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**STATE CONSUMER DISPUTES REDRESSAL COMMISSION,  
UTTAR PRADESH, LUCKNOW**

**APPEAL NO.588 OF 2001**

(Against the judgment/order dated 24-07-2000 in Complaint  
Case No.12/1999 of the District Consumer Forum, Varanasi)

01. Sterling Holiday Resorts (India) Limited  
through Managing Director  
Eldmas Road Teynampet  
Madras

02. Heritage India  
through Managing Director  
154 Eldmas Road Teynampet  
Madras-600098

03. Sri Jai Prakash  
through Sterling Holiday Resorts India Ltd.  
154, Eldmas Road Teynampet  
Madras.

.....Appellants

Vs.

Dr. Amitabh Gautam  
R/o B-31/83-O-2  
Rashim Nagar Colony Lanka  
Varanasi

.....Respondent

**BEFORE:**

**HON'BLE MR. JUSTICE BHANWAR SINGH, PRESIDENT  
HON'BLE MR. RAMPAL SINGH, MEMBER  
HON'BLE MR. CHANDRA BHAL SRIVASTAVA, MEMBER**

For the Appellant : Sri Ravi Joshi, Advocate.

For the Respondent : Sri V S Bisaria, Advocate.

Dated : 29.12.11

**JUDGMENT**

**PER MR. JUSTICE BHANWAR SINGH, PRESIDENT,**

This appeal is directed against the judgment and order dated 24-07-2000 of the District Consumer Forum, Varanasi whereby refund of Rs.31,000/- alongwith interest @ 15% per annum was directed to be made to the complainant. Dr. Amitabh Gautam, the respondent/complainant had acquired the membership of Sterling'

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Holiday Resorts by making deposit of the aforesaid amount. According to the terms and conditions of the membership, the complainant was entitled to avail of the boarding and lodging facilities in any Resort of the appellants. The complainant bearing Customer No. 514851 requested the appellants to book for his stay at Bangalore Holiday Resorts from 28<sup>th</sup> to 30<sup>th</sup> December, 1997 but neither his request was acceded to, nor any reply was received. The complainant, however, visited Bangalore during the aforesaid dates and incurred an expenditure of Rs.20,000/- while staying in a hotel. Likewise, his request for stay in September, 1998 in a Holiday Resort at Chitrakoot was not granted. The complainant being disappointed filed his complaint with the allegations that by playing unfair trade practice the appellants had extracted money from him without providing any facility of holidaying as stated above.

The appellants have not disputed that the complainant had obtained the membership of Sterling Holiday Resorts. Also they admitted that they had received the complainant's request for holidaying at Bangalore and Chitrakoot. Whereas the complainant was extended the facility of staying at Bangalore but he himself did not send timely intimation, his prayer for stay at Chitrakoot could not be granted as the Resort was not ready for use till then.

The District Consumer Forum recorded a finding of deficiency in service as the complainant's request for stay at Bangalore and Chitrakoot was not acceded to and on the basis of this finding allowed the complaint with a direction for the appellants to refund his money with interest as indicated above.

Sri Vineet Sahai Bisaria, learned Counsel for the respondent has alongwith his objections against the memorandum of appeal filed the certificate of membership which confirms that the complainant was a member of "Heritage India". Alongwith this certificate, a copy of the list of Holiday Resorts in India and abroad has been annexed. Besides this list, many Resorts were opened in various other cities of India and it is not denied that the city of Bangalore too has a Holiday Resort for holidaying of the members of the Sterling Holiday Resorts.

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Whereas the complainant's case about his request for stay at Bangalore was that the Sterling Holiday Resorts & Heritage India have not at all responded to his letter, the appellants submitted that they had replied his letter by a registered letter. However, the copy of any such letter has not been filed by the appellants for perusal of this Commission. The omission in doing so is there inspite of the fact that there was a finding of deficiency in service against the appellants. The complainant filed the copy of his registered letter dated 07-12-1997 whereby he has requested for holidaying in a Resort of the appellants at Bangalore. If this letter had been replied as claimed by the appellants, copy of the reply letter should have been filed in support of their contention but they have not been able to support their argument of providing service. Obviously, therefore, they were liable for the deficiency in service on their part. Once they have made a commitment to extend the Resort facilities for three days in a year as per request of the members, they should have honoured the commitment and the other terms of agreement of membership but it appears that while realizing one time fees they offered attractive terms and conditions with a view to allure the customers including the complainant. Admittedly the appellants have a Resort at Bangalore but by not extending the holiday facilities to the complainant they committed deficiency in service.

Likewise the deficiency in service on the part of the appellants is there in the matter of the complainant's request for his stay and that of his family at Chitrakoot. The list of the Resorts filed before us indicates that Chitrakoot in Madhya Pradesh has the appellants' Resort by the name of 'Rock Mountain Resort'. With the holidaying facilities being there the appellants were not expected to have turned down the request of the complainant on the flimsy ground that the Resort was not ready by then. It is no doubt true that the appellants could not have accommodated the complainant in an incomplete Resort but in that case either they should have provided alternative facility at some other hotel or the resort or they should not have included the Chitrakoot Resort in the list of Holiday Resorts unless it was ready in all respect for use by their customers. In

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this situation it can very well be observed that the appellants were definitely guilty of deficiency in service on their part by not conceding to the request of the complainant for providing holidaying facilities at Bangalore and Chitrakoot. Accordingly, we hold that the present appeal is devoid of merit and thus it deserves to be dismissed.

In the result, the appeal is dismissed with costs which we quantify to be at Rs.5,000/-

  
(JUSTICE BHANWAR SINGH)  
PRESIDENT

  
(RAMPAL SINGH)  
MEMBER

  
(CHANDRA BHAL SRIVASTAVA)  
MEMBER

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