

**IN THE DELHI STATE CONSUMER DISPUTES REDRESSAL
COMMISSION**

Date of Institution: 01.04.2023

Date of Hearing: 31.10.2025

Date of Decision: 17.11.2025

FIRST APPEAL NO. 138/2023

IN THE MATTER OF

MR. RAKESH SHARMA

S/O MR. S. N. SHARMA,

R/O 1/3369,

RAM NAGAR EXTENSION,

SHAHDARA, DELHI-110032.

EMAIL ID: RAKESHPINKI58@GMAIL.COM

(Through: Mr. Mohit Gupta, Advocate)

...Appellant

VERSUS

M/S. LUMINOUS POWER TECHNOLOGIES PVT. LTD.

PLOT NO. 150, SECTOR-44,

GURUGRAM, HARYANA-122003.

EMAIL ID: SOLAR@LUMINOUSINDIA.COM

(Through: Mr. G. S. Gangwar, Advocate)

...Respondents

CORAM:

HON'BLE JUSTICE SANGITA DHINGRA SEHGAL (PRESIDENT)
HON'BLE MS. PINKI, MEMBER (JUDICIAL)

Present: Mr. R. K. Mohit Gupta, counsel for the Appellant, e-mail:
rkmohitgupta@gmail.com.
Mr. G. S. Gangwar and Mr. Umang Gangwar counsel for the
Respondent.

PER: HON'BLE JUSTICE SANGITA DHINGRA SEHGAL, PRESIDENT

JUDGMENT

1. The facts of the case as per the District Commission record are as under:

“1. The facts of the case as revealed from the record are that the Complainant purchased Solar Power Generation System from the Opposite Party and disbursed the amount of Rs. 3,08,750/- out of the contractual amount of Rs. 3,25,000/- via several cheques bearing no. 029848 and 029847, Bill no. 34 & 31. After successful payment the Opposite Party delivered and installed the system but the Complainant had faced some problems as the system was not worked properly because the Opposite Party did not installed the system at agreed height as MMS height was reduced to 1.65 m & 1.6 m for both sites respectively instead of 1.8 m as was agreed. After that, the Complainant tried to contact the Opposite Party several times to contact the opposite party but he did not receive any constructive reply till now. He tried several times to contact the Opposite Party and sought their help, but the company had not get resolved his issue and his efforts to get his refund has gone in vain. The fact that solar plant thus installed would remain functional only if BSES power supply continues was never explained at the stage of work. Complainant also sent legal notice to Opposite Party on 13.03.20 and get reply on 21.08.20. Complainant has prayed to refund the amount of Rs. 3,08,750/- with 18% penal interest w.e.f. April 2019 to till date. He has

also prayed for Rs. 1,00,000/- for mental harassment and Rs. 25,000/- as litigation expenses.

2. None has appeared on behalf of Opposite Party consecutively on 3 dates i.e.11.11.21, 21.12.21 and 17.02.22. Therefore, it was proceeded against Ex-parte vide order dated 22.04.22.”

2. The District Commission after taking into consideration the material available on record passed the order dated **27.02.2023**, whereby it held as under:

“Arguments and Conclusion

4. We have heard the Complainant and we have also perused the file. The case of the Complainant is that he purchased a Solar Power Generating System from Opposite Party for an amount of Rs. 3,25,000/- and paid the amount Rs. 3,08,750/-. He further stated that the solar system was not worked properly because of MMS height was reduced to 1.65 m & 1.6 m for both parties, respectively instead of 1.8 m was agreed upon the parties.

5. The Complainant did not bring any agreement between the parties which specified the MMS height of 1.8 m. Further, there was no material placed on record regarding any technical problem being faced in the solar system because of reduced height of MMS. And the Complainant also admitted that he did not pay the balance payment of Rs. 16,250/- to the Opposite Party.

6. In view of the above discussion, the complaint is dismissed.”

3. Aggrieved by the aforesaid order of the District Commission the Appellant has preferred the present Appeal contending that the District Commission has failed to appreciate that the Solar Plant was not working efficiently as the Module Mounting Structure of the said plant had been installed at a reduced height instead of the agreed height as per the Proposal. It is further submitted that the District Commission failed to appreciate the Solar plant which has been installed by the Respondent would remain functional only if BSES power

supply continues and this fact was neither explained nor rewarded at the stage of work. Pressing the aforesaid submissions, the Appellant prayed for setting aside the impugned judgment.

