

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION-VI  
(NEW DELHI), 'M' BLOCK, 1ST FLOOR, VIKAS BHAWAN,  
I.P.ESTATE, NEW DELHI-110002.**

**Case No. 20/2024**

**IN THE MATTER OF:**

**Sh. Rajiv Kumar**

House No. 4/41A, Subhash Gali,  
Vishwas Nagar, Shahdara,  
Delhi-110032

**....Complainant**

**VERSUS**

**Pearl Grand Galaxy**

Near Leela Hotel,  
Opp. Surajmal Vihar,  
Delhi

**....Opposite Party**

**Quorum:**

**Ms. Poonam Chaudhry, President**

**Mr. Shekhar Chandra, Member**

**Date of Institution: 05/01/2024**

**Date of Order: 05/12/2026**

**ORDER**

**SHEKHAR CHANDRA, MEMBER:**

1. The present complaint has been filed under Section 35 of the Consumer Protection Act, 2019 (in short CP Act) against Opposite Party (in short OP) alleging deficiency of services.
2. The brief facts of the case in hand are that the OP is running a banquet hall and is a service provider in arranging various types of functions. It is stated in the complaint that the complainant visited OP in the month of December, 2021 for booking the hall to solemnize the marriage of his son. The OP demanded a sum of Rs.2,00,000/- for the booking of two functions i.e. '*Haldirasham*' and '*Dinner*' which was to be held on 19.01.2022 in their two different halls. The complainant further states that neither the OP explained anything about the cancellation details nor provided any material containing terms and conditions for bookings.
3. A sum of Rs.67,000/- as advance, as demanded by the OP, was paid by the complainant as booking amount against receipts.

4. After sometime, the complainant was informed over phone by OP that due to COVID all the bookings have been cancelled as per Guidelines issued by the Government of India.
5. As a result of cancellation of booking by the OP, a request was made by the complainant to refund the booking amount of Rs.67,000/- but OP did not refund the amount. The communications relating to request sent by the complainant and refusal by the OP are placed on record. Thereafter the complainant paid personal visits but no response was received from OP.
6. The complainant after waiting for six months, sent a complaint to the office of DM AND SDM against OP. The OP did nothing to refund the amount of Rs.67,000/-. The complainant submits that non-refunding the advance amount of the complainant is a clear case of deficiency in service as per the Consumer Protection Act. It is further submitted that as per general practice, the OP is liable to refund the above amount with interest @ 24% per annum. The complainant states that the OP is also liable to pay compensation Rs. 1,00,000/- for causing mental agony, harassment and pain with litigation expenses of Rs. 50,000/-.
7. On receipt of notice of the present complaint case, the OP has filed its written statement/reply opposing the complaint case inter alia on

the grounds that the present complaint is gross misuse of law. It is submitted by the OP that the complainant has impleaded one Mukesh Kumar on behalf of the Pearl Grand Galaxy, whereas the said Mukesh Kumar has already resigned from the OP's organization. It is further submitted that the complaint is not maintainable as the complainant has got no cause of action for filing the present complaint case against the OP. Further, it is contended that the complainant is not maintainable as there is a contract between the complainant and OP and the receipt which is already filed by the complainant clearly mentions that advance is not refundable/transferable in any case and it was signed by both the parties and with the said contract, both the parties i.e. complainant and opposite party are bound as per Section 37 of Indian Contract Act and the parties are bound by the terms agreed by them in the contract.

8. The OP further submits that the complainant has concealed various material facts and misled this Commission by disclosing the wrong and vague facts. The OP states that the complainant has dragged the OP in vexatious litigation just to get undue advantage and to extort money and alleged compensation by showing himself as aggrieved consumer.

