

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI

REVISION PETITION NO. 1867 OF 2016

(Against the Order dated 22/01/2016 in Appeal No. 498/2015 of the State Commission Punjab)

1. SPICEJET LTD.

319, UDYOG VIHAR, PHASE IV,

GURGAON-122016

HARYANA

.....Petitioner(s)

Versus

1. DINESH KUMAR & ANR.

S/O. PAWAN KUMAR, NOW R/O. RANA CLINIC

AND HOSPITAL, OPP. TELEPHONE EXCHANGE,

KHAMANON, TEH. KHAMANON,

DISTT.-FATEHGARH SAHIB

PUNJAB

2. MAKEMYTRIP (INDIA) PVT. LTD.

TOWER-A, SP INFOCITY, 243, UDYOG VIHAR

PHASE-I,

GURGAON

HARYANA

.....Respondent(s)

BEFORE:

HON'BLE MR. DR. S.M. KANTIKAR, PRESIDING MEMBER

HON'BLE MR. DINESH SINGH, MEMBER

For the Petitioner : For the Petitioner : Mr. Maibam N. Singh, Advocate

For the Respondent : For Respondent No. 1 : Mr. Ajay Gupta, Advocate

For Respondent No. 2 : Mr. Sharique Hussain,
Advocate

Dated : 15 Jul 2019

ORDER

HON'BLE MR. DINESH SINGH, MEMBER

1. We heard learned counsel for the revision petitioner – airlines co., the respondent no. 1 – complainant and the respondent no. 2 – online travel co., and perused the material on record.

2. The short point in the dispute is that the complainant Dinesh Kumar booked a ticket Delhi – Kathmandu – Delhi through the online travel co., departing from Delhi on 05.07.2013. He produced his e-ticket and aadhaar card at the airlines co.'s check-in counter. The airlines co. did

not accept aadhaar card as a valid / acceptable travel document for travel to Nepal (Kathmandu) and refused to issue a boarding pass.

3. The District Forum vide its Order dated 30.09.2014 allowed the complaint, holding the airlines co. liable, and dismissed the complaint against the online travel co. The State Commission vide its Order dated 22.01.2016 dismissed the appeal of the airlines co. This revision has been filed by the airlines co. under section 21(b) of the Act 1986 before this Commission against the said Order dated 22.01.2016 of the State Commission.

4. The relevant information printed on the e-ticket, issued by the online travel co., are as below:

It is mandatory to carry Government recognized photo identification (ID) along with your E-Ticket.

This can include: Driving License, Passport, PAN Card, Voter ID Card or any other ID issued by the Government of India. For infant passengers, it is mandatory to carry the Date of Birth certificate.

5. The relevant instructions of the Bureau of Immigration, Ministry of Home Affairs, Government of India, are as below:

Identity documents required for Indian Citizen going to / coming from Nepal by Air :-

- (i) Valid National Passport.
- (ii) Photo Identity card issued by the Government of India/State Govt./UT Administration in India to their employees or Election ID card issued by the Election Commission of India.
- (iii) Emergency Certificate issued by Embassy of India, Kathmandu.
- (iv) Identity Certificate issued by Embassy of India, Kathmandu.
- (v) Persons in the age of group of above 65 years and below 15 years would be exempted from the requirement of approved identity documents mentioned at SL. No. (i), (ii), (iii) and (iv). However, they must have some documents with photograph to confirm their age and identity such as PAN card, Driving license, CGHS card, Ration card etc.
- (vi) Children between the age group of 15 to 18 years may be allowed to travel between India and Nepal on the strength of Identity certificate issued by the principal of the school in the prescribed performa.
- (vii) In case of a family (family means husband, wife, minor children and parents) traveling together, the approved identification documents at SL. No. (i), (ii), (iii) and (iv) would not be insisted from all the family members if one of the adult members of the family has in possession of one of the prescribed identification documents at SL. No. (i),

(ii), (iii) and (iv). However, the other family members must have some proof of their identity with photograph and their relationship as a family viz. CGHS card, Ration card, Driving license, ID card issued by school/college etc.

