

**STATE CONSUMER DISPUTES REDRESSAL COMMISSION**

**KERALA**

**FIRST APPEAL NO. SC/32/A/16/2024**

AMSTER IMMIGRATION OVERSEAS PVT LTD

PRESENT ADDRESS - KURUPS TOWER KODIMATHA KOTTAYAM 686013,KERALA.

.....Appellant(s)

Versus

RUKSANA NAZLIN M

PRESENT ADDRESS - KARUKACHERIL HOUSE ATHIRAMPUZHA P O KOTTAYAM

686562,KERALA.

.....Respondent(s)

**BEFORE:**

**HON'BLE MR. JUSTICE SRI.B.SUDHEENDRA KUMAR , PRESIDENT**

**HON'BLE MR. SRI.AJITH KUMAR.D , JUDICIAL MEMBER**

**SRI.RADHAKRISHNAN.K.R , MEMBER**

**FOR THE APPELLANT:**

NEMO

**FOR THE RESPONDENT:**

NEMO

**DATED: 09/01/2026**

**ORDER**

**KERALA STATE CONSUMER DISPUTES REDRESSAL COMMISSION VAZHUTHACAUD,**

**THIRUVANANTHAPURAM**

**APPEAL No.16/2024**

**ORDER DATED : 09.01.2026**

*(Against the order in C.C.No.81/2022on the files of DCDRC,Kottayam)*

**PRESENT:**

**HON'BLE JUSTICE SRI. B. SUDHEENDRA : PRESIDENT  
KUMAR**

SRI. AJITH KUMAR D.

: JUDICIAL MEMBER

SRI.K.R.RADHAKRISHNAN

: MEMBER

-  
**APPELLANT:**  
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Amster Immigration Overseas Pvt. Ltd., Kurup's Tower, Kodimatha,  
Kottayam – 686 013

(by Adv. D.R. Rajesh)

Vs.

**RESPONDENT:**  
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Ruksana Nazlin M., W/o Illiyas Jaleel, Karukacheril House, Athirampuzha  
P.O., Kottayam – 686 562

(by Party in person)

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**ORDER**

**HON'BLE JUSTICE SRI. B. SUDHEENDRA KUMAR : PRESIDENT**

The appellant is the opposite party in C.C.No.81/2022 on the files of the District

Consumer Disputes Redressal Commission, Kottayam (for short, 'the District Commission').

2. The complainant availed the service from the opposite party and paid an amount of Rs.76,190/- to the opposite party on 30.11.2020 for obtaining a Permanent Resident Visa in Canada. The opposite party assured the complainant that in the event of cancellation of the plan for Permanent Resident Visa by the complainant, an amount of Rs.75,000/- would be refunded. The opposite party sent an e-mail on 02.12.2020 to the complainant along with a blank preliminary agreement format, signed by the Manager of the opposite party, stating that the amount would be treated as non-refundable fee. The said agreement mentioned about a main agreement, which had to be signed in the future. However, the complainant did not sign any such agreement. The opposite party failed to provide proper guidance regarding the procedures to be followed by the complainant. The opposite party had only created an account in ICES for the purpose of ECA. The application was incomplete and hence it was rejected by the ICES twice. The complainant was not able to clear the IELTS and ECA because of financial crisis occurred due to Covid-19 pandemic. The Permanent Resident documentation process could not be started by the opposite party without IELTS and ECA. Since no processing had been commenced by the opposite party, the complainant requested the opposite party to cancel the PR proceedings and refund the amount. The said request was not accepted by the opposite party. The opposite party

suggested that the PR proceedings could be withheld and requested the complainant to attend arbitration. However, since there was no arbitration agreement, the complainant did not accept the arbitration proceedings. Thereafter, a legal notice was sent to the opposite party on 14.01.2022, which was accepted by the opposite party. A reply was also sent by the opposite party. However, the amount was not refunded to the complainant. In the said circumstances, the complainant filed the above complaint.

3. The notice to the opposite party was served on 26.04.2022. However, the version was filed by the opposite party only on 01.08.2022, which was long after the period stipulated for filing the version under Section 38(2)(a) of the Consumer Protection Act 2019, which provides that the version has to be filed within a period of 30 days from the date of receipt of the notice or the extended period of 15 days. Even though the version was filed long after the period stipulated by the statute, the District Commission accepted the version, ignoring the above-said provision of the Consumer Protection Act 2019 and the law settled by the Constitution Bench of the Hon'ble Apex Court in *New India Assurance Co. Ltd. v. Hilli Multipurpose Cold Storage (P) Ltd.*, reported in 2020 (5) SCC 757 : 2020 (2) KHC 274 that the District Forum has no power to extend the time for filing the response to the complaint beyond the period of 15 days in addition to 30 days as is envisaged under S.13 of the Consumer Protection Act. It is true that the decision in *Hilli Multipurpose Cold Storage (P) Ltd.*(supra) was rendered by the National Commission on the basis of the provisions envisaged under S.13(1)(a) of the Consumer Protection Act, 1986. Since S.38(2)(a) of the Consumer Protection Act,

2019, is *pari materia* with the provisions of S. 13(1)(a) of the Consumer Protection Act, 1986, the above decision is applicable to the cases filed after the enactment of the Consumer Protection Act, 2019, as well. For the above reasons, the version filed by the opposite party ought to have been rejected by the District Commission. However, since that was not rejected by the District Commission, we evaluate the evidence eschewing the version.

