

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

REVISION PETITION NO. 3972 OF 2014

(Against the Order dated 19/09/2014 in Appeal No. 16/2014 of the State Commission Tripura)

1. RUPASI MULTIPLEX

POST OFFICE CHOWMUHANI, AGARTALA

WEST TRIPURA

TRIPURA

.....Petitioner(s)

Versus

1. MAUTUSI CHAUDHURI & ORS.

D/O SHRI KAMAL CHOWDHURY, RAMNAGAR

ROAD, NO-7 P.S WEST AGARTALA

DISTRICT WEST TRIPURA

TRIPURA

2. KAMAL CHOWDHURY, S/O. LATE SUKUMAR
CHOUDHURY

RAMNAGAR ROAD, NO-7 P.S WEST AGARTALA

DISTRICT : WEST TRIPURA

TRIPURA

3. SIMA CHOWDHURY, W/O. SHRI KAMAL
CHOWHDURY,

RAMNAGAR ROAD, NO-7 P.S WEST AGARTALA

DISTRICT : WEST TRIPURA

TRIPURA

.....Respondent(s)

BEFORE:

HON'BLE MR. JUSTICE V.K. JAIN, PRESIDING MEMBER

HON'BLE DR. B.C. GUPTA, MEMBER

For the Petitioner : Mr. Sanjoy Kumar Ghosh, Advocate

Ms. Rupali S. Ghosh, Advocate

For the Respondent : Ms. Aprajita Mukherjee, Advocate

Dated : 10 Aug 2015

ORDER

JUSTICE V.K. JAIN, PRESIDING MEMBER

On 04.11.2014 the respondents/complainants purchased tickets for watching a movie at a cinema hall owned by the petitioner, paying a sum of Rs.330/- for the purpose. They were not allowed to carry drinking water inside the cinema hall, though the ticket contained no prohibition on carrying water inside the cinema hall. Alleging deficiency in the services and adoption of unfair trade practice on the part of the petitioner, they approached the concerned District Forum, seeking compensation from the petitioner.

2. The complaint was resisted by the petitioner primarily on the ground that carrying water inside the hall has been restricted for security reasons since it is not possible for the management of the cinema hall to verify or check whether any restricted liquid had been mixed with the drinking water in the container / bottle. It was further stated in the reply that water facility was available just near the entry gate of the hall in the lobby. According to the petitioner / opposite party, the aforesaid restriction has been imposed from the security point of view so that no one is able to carry prohibited or dangerous liquid inside the bottle / container, which is stated to contain drinking water.

3. The District Forum vide its order dated 02.06.2014 dismissed the complaint. Being aggrieved, the complainant approached the concerned State Commission by way of an appeal. Vide impugned order dated 10.9.2014, the State Commission allowed the appeal and directed the petitioner to pay a sum of Rs.10,000/- to the complainant as compensation for the deficiency in the service, along with the cost of litigation quantified at Rs.1000/-. The petitioner was also directed to pay interest @ 9% per annum with effect from thirty days from the date of the order. The petitioner was further directed to deposit a sum of Rs.5,000/- as cost of appeal in the Legal-Aid-Account of the State Commission. Being aggrieved, the petitioner is before us by way of this Revision Petition.

4. The case of the petitioner is that in order to ensure the safety of the cinema-goers as well as the cinema hall, they have imposed restriction on carrying beverages, which includes water inside the cinema hall and not only water is available for sale at the Cafeteria, even free drinking water is provided inside the cinema hall. There is disagreement between the parties as to whether the term 'beverages' which as per the ticket were not allowed to be carried inside the hall, includes water or not. As per Oxford Advanced Learner's Dictionary, beverage means 'any type of drink except water'. As per the Free Dictionary available on the Internet, term 'beverages', does not include water. As per the Wikipedia Free Encyclopedia, the beverages are liquids specially prepared for human consumption but normally exclude water. In common parlance, beverages comprises juices, soft drinks and carbonated drinks which have some form of water in them but plain water is often not classified as a beverage. Be that as it may, it can hardly be disputed that not everyone going to watch a movie for three hours or more can be expected to remain without water, except at the cost of substantial discomfort. The movie watcher may include old and infirm persons as well as the children for whom it would be difficult to manage without water for three hours or more. The water being a basic necessity for human beings, it is obligatory for the cinema hall to make it available to the movie-goers in case they decide not to allow the drinking water to be carried inside the cinema hall. In fact, some time the movie-goer may even faint if he does not get water in time. Therefore, it can hardly be disputed that the water has to be made available to the cinema-goers, inside the cinema hall. If a cinema hall while prohibiting carrying of drinking water inside the cinema hall fails to make portable drinking water available to the cine-goers inside the cinema hall, it will be an act of deficiency in rendering services to them, they having

paid a substantial amount for watching the movie in a comfortable and satisfying environment. If such a deficiency is shown, the Consumer Forum would be fully justified in awarding suitable compensation to the complainant.

