

Date of Filing: 12.07.2021  
Date of Order: 03.01.2024

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL  
COMMISSION – I, HYDERABAD  
P r e s e n t

HON'BLE MRS. B. UMA VENKATA SUBBA LAKSHMI, PRESIDENT  
HON'BLE MRS. C. LAKSHMI PRASANNA, MEMBER

On this the Wednesday, the 03<sup>rd</sup> day of January, 2024

C.C.No. 367/2021

Between:-

Sri. Ganji Mallaiah, S/o G. Narayana,  
Aged about 70 years, R/o: H.No. 12-777,  
Opp Govt. Junior College, Gajwel,  
Siddipet District, Telangana – 502278  
Mobile No. 9849467362

....Complainant

AND

Prathima Hospitals,  
A unit of Sri Sai Balaji Healthcare (I) Pvt Ltd,  
3-4-3, Station Road, Kachiguda, Hyderabad – 500027  
Rep. by its Managing Director.

....Opposite Party

Counsel for the Complainant  
Counsel for the Opposite party

: T. Rahul  
: G. Lakshmi

O R D E R

(By HON'BLE MRS. B. UMA VENKATA SUBBA LAKSHMI, PRESIDENT on  
behalf of the bench)

1. The present complaint is filed U/s 35 of the Consumer Protection Act, 2019, alleging deficiency of service and unfair trade practice on the part of opposite party, with a prayer which reads as under:

“It is prayed the Hon'ble Forum may be pleased to pass orders directing the opposite party

- i) to refund an amount Rs. 4,48,794/- (Rupees Four Lakhs Forty Eight Thousand Seven Hundred and Ninety Four Only) to the complainant for charging an excessive amount of Rs. 4,76,794/- (Rupees Four Lakhs Seventy Six Thousand Seven Hundred and Ninety Four Only) instead of Rs. 28,000/- (Rupees Twenty Eight Thousand Only) in contrary to the G.O. Rt. No. 248 dated 15.06.2020;

- ii) to pay interest @24% on the aforesaid amount from the date of its due till its realization;
- iii) to pay a sum of Rs. 2,00,000/- (Rupees Two Lakhs Only) towards compensation against mental agony suffered by the complainant but for the illegal practices adopted by the opposite party;
- iv) to award the cost of this complaint and pass other reliefs that this Hon'ble Forum think fit and proper in the circumstances of the case."

**2.** Brief facts as averred in the complaint and necessary for adjudication are that, while attending to covid positive patient, the complainant, a medical practitioner (doctor), developed symptoms of fever and headache. The complainant got himself checked through RTPCR on 23.06.2020. Though the test report was negative, as a precautionary measure, the complainant along with his wife came down to Hyderabad and consulted the opposite party hospital on 29.06.2020. The opposite party admitted the complainant and his wife and administered covid-19 treatment without there being any need. In spite of getting negative report, the opposite party continued giving covid-19 treatment to the complainant as in-patient and raised bill of Rs. 4,76,000/- (Rupees Four Lakhs Seventy Six Thousand Only). It is further averred that the complainant was in the hospital for 7 days and discharged on 06.07.2020. It is stated that the charging of exorbitant amount for the treatment was in contravention of the notification i.e. G.O. Rt. No. 248 issued by the Government of Telangana. It is further stated that the guidelines issued by the Government of India provided that asymptomatic and mild symptoms cases did not need hospitalization and recommended to be kept under home isolation, but the opposite party, in contrary to the said guidelines, admitted the complainant and his wife in the hospital. It is submitted that the charges levied by the opposite party in the treatment of the complainant was in contravention of the guidelines issued by the Government of Telangana. It is further submitted that the unwarranted hospitalization of the complainant and his wife created great pain and the complainant was subjected to unwanted fear amidst the raging dire consequences of the pandemic. Hence, alleging deficiency of service and unfair trade

practice on the part of opposite party, the complainant filed the present complaint and prayed the Commission to grant the reliefs as stated supra.

- 3.** In the written version filed by the opposite party, while denying the material allegations except those that are specifically mentioned in the version, it is contended that the complainant filed the present complaint after his attempts to spoil the reputation of the opposite party failed in the complaint given to the grievance cell of District and Medical Health Officer, Hyderabad (Ex.B1 to Ex.B4). It is further contended that the opposite party followed all formalities for admission when the complainant and his wife consulted the opposite party hospital on 29.06.2020. It is averred that, though the complainant tested negative for covid-19, the co-rads 5 score put the patient highly suspicious for typical viral pneumonia. Due to comorbid conditions of the complainant, he was admitted in the hospital and was given treatment as per the protocol adopted by the medical fraternity. It is further averred that the patient had every right to reject the treatment at any stage, if he / she was not satisfied with the treatment. It is stated that the complainant knew very well that every hospital had their own tariff for treatment. The complainant opted for an air-conditioned deluxe sharing room, therefore, G.O. Rt. No.248 was not applicable. It is further stated that the question of covid-19 treatment did not arise as the complainant received treatment for pneumonia, high blood sugar and other comorbid conditions. It is submitted that the complainant received treatment for other symptoms and not for covid-19 and in the first stage of pandemic, people not knowing the cause of death had received treatment for other comorbidities. After emergence of covid-19, the hospital had faced high risk situations without PPE kits, masks, surgical items etc. It is further submitted that the opposite party strictly followed their own tariff and the complainant did not object to the same. Hence, denying the allegations of deficiency of service and unfair trade practice on their part, the opposite party prayed the Commission to dismiss the complaint with exemplary costs.
- 4.** During the course of enquiry, the complainant (PW1) filed evidence affidavit and got marked the documents at Ex.A1 to Ex.A10. Dr. A. Bhaskar Rao, Vice-President (RW1) filed evidence affidavit on

