



STATE CONSUMER HELPLINE KNOWLEDGE RESOURCE MANAGEMENT PORTAL

Centre for Consumer Studies, Indian Institute of Public Administration, New Delhi
Sponsored by Department of Consumer Affairs, Govt. of India



Training at Bihar State Consumer Helpline:

The consumer advisors and coordinators of State Consumer Helpline were provided handholding training on 14th September 2013 at Sachivalya, Govt. of Bihar where the state consumer helpline has been set up. Two days workshop on 'Consumer Protection: Law and Policy' was organized by Food and Consumer Protection Department, Government of Bihar in association with IIPA on September 14-15, 2013 at Patna.



Vol.2, NO.10, Oct.2013

Editor-in-Chief

**Prof. Suresh Misra
(Project Director)**

Editor

**Shri S. K. Virmani
(Project Manager)**

**STATE CONSUMER
HELPLINES**

GUJARAT

**1800-233-0222,
079-27489945 / 46**

**MADHYA PRADESH
155343, 0755-2559778**

ORISSA

**1800-345-6724,
1800-345-6760,
0674-2351990,
0674-2350209**

TAMIL NADU

044-28592828

BIHAR

1800 -345- 6188

RAJASTHAN

1800 -180- 6030

MAHARASHTRA

1800 -22- 22 62

CHHATTISGARH

1800 -233 -3663

HARYANA

1800-180-2087

MIZORAM

1800-231-1792

Gas Agencies can not insist to purchase new stoves/chullas for registration of new gas connection or transfer of an existing connection. The act of insisting to purchase new stoves/chullas from the gas agency is "in depriving them of the use of such gas connection which they are rightly entitled to, is certainly not only deficiency in service on their part, but also indulgence in a gross unfair trade practice."

The District Forum ordered accordingly



7] The OPs No.1 to 3 shall, jointly and severally, do the following in favour of the Complainants:-

(i) The OPs shall release the remaining two LPG gas connections one each in favour of Complainants No. 2 and 3 respectively, forthwith, without insisting upon purchase of new gas stoves/ regulators or any other gas equipment whatsoever by the Complainants or imposing any penalty or charges under whatever name or putting up any other excuse for delaying the matter further.

(ii) The OPs shall pay compensation @ Rs.10,000/- to each of Complainants No. 2 and 3 (total Rs.20,000/-) for causing physical harassment, mental agony and pain for not releasing the perfectly valid gas connections in their names at the shifted residence for such a long time, thereby violating their own prescribed Rules, despite the Complainants fulfilling all the necessary requirements.

(iii) The OPs shall pay a sum of Rs.7,000/- as litigation costs to the Complainants.

8] The aforesaid order be complied with by the OPs No. 1 to 3, within a period of 30 days from the receipt of its certified copy, failing which they shall pay Rs.20,000/-, along with interest @18% per annum from the date of filing of the complaint i.e. 29.08.2008, till the date of realization, besides complying with the rest of the order as at (i) and (iii) in the foregoing."

State Commission dismissed the Appeal of OP with litigation cost of Rs. 10,000/-

District Forum, in its order earlier held;

"vi], The main arguments put forward by the OPs is based on an order dated 26.04.2000, passed by the Government of India, Ministry of Petroleum and Natural Gas, based on an earlier notification issued by the Department on 10th September, 2009. The relevant part of which in this case is Rule 1(a)(i)(gg) and also Clause 1(b)(i), which read as under:-

"1(a)(i)(gg) "household" means a family consisting of husband, wife, unmarried children and dependent parents living together in a dwelling unit having common kitchen:-

Provided that a Liquefied Petroleum Gas connection shall be issued only in the name of any adult member of the household by a Government Oil Company under the public distribution system."

"1(b)(i) for the word "person" wherever it occurs, the word "household" shall be substituted."

