

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION
MUMBAI SUBURBAN ADDITIONAL**

**Administrative Building, 3rd Floor, Near Chetana College
Bandra (East), Mumbai-400 051**

**Complaint Case No. CC/16/2021
(Date of Filing : 27 Jan 2021)**

1. GARGI PRAKASH JOSHI
RESIDING AT FLATNO.111/1
VARAD BUILDING, NEAR CONVENT GIRLS HIGH SCHOOL
K.G.MARG, PRABHADEVI
DADAR (WEST)
MUMBAI-400 028

2. JITESH NAGAR MUNDHWA
RESIDING AT SION JAI AMBE SOCIETY
BUILDING NO.7, ROOM NO.391
SADAR NAGAR 1
MUMBAI-400 022

..... Complainant(s)

Versus

1. WOW MOMOS FOODS PRIVATE LIMITED
THROUGH ITS DIRECTORS
OFFICE ADDRESS UDYOG MANDIR INDUSTRIAL AREA
SATHI D'SOUZA NAGAR
SAKINAKA, MUMBAI-400 072
(MUMBAI BRANCH)

2. NILOY CHAKRABORTY
(DIRECTOR)
ADDRESS 29 A, 2E, 1, RAJA SUBODH CHANDRA
MALLICK ROAD, BIDHANPALLY
JADVPUR, KOLKATA-700 032
WEST BENGAL STATE

..... Opposite Party (s)

BEFORE:

**HON'BLE MR. PRADEEP G. KADU PRESIDENT
HON'BLE MS. GAURI M. KAPSE MEMBER**

PRESENT: None present for the Complainants
Shri Mangesh S. Rathod-Advocate for the Opposite Parties

Dated : 13 May 2025

Final Order/Judgement

Per Smt. Gauri M. Kapse, Hon'ble Member

1) This is a complaint under Section 35(1)(a) of Consumer Protection Act

2019. Briefly stated facts of the complaint are as under :

2) On 19 December, 2020, the complainants ordered a "Steam Darjeeling Momo Combo" from the outlet of Opposite Party No.1/Wow Momos Foods Private Limited at Cafe Coffee Day, Sion, Mumbai. Despite specifying their preference for vegetarian food twice, they were served non-vegetarian "Steam Chicken Darjeeling Momos." The Complainants paid Rs. 120/- for the order, which included a Pepsi.

3) The Complainants alleged that the employee, Pooja Sharma, ignored their instructions and served the wrong order. The display board near the stall did not mention vegetarian or non-vegetarian options for the "Steam Darjeeling Momo" combo. The Complainants alleged that they suffered mental trauma, hurt religious feelings and emotional distress due to the negligence of the company. The Complainants contacted the Kolkata office of the company and spoke with Niloy Chakraborty/the Opposite Party No.2 herein, who connected them with the Mumbai management. Shri Bhanooprasad Gaikwad, the representative of the Mumbai management, apologized for the mistake and offered to meet the Complainants to resolve the matter. The Complainants and the representative of the Mumbai management met but no settlement was reached. The Complainants served a legal notice to the Opposite Parties, demanding compensation for deficiency in service and negligence and hurting their religious sentiments. There was "grave negligence" on the part of the Opposite Parties as they have supplied an item the consumer did not ask for. Hence, the Complainants have filed the present consumer complaint claiming compensation of Rs.6,00,000/- from the Opposite Parties for deficiency in service, mental harassment, and hurting their religious sentiments. The complainants have also sought any other relief deemed fit by the Commission.

4) The Complainants have placed reliance on true copies of documents

viz. bill dated 19th December, 2020, photographs of display board (food chart), notice dated 28th & 29th December, 2020 and reply dated 7th January, 2020 by the Opposite Parties to the notice served by the complainants.

5) Notices were served upon both the Opposite Parties. The Opposite Parties filed their written statement within stipulated period. Following are the main defenses of the Opposite Parties.