behalf of opposite party and got marked the documents at Ex.B1 to Ex.B5. Both parties filed written arguments. Thereafter, the learned counsels for the complainant and the opposite party advanced oral submissions and the matter was reserved for orders.

**5.** Based on the facts and material available on the record and written / oral arguments of both sides, the following points have emerged for consideration:

- a. Whether the complainant could establish deficiency of service and unfair trade practice on the part of opposite party?
- b. Whether the complainant is entitled for the reliefs as prayed in the complaint? If so, to what relief?

**6. Point 'a'**

**6.1.** Admittedly, the test result of the complainant for covid-19 was negative (Ex.A6 & Ex.A8). The treatment of the complainant in the hospital was also not disputed.

**6.2.** It is evident from 'rapid covid antigen specimen referral form (SARS - CoV2)' that the sample of the complainant was collected on 23.06.2020 and the result status was 'negative' (Ex.A6). As per the RTPCR test report dated 05.06.2020 by 'Tenet Diagnostics', the result for SARS - CoV-2 RNA was mentioned as 'not detected'. It is further evident from the discharge summary (Ex.A7) and in-patient final bill (Ex.A9) that the complainant was admitted in isolation ward of the opposite party and received treatment. As per the said documents, the complainant was admitted in the opposite party, hospital on 29.06.2020 and discharged on 07.06.2020.

**6.3.** It is the case of the complainant that, as precautionary measure, he visited the opposite party though his RTPCR test report was negative. It is also the case of the complainant that the opposite party admitted the complainant and his wife and administered covid-19 treatment. Further, the exorbitant charges levied by the opposite party hospital in treating the complainant and his wife were totally illegal, arbitrary and contrary to the G.O. Rt. No. 248 issued by the Health Medical and Family Welfare Department, Government of Telangana.

**6.4.** It is the version of the opposite party that the complainant consulted the opposite party and the CT scan test performed on the patient revealed co-rads-5 score and received the treatment for comorbid conditions. It is also the version of the opposite party that they raised the bill as per their own tariff since the G.O. Rt. No.248 (Ex.A10-Ex.B5) was not applicable in the case of the complainant.

**6.5.** Before adverting on the merits of the case, it is pertinent to mention relevant portions of discharge summary & course in the hospital.

“Ex.A7

FINAL DIAGNOSIS: LRTI

BILATERAL PNEUMONIA – ATYPICAL VIRAL

SUSPECTED COVID PNEUMONIA

HYPERTENSION

TYPE II DIABETES MELLITUS

CHIEF COMPLAINT(S): giddiness, mild SOB, polyarthralgia since 1 week

PAST HISTORY: Known case of Type II diabetes mellitus, hypertension on medication.

Course in the hospital:

A 65 years old male patient admitted with above complaints.....HCRT showed high suspicious for COVID-19 (CORADS-5) RTPCR. SARS-COV-2 RNA was not detected. ....

Patient was treated with IV remdesivir, Iv antibiotics, Iv steroids, bronchodilation, PPI's, Vit-c, zinc and other supportive medications. Patient improved symptomatically and waned off O2 support.”

**6.6.** In the oral submissions, it is contended by the learned counsel of the complainant that the opposite party cannot blow hot and cold i.e. on one hand, the opposite party say that, though the complainant and his wife have tested negative, the CT scan test done at the time of admission into the hospital has revealed co-rads 5 score i.e. highly suspicious for covid-19 and the treatment has been given for the diagnosed ailment and on the other hand, they say that

the G.O. Rt. No. 248 is not applicable. These contradictory statements of the opposite party are nothing but to cover up the exorbitant charges levied in contravention of the G.O. It is further contended that the admission of the complainant and his wife in the hospital as inpatients was unwarranted and against the guidelines envisaged in para 4 of the G.O. Rt. No. 248 (para 4 -asymptomatic and mild symptoms do not need hospitalization and are recommended to be kept under home isolation).

