

Date of Filing : 12.11.2018  
Date of Order : 29.01.2021

**BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION-III,  
HYDERABAD.**

**Present**

**SRI NIMMA NARAYANA, B.A., LL.B. PGD (ADR) PRESIDENT,  
Smt. LAKSHMI PRASANNA, B.SC (Elec) LL.M PGD (ADR) MEMBER**

**Tuesday, the 29<sup>th</sup> Day of January' 2021**

**C.C.No.439 of 2018**

**Between:**

Mr. Mukesh Sanghi,  
S/o. Late. Shiv Kumar Sanghi,  
Aged about: 45 years, Occ: Business,  
R/o. Shivarampally,  
R.R. District, Hyderabad.

**....Complainant**

**AND**

1. ACT FIBERNET,  
Rep.by its Authorized Authority,  
H.No.12-2-725/5, Flat No.201, 202,  
2<sup>nd</sup> Floor, Rangaprasad Plaza,  
Inner Ring Road, Rethibowli,  
Mehdipatnam, Hyderabad – 500028,  
Telangana State.

2. ACT FIBERNET,  
Rep.by its Authorized Authority,  
H.No.8-2-618/b, Banjara Hills,  
Road No.11, Mithila Nagar,  
Banjara Hills, Hyderabad – 500034,  
Telangana State.

**....Opposite Parties**

Counsel for the Opposite Party : K. Sreedhar, Advocate.  
Counsel for the Opposite Party 1 & 2 : K. Raghavendra Rao, Advocate.

**ORDER**

**(Per Hon'ble Smt. LAKSHMI PRASANNA, B.SC (ELEC) LL.M PGD  
(ADR) MEMBER, on behalf of the bench)**

1. The complaint is filed u/Sec.12 of The Consumer Protection Act, 1986 for deficiency of service and seeking a direction against the Opposite Parties
  - a) To install internet connection at the complainant's house
  - b) To pay an amount of Rs.1,00,000/- towards compensation
  - c) To pay an amount of Rs.1,00,000/- towards mental agony

**2. Brief facts of the case are:-**

The Complainant applied for installation and connection of internet services by paying an amount of Rs.4220/- through a cheque drawn on IDBI, Basheerbagh Branch, Hyderabad on 16/4/2018 to Opposite party No.1, but was neither given connection despite several reminders nor returned the application amount. The complainant alleges that as the Opposite Parties have encashed the cheque on 21/4/2018 but failed to install the internet connection to the Opposite Parties, he got issued a legal notice dt.7/6/2018 but of no avail. Hence the present complaint is filed against the Opposite parties for deficiency of service and breach of trust and seeking appropriate relief.

**3.** In their written version, while denying the allegations, the Opposite Parties contended that the internet connection could not be provided to the complainant due to technical non-feasibility ( system generated report Annexure-D (Ex B-5) and that they refunded the application amount of Rs.4220/- through a demand draft to the complainant along with the reply dt.22/6/2018 to the legal notice served on them (Copy of the reply notice, postal receipt and acknowledgment Annexures E,F, & G Ex B-6 & 7) and hence the complaint is liable to be dismissed as there is no deficiency of service on their part.

**4.** In the enquiry, along with the evidence affidavit reiterating the averments of the complaint, Ex A1 to A5 are filed by the complainant in support of his claim, while Ex B1 to B7 including the terms and conditions of the internet service contract are marked on behalf of the Opposite Parties. The complainant remained absent and did not file his written arguments despite several adjournments and hence forfeited his right to file the same.

**5.** Based on the material on record and the oral submissions of both parties and written arguments filed by the Opposite Parties, the following points emerged for consideration:-

- Whether the complainant could make out case of breach of trust/deficiency of service on the part of the opposite parties?

- Whether the complainant is entitled for the claim/compensation made in the complaint? To what relief?