- a. The Opposite Party (Wow Momos Foods Pvt Ltd) denies all allegations made by the Complainants and submits that the Complainants have suppressed true facts and are trying to mislead the Commission.
- b. The Complainants alleged receiving non-veg momos instead of veg momos. But, the Opposite Party claims that the Complainants themselves ordered non-veg items, as evident from the invoice.
- c. The Opposite Party denies having an employee named Pooja Sharma and claims that the employee who served the Complainants was Roshani Pasi, who was physically abused by the Complainants.
- d. The Opposite Party claims that the Complainants showed "mussel power" and created unnecessary nuisance, leading the Opposite Party to refund the money and render the products "free of cost".
- e. The Opposite Party argues that the Complainants are not the 'consumer' under the Consumer Protection Act, 2019, as they received a refund and do not fall within the definition of a consumer.
- f. The Opposite Party claims that it provides services as per customer orders and has clearly displayed veg and non-veg

options.

- g. The Opposite Party mentions that it has a complaint book and email ID available in all its outlets and on its website, which the Complainants did not use.
- h. The Opposite Party reiterates that the Complainants physically abused its employee, Ms. Roshani Pasi.
- i. Despite the behavior of the Complainants, the Opposite Party offered a gift voucher worth Rs.1200/- as a goodwill gesture, but the Complainants demanded Rs.3 Llakhs each.
- j. The Opposite Party argues that there is no dispute under the Consumer Protection Act and that the complaint has been filed with malafide intention to harass the Opposite Party.

6) Both the parties filed their affidavit of evidence. The Opposite Party has filed written arguments. The Complainants remained absent since 29th March, 2023. Hence, arguments of the Opposite Party were heard. After hearing the arguments of the Opposite Party, following points arise for our determination on which we record findings with the reasons given below.

Sr. No.	Points	Findings
1)	Whether there is deficiency in service on the part of the Opposite Parties ?	No
2)	Whether the Complainants are entitled to claim any of the reliefs sought in the complaint ?	No
3)	What Order ?	As per final order

REASONS FOR FINDINGS

7) **Point No.1 &3** :- At the very outset of the discussion, this Commission has the least hesitation to observe that from the perusal of the evidence

placed on the record, it becomes crystal clear that the Complainants have not been able to substantiate their assertions with respect to any alleged deficiency in service on the part of the Opposite Parties. As per the evidence of the Complainants, they had placed an order with the outlet of Opposite Party No.1 for supply of "Steam Darjeeling Momos + 1 Pepsi being strictly vegetarian persons and that when the order was delivered, it was found that the Opposite Parties had wrongly sent non-veg Momos. The Complainant have failed to produce any evidence as they ordered veg momos. The invoice indicates that they ordered Non-veg Momos. The Veg and Non-veg momos prices are same. Secondly, the Complainants have produced 2 -3 photos of dish but we could not gather it as they are veg or non-veg momos. No inference can be drawn therefrom in view of the fact that the Complainants have failed to prove that on the given date non-veg order had been delivered to them instead of veg order. If non veg order had been delivered to the Complainants instead of veg order, then, it ought to have contained only and only non-veg pieces therein. A prudent person would be able to distinguish between veg and non-veg food before consuming it seems reasonable. The Complainant have produced a photo of the offer board which didn't clearly indicates whether the Steam Darjeeling Momo (1 plate) + Pepsi was veg or non-veg. However, the board did mention "veg/non-veg" at the bottom suggesting that the restaurant did provide some indication of the food type. This could imply that the Complainants should have been aware of the possibility of both veg and non-veg options being available.

8) Similarly, the Complainants have also failed to substantiate that they had performing the Pooja and other religious ceremonies as has been alleged by them nor they have disclosed the names of any Poojari or Pandit, who had allegedly performed the Pooja under reference and further that they have also failed to disclose even the nature, name, date and place of the pooja/religious ceremonies. Thirdly, if the Complainants were strictly vegetarian and

the non-veg food hurts their religious sentiments, then, why they opted to order the food items from the restaurant which was delivering both non-veg and vegetarian food instead of ordering the food from the restaurant which was exclusively vegetarian, and served only and only vegetarian food.

9) Thus, in view of the aforesaid discussions, it has become crystal clear that the Complainants have not been able to establish any deficiency in service on the part of the Opposite Parties. Hence, we have answered the findings on all the points accordingly and proceed to pass following order.

FINAL ORDER

- 1) Consumer Complaint No. CC/16/2021 stands dismissed.
- 2) No order as to costs.
- 3) Copies of this order be sent to the parties free of costs.

[HON'BLE MR. PRADEEP G. KADU]
PRESIDENT

[HON'BLE MS. GAURI M. KAPSE]
MEMBER