- 6.7.** Per contra, it is contended by the learned counsel of the opposite party that the hospital follows their own tariff for treatment whether or not insurance coverage is applicable in the case of the patient. It is further contended that the G.O. Rt. No. 248 is not applicable in the case of the complainant as he has been treated for pneumonia, high blood sugar and other co-morbid conditions like hyper tension and diabetes mellitus (type-2).
- 6.8.** Although the opposite party was asked to file reply affidavit to the interrogatories filed by the complainant (as per the order below IA No. 261/ 2022), the opposite party filed only replies and not by way of reply affidavit. It is pertinent to note that mere statements are not evidence. Moreso, when the documentary evidence i.e. final diagnosis mentioned in the discharge summary contradict the replies filed by the opposite party. It is also pertinent to note that the reply affidavit of the complainant to the interrogatories filed by the opposite party (as per order below I.A No 110/2022) substantiated the pleadings of the complainant.
- 6.9.** In the case at hand, on perusal of the documentary evidence, it is clear that, after getting the RTPCR test results negative, the complainant and his wife visited / consulted the opposite party. It is also clear from the discharge summary that the opposite party, despite there being negative result, treated the complainant for 'suspected covid pneumonia' with the reason that reports showed corads-5. When the final diagnosis included 'suspected covid pneumonia', not adhering to the ceiling rates as mentioned in G.O. Rt. No.

248 (Ex.A10-Ex.B5) amounted to adoption of unfair trade practice on the part of opposite party. Hence, point 'a' is answered in favour of the complainant.

**7. Point 'b':**

**7.1.** In the present case, the opposite party, on one hand, submitted that the test reports of the complainant showed CORADS-5 and on the other hand, they submitted that the G.O. Rt. No. 248 was not applicable as the complainant received treatment for co-morbid conditions. When the complainant's HRCT report showed high suspicious for covid -19 (CORADS-5), the opposite party failed to explain how & why G.O. Rt. No. 248 was not applicable.

**7.2.** In the case at hand, the complainant has failed to show how he is entitled for the refund of the amount of Rs. 4,48,794/- (Rupees Four Lakhs Forty Eight Thousand Seven Hundred and Ninety Four Only) as mentioned in prayer para of the complaint. Therefore, looking to the facts and circumstances of the case and on perusal of the documentary evidence placed before us, we are of the considered view that the ends of justice will be met in awarding lumpsum compensation of Rs. 1,00,000/- (Rupees One Lakh Only).

**7.3.** In the result, the complaint is allowed in part and the opposite party is jointly and severally liable and directed to

- (i) Pay compensation of Rs. 1,00,000/- (Rupees One Lakh Only);
- (ii) Pay costs of Rs. 15,000/- (Rupees Fifteen Thousand Only).

Time for compliance:

This order be complied with by the opposite party within 45 days from the date of receipt of the order, failing which the amount mentioned in Sr. No. (i) above shall carry interest @ 6% p.a. from the date of receipt of the order.

Dictated to steno, transcribed and typed by him, pronounced by us on this the 03<sup>rd</sup> day of January, 2024.

MEMBER

PRESIDENT

APPENDIX OF EVIDENCEWITNESS EXAMINED FOR THE COMPLAINANT:

(PW1) Sri. Ganji Mallaiah

WITNESS EXAMINED FOR THE OPPOSITE PARTY

(DW1) Dr. A. Bhaskar Rao Vice President of Prathima Hospitals.

(DW2) B. Vamsi Krishna Administrative of Prathima Hospitals.

EXHIBITS FILED ON BEHALF OF THE COMPLAINANT:

- Ex.A1 Copy of Andhra Pradesh Medical Counsel certificate.
- Ex.A2 Copy of Life member of Indian Medical Association dated 15.01.2004. (I.D Card)
- Ex.A3 Copy of Life Member Certificate vide Membership No. SDP/S685/2001 vide Registered No. 24/2015.
- Ex.A4 Copy of To Whom So Ever it May Concern letter dated 05.08.2020.
- Ex.A5 Certificate of Appreciation dated 05.08.2020.
- Ex.A6 Copy of Rapid Covid Antigen Specimen Referrol Form (SARS-CoV2)
- Ex.A7 Copy of Discharge summary dated 07.06.2020.
- Ex.A8 Copy of Department of Molecular Pathology SARS -CoV-2 Detection by RT PCR.
- Ex.A9 Copy of inpatient final bill dated 06.07.2020.
- Ex.A10 Copy of G.O.RT. No. 248 dated 15.06.2020.

EXHIBITS FILED ON BEHALF OF THE OPPOSITE PARTY

- Ex.B1 Copy of Show cause notice dated 30.07.2020 from DMHO.
- Ex.B2 Copy of second show cause notice from DMHO dated 08.08.2020.
- Ex.B3 Copy of reply given by the opposite party dated 05.08.2020.
- Ex.B4 Copy of reply given by the opposite party
- Ex.B5 Copy of G.O.Rt.No. 248 dated 15.06.2020.

MEMBER

PRESIDENT

PSK  
 READ BY:-  
 COMPARED BY :-