In addition to above, OPs have also quoted another clause of the order dated 26.4.2000, as at Sr.No.4(c), which reads as under:-

"4(c) store or use or cause to be stored or used a cylinder filled with the liquefied petroleum gas except in a cool dry, well ventilated and accessible place under cover, away from boiler, open flames, steam pipes or any potential source of heat."

vii] The entire case of the OPs is based on the application of the aforesaid clauses and the contention is that the Complainants are not entitled to more than one LPG connection under the rules. Another pleading of the OPs, which is of course not a part of the aforesaid government orders, is that the Complainant No.1 is not having three separate and independent kitchens in his house; whereas, the requirement for providing more than one gas connection is that only one gas connection can be given in one kitchen and, therefore, unless and until the persons in question have three separate and independent kitchens, they can not have three gas connections.

viii] On close perusal of the Liquefied Petroleum Gas (Regulation of Supply and Distribution) Order, 2000, dated 26th April, 2000, as also the notification dated 10th September, 2009", it reveals that there is no such requirement imposed or laid down by the Government of India that the house in question must have three separate and independent kitchens, in order to avail three gas connections. The only clear cut and unambiguous requirement of the Government is that one gas connection is to be given for one household. The word "household" means a family consisting of husband, wife, unmarried children and dependant parents living together in a dwelling unit having common kitchen. Beyond this requirement, there is no other condition imposed by the Government for availing more than one LPG connection. In the instant case, Complainant No. 1 is having an independent unit of his family, comprising the husband and the wife. Complainant No. 2 is also a married person and living with his wife, which constitutes the second family unit. On the same lines, Complainant No. 3 is also an adult female member, having her independent existence and means of living. She is not a dependent member on Complainant No. 1, who is her father. All said and done, the three Complainants i.e. Complainants No. 1, 2 & 3 are three independent units of the extended and large joint family, who are living in the same house. The requirement of the Govt. is certainly and surely not one gas connection for one house, but one gas connection for one household. Thus, there is a clear cut distinction already made by the Govt. of India between a house and a household. As per present Rules, of the Government of India, there could be more than one gas connection in the same house, provided there is more than one household in that house. In the present case, in our opinion, there are three independent family units, which are a part and parcel of one joint family, operating in the same house. The question whether they are having three separate and independent kitchens in the form of separate physical civil roofed/ walled structures or not, is not relevant at all, as such a requirement has not been imposed by the Government so far on the public at large. The word "kitchen" used in the notification would in fact mean only a separate and distinct cooking area not necessarily a separate fixed physical roofed/ walled structure/ building, comprising four walls and roof with other civil facilities. In a large number of houses in this country, including Govt. houses, cooking is being done not necessarily only in the kitchen structure, but even outside in the Verandah or any other open or covered or enclosed place or even in some make shift space available, which is of course a part of the house itself. Therefore, the argument put forth by the OPs asking again and again that the Complainants were not having three separate and independent kitchens in the form of physical, walled and roofed enclosed structures made of bricks and cement, is just not tenable. Moreover, when the three LPG connections were issued in the year 1987 and 1996 respectively, such a condition was never imposed on the Complainants and the Gas Company (OPs No. 1 & 2) as well as the then Dealer (OP No.4) had liberally allowed the release of three LPG connections in the names of three persons belonging to the same family and also residing in the same house. The pleading of the Complainants in the present case is that the new house where they have now shifted is much bigger and has more space than their old house, where the Company had earlier unhesitatingly and without grudge or even a murmur allowed three gas connections. Complainants further say that OP No. 3 who is the Gas Dealer had insisted upon them to purchase new gas stoves, as well as regulators afresh, with a view to make some undue and unearned profit and this was clearly against the OPs' own prescribed Rules. It is a well known fact that this malpractice on the part of some unscrupulous gas Dealers to insist upon the gullible consumers to buy new gas stoves and regulators etc. at exorbitant prices at the time of either taking new connections or at the time of transfer of gas connections forthwith, is widespread and there have been a number of complaints against the Dealers in this regard and in certain cases, the Gas Agencies were booked and their licenses were cancelled on that account. It is emphatically made clear that the Complainants must have suffered immensely at the hands of

the OPs and especially, OP No.3, during the last three years or so, without getting any relief or redressal of their grievances at the hands of OPs.