**6. Point No.1:-** The undisputed facts of the case are that the complainant paid an amount of Rs.4220/- to the Opposite Party No.1 for installation of internet connection on 21/4/2018 (Ex. A4). However, the internet connection was neither provided nor activated to the complainant (Account No.101014396762). As per Ex B-5 a system generated report (service requests in the months of May and June) shows that the internet connection could not be provided to the complainant's premises due to technical non-feasibility as it was not within 1.4 km radius from the junction box and hence the process of refund of the subscription amount paid by the complainant was initiated. In fact, the Opposite Parties returned the subscription amount of Rs.4220/- through a demand draft along with their reply notice dt.22/6/2018 (Ex B-4). It is pertinent to mention that as per Ex A-1 showing correspondence dt.18/4/2018, 28/4/2018 mentions about feasibility of connection, confirmation of successful installation and subsequent activation. There is no denial or rebuttal of the above mail correspondence by the Opposite Parties in their written version or counter affidavit or the written arguments during the proceedings. And even considering the system generated report Annexure-D (Ex B-5) as rebuttal evidence adduced by the Opposite parties in support of their arguments, the service requests are dt.4/6/2018, 28/5/2018, 24/5/2018, 18/5/2018, 17/5/2018, all in the months of May and June of 2018, that is subsequent to the mail correspondence during the month of April per Ex A-1, wherein mail dt.28/4/2018 clearly states that the complainant's account is activated with user name: 101014396762 and password : ru79ca and thereafter two more complaints with Customer Ticket No.10131149174 and 10131195823 are registered on 3/5/2018 and 6/5/2018 ensuring fastest possible action (which are obviously prior to the dates shown in Ex B-5. The fact that the mail correspondence showing feasibility of connection, successful installation and subsequent activation is contrary to the contention of the Opposite Parties regarding the technical non-feasibility and hence seems

to be an afterthought, especially when there is evidence through mails (Ex A-1) to the complainant showing no such reason of technical non-feasibility at the time of registration of installation. Strangely, even going by the terms of the service contract that the services shall be provided by ACT subject to availability of technical feasibility, there is nothing on record showing that the technical non-feasibility was raised by the Opposite Parties till as late as May June 2018 as shown in Ex B-5 even after realization of subscription amount of Rs.4220/- and the cheque being encashed on 21/4/2018 by the Opposite Parties. The fact that the Opposite Parties have not ascertained the technical feasibility of internet connection before realization of payment from the complainant and encashing it on 21/4/2018 and that the information raising such objection of technical non-feasibility and consequent disconnection at later dates on 17/5/2018 and 18/5/2018 as reflecting in the system generated report Ex B-5 is after two months of the CAF Customer Application Form dt.3/4/2018, shows lack of bonafides and deficiency of service. Hence this point is answered in favour of the complainant and against the Opposite Parties.

**7. Point No.2:-** As the complainant is deprived of services even after payment of subscription amount of Rs.4220/- and the complaints lodged vide Customer Ticket No.10131149174 and 10131195823 registered on 3/5/2018 and 6/5/2018 ensuring fastest possible action, having not been attended to by the Opposite Parties and subsequent permanent disconnection on the grounds of technical non-feasibility on 4/6/2018 after three months of subscription application, is clearly not in good faith and shows deficiency of service on the part of the Opposite Parties. Therefore, the Opposite Parties are jointly and severally liable to refund the subscription amount of Rs.4220/- and pay an amount of Rs.10,000/- towards compensation for the tension and mental agony caused to the complainant in pursuing the litigation.

**8.** Accordingly the Opposite Parties are directed

- 1) to refund the subscription amount of Rs.4,220/- (Four Thousand Two Hundred and Twenty Rupees only) and
- 2) to pay an amount of Rs.10,000/- towards compensation for mental agony and tension caused to the complainant.

This order be complied with by the opposite parties, within 45 days from the date of receipt of the Order, failing which the amounts mentioned (1) & (2) above shall carry interest @ 9% per annum from the date of this order till actual payment.

Dictated to steno transcribed and typed by her pronounced by us on this the 29 Day of January' 2021.

**Sd/-  
PRESIDENT**

**Sd/-  
MEMBER**

**APPENDIX OF EVIDENCE**

**WITNESSES EXAMINED**

**For Complainant:**

PW1: Mukesh Kumar Sanghii

**For Opposite Party:**

Mr. Sankara Sriramachandra Tejasvi

**Documents Marked:-**

**For Complainant:**

Ex.A1: is the Xerox copy of Emails on various dates.

Ex.A2: is the Xerox Copy of Legal Notice, dated: 07/06/2018.

Ex.A3: is the Xerox copy of Postal Receipts, dated: 07/06/2018.

Ex.A4: is the Xerox copy of Bank Account Statement, dated: 20/06/2018.

Ex.A5: is the Xerox copy of Track Consignment.

**For Opposite Party:**

Ex.B1: is the Xerox copy of License Agreement for Provision of Internet Services,  
dated: 19/12/2008.

Ex.B2: is the Xerox copy of Customer Application Form, dated: 18/04/2018.

Ex.B3: is the Xerox copy of Speed Post.

Ex.B4: is the Xerox copy of Letter, dated: 22/06/2018.

Ex.B5: is the Xerox copy of Postal Receipts, dated: 19/06/2018.

Ex.B6: is the Xerox copy of Postal Acknowledgement, dated: 20/06/2018.

Ex.B7: is the Xerox copy of Power of Attorney, dated: 12/12/2017.

**Sd/-  
PRESIDENT**

**Sd/-  
MEMBER**

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