5. If the drinking water is available for purchase from the Cafeteria of the cinema hall, that, in our view, would not be enough, considering the high cost of the drinking water sold in the cinema halls. Not everyone may be in a position to afford drinking water at such a huge price, which normally is many times more than the price at which such water is available in the market outside the cinema halls. Therefore, he will be compelled to pay an exorbitant price for a basic necessity such as drinking water. The huge profit which the Cafeteria makes on sale of drinking water at such a price would obviously be shared with the owners of the cinema halls, in the form of license fee for the cafeteria. If the owner of the cinema halls himself is running the cafeteria, the entire profit from sale of drinking water, at such an exorbitant price, would obviously go to him. The restriction on carrying drinking water inside the cinema hall, where free portable drinking water is not provided to the cinema-goers and they are made to purchase it at a price, which is substantially higher than the prevailing market price, would, in our opinion, constitute unfair trade practice, within the meaning of Section 2(r) of the Consumer Protection Act, 1986. In our opinion, free portable and pure drinking water is the basic facility which a cinema hall is required to make available to its patrons who visit the cinema hall in the hope of relaxing in a cool and comfortable environment. It would be pertinent to note here that the unfair and deceptive practices enumerated under Section 2 (r) are inclusive and not exhaustive, meaning thereby, there can be practices other than those specifically enumerated therein which constitute unfair or deceptive trade practices.

6. We are in agreement with the learned counsel for the petitioner that the security considerations may prevail upon the cinema owners to prohibit carrying of drinking water from the market inside the cinema hall. Sometime undesirable elements may carry alcoholic drinks or even water mixed with acid inside the cinema halls. There have been reports on bottle bomb devices exploding at theatres leading to evacuation of the theatres. In our opinion, a cinema hall, which seeks to prohibit carrying of drinking water inside the cinema hall for security reasons, must necessarily provide free portable and pure drinking water through water coolers installed inside the cinema halls, before such a prohibition can be enforced. An appropriate water purifiers such as Aqua-guards, needs to be installed with the water coolers so that the water available to the cinema-goers free from the impurities. Disposable glasses in sufficient quantity need to be kept available near the water coolers. It has also to be ensured that the water supply is actually available through the water coolers before the movie starts as well as throughout the screening of the movie including interval. If for any reason, water supply is not available on a particular day, alternative arrangements for supply of free pure and portable drinking water to the cinema-goers needs to be made available by the owners of the cinema hall. The cinema hall is also required to ensure that the water coolers as well as water purifiers remain fully functional and are regularly serviced from time to time so that only purified water is dispensed through the coolers. If this is not done, the owner of the cinema hall would be liable to pay appropriate compensation for the deficiency in rendering services to the cinema-goers. Mere availability of the drinking water from the cafeteria, in our view, would not be sufficient to enforce prohibition of carrying drinking water inside the cinema halls.

7. In the case before us, it has come in evidence of the complainant that drinking water was actually not available, on the day the cinema hall of the petitioner was visited by the complainants/respondents. No evidence was led by the petitioner to prove actual availability of the portable drinking water, free of cost, to the complainants on the date they watched the movie. The finding of fact returned by the State Commission in this regard cannot be said to be perverse so as to call for intervention by us in exercise of our revisional jurisdiction. Therefore, the order of the State Commission, directing payment of compensation quantified at Rs.10,000/- to the complainant, along with cost of litigation quantified at Rs.1000/- cannot be faulted with and the same is upheld. However, we do not find any justification for directing the petitioner to deposit a sum of Rs.5,000/- as cost of appeal in the Legal-Aid-Account of the State Commission. The aforesaid direction is therefore, set aside. We also direct that if the compensation amounting of Rs.10,000/- and cost of litigation quantified at Rs.1,000/- is remitted to the complainants by way of Demand Draft / Pay Order within four weeks from today, the petitioner need not pay any interest on the said amount. However, in the event of default, the petitioner shall pay interest on the aforesaid amount @ 9% per annum, in terms of the order of the State Commission.

The Revision Petition stands disposed of.

One copy of this order be sent to the Secretary to Government of India, Department of Consumer Affairs, for giving wide publicity to its gist for the benefit of the consumers at large.

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V.K. JAIN
PRESIDING MEMBER
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DR. B.C. GUPTA
MEMBER