ix] As already observed, this being a very old case and relating to the year 2008, the proceedings have been going on for more than two years and during this period, the Complainants have been deprived of availing the second and third gas connections and as such, they had to contend with only one gas connection in the name of Complainant No.1. In all this process, there is no fault on the part of the Complainants and the fault lies entirely and solely with the OPs, especially OP No.3. During the entire proceedings, spread over more than two years, OP No. 3, which is the main party in the case, has remained absent and was accordingly, proceeded against ex-parte. As such, there is no defence being put up on behalf of OP No. 3 at all. The only reply filed by OPs, was from OPs No. 1 and 2, which is the Gas Company itself and as usual, they had blindly defended their own Dealer as a matter of routine, without going through the entire case closely, analyzing the same and sifting the truth from falsehood and applying their mind to the suffering undergone by the Complainants. OPs No. 1 & 2 have not been able to explain as to how and why they had released three gas connections in favour of the Complainants in the year 1987 and 1996 respectively, and not only that they allowed the use of these gas connections for more than 15 to 20 years, without ever raising any objection or creating problem. The very fact that the problem arose only when there was a request from the Complainants for transferring the gas connections from one dealer to the other, clearly shows utter and callous malafideson the part of the OPs, which is writ large on the face of it. There is clearly something much more than meets the eye in the present case, and the OPs have miserably failed to explain their conduct in the case by not allowing the transfer of the gas connections from one house to the other one but located within the same city of Chandigarh. By and large, the process of transfer is a very routine procedure, which should have been allowed in general as a matter of course, without raising any objection by any one."

13. The State Commission while dismissing the appeal observed;

"16. According to the complainants, when they shifted to the present accommodation i.e. H.No. 673, Sector 41A, Chandigarh, they obtained the transfer vouchers from the previous supplier (Sabharwal Gas Agency) and approached OP-3 for transfer of connection. It is mentioned in para no. 7 of the complaint that OP-3 told them that they would have to purchase new Stoves/Chullas, and Regulators from him, otherwise he would not register the transfer. He also told that he was highly linked with higher-ups, including bureaucrats and other senior officials of OP-1 (appellant) and had close relations with OP-2, Rajiv Bhargava, who was Area Sales Manager of OP-1 at Chandigarh. Rajiv Bhargava, under whose patronage OP-3 was adopting this unfair trade practice, was joined as OP-2 in the complaint. He had an opportunity to deny these allegations, when OP-1 prepared an affidavit dated 14.11.2008 of Sh. Rajiv Bhargava, Area, Sales Manager but the said OP did not have the guts to deny these allegations and it appears, his name was rubbed by putting fluid on his name and instead of his name, the name of S.Malik, Senior Regional Manager, was mentioned who signed the affidavit. The OP-3 also did not come forward to file a reply, to deny if new Stoves/Chullas, and Regulators, were not sought to be sold to the complainants and if it was made a precondition for granting a connection. However, S.Malik, Senior Regional Manager, has denied these contentions in his reply to para number 7 of the complaint and affidavit. In the verification, he has mentioned that the averments were true and correct to his knowledge. He did not mention from where and whom he derived the said knowledge that new Stoves/Chullas, and Regulators were not thrust on the Complainants before granting connection by OP-3. We are therefore of the opinion that the allegations contained in para 7 appear to be correct and it was due to this reason that the complainants have been harassed by the OPs by interpreting the Order 2000, in a manner to the detriment of the complainants. The impugned order passed by the learned District Forum, therefore, cannot be said to be contrary to rule and law."

State Commission dismissed the Appeal of OP with litigation Cost of Rs.10,000/-.

National Commission in **Revision Petition No. 2521 of 2011 with I.A. No. 01 of 2011 (for stay)** against the order dt. 25.05.2011 in **Appeal No. 43/2011** of the State Commission, Chandigarh, UT stated "**In view of the concurrent findings of facts given by fora below, no jurisdiction or legal error has been shown to call for interference in the exercise of power under section 21 (b) of the Act**" and dismissed the revision petition.

CONTACT US:

Room No-7 Indian Institute of Public Administration , I.P. Estate , Ring Road , New Delhi- 110002

Phone - (011) 23705055 , 23705054 , FAX - (011) 23705054

Email - schkrmp.iipa@gmail.com , Website - www.consumereducation.in, www.consumeradvice.in