4. Before the District Commission, the complainant filed the proof affidavit. Exhibits A1 to A10 were also marked for the complainant. No evidence was adduced by the opposite party. After evaluating the evidence, the District Commission allowed the complaint and directed the opposite party to refund Rs.75,000/- to the complainant with 9% interest. The opposite party was further directed to pay Rs.25,000/- as compensation and Rs.5,000/- as costs to the complainant.

5. Heard the learned counsel for the appellant and the respondent in person. Perused the records.

6. The complainant filed affidavit in lieu of her examination-in-chief reiterating the contentions in the complaint. It is borne out from Exhibit A2 that the complainant paid an amount of Rs.76,190/- to the opposite party on 30.11.2020. Of the said amount, Rs.1,190/- was paid towards assessment fee as is evident from Exhibit A2. The complainant was made to believe that the amount of Rs.75,000/- would be refunded in the event of the complainant cancelling the request for the Permanent

Resident Visa. However, Exhibit A4 agreement provided that the said amount would not be refunded. Even though the money was paid on 30.11.2020, the agreement dated 30.11.2020 was sent to the complainant only on 02.12.2020 to get the signature of the complainant, as clearly seen on the first page/covering letter of Exhibit A4. This would show that the money was received by the opposite party prior to the execution of the agreement by the complainant.

7. It is mentioned in Exhibit A4 Agreement that the complainant had to sign a main agreement also. However, the contention and the evidence of the complainant would show that the said main agreement was not produced before the complainant for obtaining her signature. The complainant sent an email to the opposite party on 04.01.2022 requesting the opposite party to refund the amount, cancelling the request of the complainant, owing to the difficulties that arose due to the COVID-19 pandemic. However, the opposite party did not refund the amount.

8. The complainant contended that the amount of Rs.75,000/- was the processing fee for providing Permanent Resident Visa to Canada. Exhibit A4 would also show that the said amount was paid towards processing fee for Permanent Resident documentation. However, no proceeding was initiated by the opposite party in the matter of providing Permanent Resident Visa to the complainant as the complainant was not able to clear IELTS and ECA due to financial crisis owing to Covid-19 pandemic. No material is available before the Commission to show that the

opposite party had initiated proceedings for providing Permanent Resident Visa to the complainant. That apart, there is no material to show that any loss was sustained by the opposite party in connection with the transaction involved in this case.

9. The above discussion would show that the opposite party did not take any step towards Permanent Resident documentation to issue a Permanent Resident Visa to the complainant as the complainant was not able to clear IELTS and ECA. Since the opposite party did not advance any step towards Permanent Resident documentation, the opposite party ought to have refunded the amount to the complainant, deducting the actual loss, if any, suffered by the opposite party. However, in this case, that was not done. Therefore, there can be no doubt that there was unfair enrichment to the opposite party, which would amount to deficiency in service. In the said circumstances, the finding by the District Commission that there was deficiency in service on the part of the opposite party is well-founded.

10. The opposite party was directed by the District Commission to refund the amount of Rs.75,000/- paid by the complainant, which cannot be said to be arbitrary, warranting interference by this Commission, particularly when no material is available to show that the opposite party had sustained any loss in connection with the transaction involved in this case. The opposite party was also directed to pay Rs.25,000/- as compensation and Rs.5,000/- as costs which do not appear to be exorbitant or disproportionate, warranting interference by this Commission.

In the result, this appeal stands dismissed with costs of Rs.10,000/-(Rupees Ten Thousand only) to be paid by the appellant to the complainant.

The statutory deposit shall be given to the respondent/complainant, to be adjusted/credited towards the amount ordered by the District Commission, on proper acknowledgment.

**JUSTICE B. SUDHEENDRA :** **PRESIDENT**

**KUMAR**

**AJITH KUMAR D. :** **JUDICIAL**

**MEMBER**

**K.R.RADHAKRISHNAN :** **MEMBER**

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**SRI.B.SUDHEENDRA KUMAR**  
**PRESIDENT**

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**SRI.AJITH KUMAR.D**  
**JUDICIAL MEMBER**

.....J  
**SRI.RADHAKRISHNAN.K.R**  
**MEMBER**