9. The OP submits that during the second wave of Covid-19 the complainant came to the OP and approached for the function and a total amount of Rs.2,00,000/- was agreed to be paid for entire function which included '*Haldi*' and '*Dinner*' and out of which an amount of Rs.48,500/- has been paid as advance/booking money to the OP and said amount was already spend in the decoration, Catering and other required things, as per instructions of the complainant. However, due to outbreak of Covid-19 and lockdown, the program could not take place. Thus, it is argued that for this reason, the OP cannot be blamed and the complainant is not entitled for refund.
10. It is alleged by the OP that the complainant adopted ill motive to grab the money from the OP and started blackmailing the OP in different ways and also threatened. The OP states that amount paid by the complainant is neither transferrable nor refundable as per the terms recorded in the receipt itself. It is, therefore, argued that the complainant is not entitled to any relief as prayed.
11. Since none appeared for the OP on 03.06.2024, 08.08.2024, 29.10.2024 and 18.12.2024, therefore, the OP was proceeded exparte on 18.12.2024 and the matter was set down for final arguments for 17.02.2025. Again on 22.07.2025, Mr. Shubham Bhari, Advocate

appeared for the OP and sought time to settle the matter. The matter was accordingly posted 12.08.2025. But none appeared for the OP on the date fixed and the matter was slated for final disposal.

12. We have heard arguments and gone through the record and evidence placed on record. The issue involved as to whether the OP is liable to refund the amount received for the purpose which the OP could not provide its services due to Covil-19 and countrywide lockdown has already been settled by the Hon'ble Supreme Court of India on 1<sup>st</sup> October, 2020. A three Judge Bench of the Hon'ble Supreme Court of India in the case of '*Pravasi Legal Cell v. Union of India*', 2020 SCC OnLine SC 799, ordered that if a passenger has booked a ticket during the lockdown period (from 25th March, 2020 to 24th May, 2020) for travel during lockdown period and the airline has received payment for booking of air ticket for travel during the same period, for both domestic and international air travel and the refund is sought by the passenger against that booking being cancelled, the **airline shall refund the full amount collected without any cancellation charges**. The refund shall be made within a period of three weeks from the date of cancellation.
13. Now the question to be considered is that can a party accept and reject the same instrument taking advantage of the situation? In this connection, we would like to refer to a decision of the Hon'ble

Supreme Court of India in the case of '**R.N. Gasain Vs Yashpal Dhir**', (2014) 15 SCC 144. The relevant paragraph is quoted below:-

*“Law does not permit a person to both approbate and reprobate, This principle is based on the doctrine of election which postulates that no party can accept and reject the same instrument and that “a person cannot say at one time that a transaction is valid and thereby obtain some advantage, to which he could only be entitled on the footing that it is valid, and then turn round and say it is void for the purpose of securing some other advantage”. [See: Verschures Cremeries Ltd. V Hull and Netherlands Steamship Co. Ltd., (1921) 2 R.B. 608, at p 612, Scrutton, L.J.]. According to Halsbury’s Laws of England, 4<sup>th</sup> Edn., Vol. 16, “after taking an advantage under an order ( for example for the payment of costs) a party may be precluded from saying that it is invalid and asking to set it aside”. (pra 1508).”*

14. It is clearly admitted by the OP that it did not provide any services to the complainant due to covid-19 as there was countrywide lockdown. When the OP has not provided any services for which it charged the complainant, the OP cannot be permitted to enrich itself by keeping money of the complainant.
15. This Commission, therefore, orders that the OP shall refund the full amount of Rs. 67,000/- (Rupees Sixty Seven Thousand) to the

complainant with interest @ 9% per annum from the date of receipt till realization, within four weeks from the date of receipt of the order. Further the OP shall pay a sum of Rs. 50,000/- as compensation for causing mental agony and harassment to the complainant and Rs. 50,000/- towards litigation expenses. If the awarded amount is not paid within the stipulated period as mentioned above, the OP shall be liable to pay interest at increased rate of 12% per annum.

16. With the aforesaid directions, the complaint case is disposed of. A copy of this order be sent to the parties through registered post/speed post, promptly. The order be also uploaded on the website of this Commission.

File be consigned to the record room with a copy of order.

**[Poonam Chaudhry]**  
**President**

**[Shekhar Chandra]**  
**Member**