4. The Respondent has filed its Reply to Appeal, denying all the allegations of the Appellant and submitted that there is no deficiency on the part of the Respondent as the Module Mounting Structure was installed as per specifications. It is further submitted that there is no error in the impugned judgment as the entire material available on record was properly scrutinized before passing the said impugned judgment.
5. Written Arguments have been filed by the Appellant, wherein, the contents of the Appeal have been reiterated, and the same have been considered. Further, the counsel for the Appellant has relied on the judgment of the Hon'ble Supreme Court in *Union of India vs. K.V. Lakshman* as reported in (2016) 13 SCC 124 in support of his case.
6. Written Arguments have been filed by the Respondent, wherein, the contents of the Reply to Appeal have been reiterated, and the same have been considered.
7. We have perused the material available on record and heard the counsel appeared on behalf of the Appellant.
8. The *main question* for consideration before us is *whether the District Commission erred in not holding deficiency on the part of the Respondent.*
9. To address this issue, we deem it necessary to refer to Section 2(11) of the Consumer Protection Act, 2019, which provides as under:

“(11) “deficiency” means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service and includes-

- (i) any act of negligence or omission or commission by such person which causes loss or injury to the consumer, and
- (ii) deliberate withholding of relevant information by such person to the consumer’;”

10. The definition of “deficiency” under Section 2(11) of the Consumer Protection Act, 2019 referred to above clarifies that any dereliction with respect to any fault, imperfection, shortcoming or inadequacy in performance required by law in pursuance of a contract of service on the part of the service provider including any act of negligence or omission or commission or deliberately withholding relevant information on the part of any person amounts to deficiency in service.

11. On perusal of record, we find that the height of the Module Mounting Structure of the Solar Plant in question is not specified as 1.8 m in the Proposal for the said plant in question (*annexed as Annexure A/2 on pages no. 26-32 alongwith the Appeal*). Further, we find that the Appellant has failed to adduce any evidence of the reduced height of the Solar Plant, and further perusal of record shows that there is no agreement between the Appellant and the Respondent regarding the height of the plant in question, as no material has been placed on record evident towards any technical issues faced due to the reduced height.

12. Further perusal of aforesaid Proposal shows that the Solar Plant has a limit of 5 kW, while the BSES Bill dated 12.02.2023 shows that the Current Month MDI (Maximum Demand Indicator) shows a load of 3.58 kW (*annexed as Annexure A/20 on pages no. 106-107 alongwith the Appeal*). The Appellant has failed to adduce any evidence on record towards deficiency of service on the part of the Respondent regarding the relation between the output of the Solar Plant with the difference between the maximum load and the Current Month MDI in the aforesaid BSES Bill. Moreover, the Appellant has also failed to place on record

any evidence toward the lower installation height of the Solar Plant with the lower output produced. Therefore, the submission of the Appellant that the reduced installation height of the Solar Plant amounts to deficiency on the part of the Respondent is answered in the negative.

13. In view of the forgoing, we are in agreement with the reasons given by the District Commission and fail to find any cause or reason to reverse the findings of the District Commission. Consequently, we **uphold** the Judgment dated 13.06.2013 passed by the ***District Consumer Disputes Redressal Commission: North-East, Govt. of NCT of Delhi, D.C. Office Complex, Bunkar Vihar, Nand Nagri, Delhi – 94*** in ***Complaint Case No. 45 of 2020***.

14. Conclusively, the present Appeal stands **dismissed** with no order as to costs.

15. Application(s) pending, if any, stand disposed of in terms of the aforesaid judgment.

16. FDR, if any be released in favour of the Respondent, namely, M/s. Luminous Power Technologies Pvt. Ltd.

17. The Judgment be uploaded forthwith on the website of the Commission for the perusal of the parties.

18. File be consigned to record room along with a copy of this Judgment.

(JUSTICE SANGITA DHINGRA SEHGAL)
PRESIDENT

(PINKI)
MEMBER (JUDICIAL)

Pronounced On: **17.11.2025**

LR-DK