personal space and life.

The repeated calls made to the complainant, especially during work hours, amount to an infringement of his privacy. The principle laid down in *Harassment through Telemarketing Calls: PUCL v. Union of India (2003)*, further emphasizes that consumer annoyance from unsolicited calls constitutes an invasion of privacy and must be curtailed through appropriate regulatory mechanisms.

Failure to Respond:

It is noted that the respondents have not filed any objections or responses to the application, indicating their failure to contest the allegations. The absence of objections strengthens the petitioner's case.

Observations and Findings of the Commission:

1. The repeated calls to the complainant, despite requests to stop, constitute harassment and an unfair trade practice under the Consumer Protection Act, 2019.

2. The petitioner has demonstrated that these calls were intrusive and caused significant disturbance to his personal and professional life.
3. The petitioner's right to privacy, as recognized in *K.S. Puttaswamy (2017)*, has been violated by the conduct of the respondents and their subsidiaries.

ORDER:

In light of the above legal reasoning and analysis, this Commission allows the application filed by the petitioner. Accordingly, it is hereby ordered as follows:

1. The respondents and their subsidiary companies are directed to **immediately cease** all unsolicited calls and communications to the complainant.
2. The respondents are further directed to **include the complainant's number** in their *Do Not Disturb (DND)* list within **seven (7) days** from the date of this order.

The application is allowed accordingly.

Pronounced in Open Court on this the 18th day of November 2024

D.B.Binu, President

V. Ramachandran, Member

Sreevidhya T.M., Member