

Bata Penalised For 'Minting Money' By Using Unfair Trade Practises

written by Shreya Dasgupta | April 24, 2019

INTRODUCTION:

In 2009, Himachal Pradesh was the first state to impose plastic ban in India and subsequently over 25 states like Delhi, Karnataka, Bihar, Punjab etc, realised the ill-effects of the plastic and imposed ban on plastic. After the ban, the shops operating in these states started charging their customers an extra amount ranging INR 3 to 20 for paper/cloth bags.

CASE SUMMARY

In the present case^[1], on February 5, 2019, Mr. Dinesh Prasad Raturi ("Complainant") went to the showroom of Bata India Limited ("Opposite Party") to purchase a shoe. The Complainant purchased a pair of shoe worth INR 399 and he was billed INR 402, including INR 3 for paper bag with the logo of the Opposite Party and it was further written "Bata Surprisingly Stylish" "Barcelona Milan Singapore New Delhi Rome". The Complainant was not even given an option of whether he is willing to purchase the paper bag which promotes the Opposite Party for an extra amount of INR 3. The Complainant filed a complaint stating that the Opposite Party is misusing the consumer for advertising, at the cost of the consumer, which leads to 'unfair trade practise'. The Complainant filed a consumer complaint demanding for refund of the INR 3 charged to him and prayed to the forum to direct the Opposite Party to provide free carry bags to its consumers along with the purchased items. The Complainant further demanded for compensation of INR 5000 and the cost of litigation. The Opposite Party stated in its reply that they provided the Complainant and other consumers with the paper bag for the purpose of environmental safety.

DECISION OF

THE COURT

The District Consumer Forum of Chandigarh ("Forum") took into consideration the views of both the parties and opined the following:

- If the Opposite Party is sincerely concerned about the environment, the Opposite Party should provide the paper bags, free of cost to its consumers
- It was further observed by the Forum that the Opposite Party is using 'unfair trade practises' in the mask of the 'plastic-ban regulation' to earn money from the consumers; Based on the above observations, the Forum levied the following compensation on the Opposite Party:
- The Opposite Party shall provide free carry bags to all customers forthwith who purchase articles from its shop and stop unfair trade practice i.e. to charge for carry bag;
- The Opposite Party shall refund to the complainant

- the amount of INR 3/- wrongly charged for the paper carry bag;
- The Opposite Party shall pay Rs. 3,000/- to the complainant towards compensation for mental and physical harassment;
 - The Opposite Party shall pay Rs. 1,000/- as litigation expenses;
 - The Opposite Party shall pay punitive damages, to deposit Rs. 5,000/- in the "Consumer Legal Aid Account" No. 32892854721, maintained with the State Bank of India, Sector 7-C, Madhya Marg, Chandigarh in the name of Secretary, Hon'ble State Consumer Disputes Redressal Commission, U.T., Chandigarh.

The Forum further ordered that the

Opposite Party has to comply with the above-mentioned decision within 30 days of availability of the certified copy of the order, failing which an interest of 12% p.a. will be levied on the Opposite Party, on each of the above amount mentioned.

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ANALYSIS

Under Section 2(r)(ix) of the Consumer Protection Act, 1986[2], the

definition of "Unfair Trade Practises" includes trade practise which "materially

misleads the public concerning the price at which a product or like products or

goods or services, have been or are, ordinarily sold or provided, and, for this

purpose, a representation as to price shall be deemed to refer to the price at

which the product or goods or services has or have been sold by sellers or provided by suppliers generally in the relevant market unless it is clearly specified to be the price at which the product has been sold or services have been provided by the person by whom or on whose behalf the representation is made."

In the present case, the Opposite

Party has misled the Complainant projecting that the price of the paper bag advertising the brand of the Opposite Party has to be compulsorily purchased along with the item purchased by the consumer. The Complainant on approaching the Forum analysed the facts of the case and held that the Opposite Party is trying to 'mint money' using unfair trade practises, at the expense of the consumers and thus penalised the Opposite Party, for the same.

CONCLUSION

In the light of the above discussion, it is noticed that the regulation on 'plastic ban' was brought in, by the state government, in view of environmental protection. However, it is noticed that the shop-owners have shifted their burden of 'non-usage of plastic' to the customer. The shops which are now charging an amount for the paper/cloth bag was earlier providing plastic bags at 'free of cost' to the consumers to carry

the items purchased. However, after the plastic-ban, the shops have come with this new mechanism of charging the consumer for the reusable bag provided by

them, along with their logo to promote their business. In our opinion, this order should be implemented all over the country to avoid practising of such 'unfair trade practises' by the businesses.

Contributed by - Shreya Dasgupta

[1] [MANU/SF/0005/2019](#)

[2] http://ncdrc.nic.in/bare_acts/Consumer%20Protection%20Act-1986.html

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