Note: -

1. **Aadhaar (UID) card is not an acceptable travel document for travel to Nepal/Bhutan except for cases mentioned at S No (V) and (VII).**
2. **Certificate of Registration issued by the Embassy of India, Kathmandu, Nepal to Indian nationals is not an acceptable travel document for travelling between India and Nepal.**
3. **The Emergency Certificate & Identity Certificate issued by the Embassy of India, Kathmandu will be valid for single journey for travelling back to India.**

6. It is noted that:

- (i) The information on the e-ticket does not specifically mention aadhaar card to be a valid / acceptable travel document for travel to Nepal.
- (ii) The instructions of the Bureau of Immigration specifically proscribe aadhaar (UID) card as a valid / acceptable travel document for travel to Nepal / Bhutan.
- (iii) The instructions of the Bureau of Immigration are available in the public domain (also at: <https://boi.gov.in/content/indian-passengers#>).

7. The argument made on behalf of the complainant is that “aadhaar card” falls within “any other ID issued by Government of India” mentioned on the e-ticket. This argument is erroneous. An aadhaar number is a 12-digit random number issued by the Unique Identification Authority of India (‘Authority’) to the residents of India after satisfying the verification process laid down by the ‘Authority’, and can in no manner be construed to be “any other ID issued by the Government of India” in the specific context of it being a valid / acceptable travel document for travel to Nepal.

Section 4(3) of The Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 reads as below:

Section 4. Properties of Aadhaar number –

- (3) An Aadhaar number, in physical or electronic form subject to authentication and other conditions, as may be specified by regulations, may be accepted as proof of identity of the Aadhaar number holder for any purpose.

Explanation .— For the purposes of this sub-section, the expression “electronic form” shall have the same meaning as assigned to it in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000.

There is no regulation made under the Act 2016 declaring aadhaar card (number) as a valid / acceptable travel document for travel to Nepal.

Nor do airlines cos. have access to the aadhaar database, there is no linkage between airlines cos. and the aadhaar database for any purpose including for the purpose of treating aadhaar card as a valid / acceptable travel document for travel to Nepal.

8. And, in all contingencies, the instructions of the Bureau of Immigration, which specifically preclude aadhaar card as a valid / acceptable travel document, supersede any information etc. written by any online travel co. etc. on its e-tickets.

9. For the sake of discussion, even if aadhaar card was (erroneously) mentioned as a valid / acceptable travel document in the e-ticket, the instructions of the Bureau of Immigration would have prevailed, the said Bureau being the government agency responsible for administering immigration related functions.

In the contingency that aadhaar card was (erroneously) mentioned as a valid / acceptable travel document on the e-ticket, the online travel co. would have been liable for erroneous information on its e-ticket.

And in the contingency that aadhaar card was (wrongly) accepted as a valid / acceptable travel document for travel to Nepal by the airlines co., it would have been liable for violating the instructions of the Bureau of Immigration.

10. We do not want to critique ‘aadhaar card’ here. A treatise on ‘aadhaar card’ would be ill-conceived and misplaced on the part of a quasi – judicial tribunal in the present facts and context of the case before it.

11. In the light of the above examination:

(i) We find that the District Forum has erred in allowing the complaint against the airlines co. and the State Commission has erred in dismissing the appeal of the airlines co. The evident misappreciation of the facts and the law and the evident miscarriage of justice in the Orders of the two fora below are required and necessary to be remedied by this Commission in its revisional jurisdiction under section 21(b) of the Act 1986.

(ii) We find the complaint filed by the complainant Dinesh Kumar to be frivolous and vexatious within the meaning of section 26 of the Act 1986 (*Dismissal of frivolous or vexatious complaints*).

12. The Order dated 30.09.2014 of the District Forum and the Order dated 22.01.2016 of the State Commission are set aside.

13. The complaint is dismissed with stern advice of caution to the complainant through imposition of cost of Rs.10,000/- to be deposited by the complainant with the Consumer Legal Aid Account of the District Forum within four weeks of the pronouncement of this Order, the objective being to emphasise that consumer protection fora are not meant to be tools for creating nuisance by filing frivolous and vexatious complaints.

14. Let a copy of this Order be sent by the Registry to the District Forum within seven days of its pronouncement with specific reference to para **13** above.

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DR. S.M. KANTIKAR
PRESIDING MEMBER

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DINESH SINGH
MEMBER