**Consumer Complaint No.     /2023**

**BEFORE THE HON’BLE DISTRICT CONSUMER REDRESSAL COMMISSION BELAGAVI, AT: PORVORIM, GOA.**

**BETWEEN**

1. Mr. John Costance D'Souza

H no. 2/207 Naikavaddo

Calangute

Bardez Goa 4035162.

1. Mrs. Maria Arcanjela D'Souza

H.no.2/207 Naikavaddo,

Calangute Bardez Goa 4035163.

1. Mrs. Maria Philomena D'sOUZAH.no.2/168

D Naikavaddo, Calangute Bardez Goa 4035164.

1. Mrs. Anna Francisca Rita D'Souza

H.no.2/207 Naikavaddo,

Calangute Bardez Goa 4035165.

1. Jenesius Francis D'Souza

Through his mother Mrs. ValanciaD'Souza

H.no.2/207 Naikavaddo, Calangute Bardez Goa 4035166.

1. Mrs. Valancia D'SouzaH.no.2/207

Naikavaddo,

Calangute Bardez Goa 403516. .........Complainant

V/s

1. Mr. Robin A. Rodriques, Proprietor

'Flamingo HolidayWorldwide'5, ORINHA'

Umtavaddo, Calangute Bardez Goa 403516... .....Opposite Party

**COMPLAINT UNDER SECTION 35 OF THE CONSUMER PROTECTION ACT 2019**

1. The address of the Complainant for the purpose of service of summons, notice etc is as shown in the cause title above and that of his counsel
2. The address of the Opponents for the very purpose is the same as shown in the cause title above.
3. Herein the Complainant mentioned earlier most respectfully submits as under,
4. That the complainant was desirous of proceeding on a pilgrim tour to visit holy places all over Europe and had saved their hard-earned money for the last several years, to make their dream come true, and as such they started making inquiries on social media as well as on the print media and came across an advertisement of Western Europe tours claimed to be conducted by the opposite party.
5. The complainants were impressed by the said advertisement and as such approached the office of the opposite party at the address as mentioned above to discuss the tour offered by the opposite party under the said advertisement.
6. The complainants met the sole proprietor of the opposite party and the opposite party gave them all the details of the tour on his laptop and thereafter informed the complainant that the cost of the tour would be Rs 2,28, 000/- (Two LakhTwenty-Eight Thousand only) per head which amount was reflected in the advertisement as well.
7. However, to the shock of the Complainants, the opposite party informed the complainant Nos. 2 & 3 that they would be charged an additional amount of Rs. 4000/- (Four Thousand Only) each towards insurance as the complainant nos.2 &3 were senior Citizens.
8. The Opposite party deceived the complainants and urged them to pay the said amount to enable him to book their tickets at the earliest as the said earlier offer of the tour for an amount of Rs.2,28,000/-( Two Lakh Twenty-Eight Thousand Only) for per head was valid only for a period up to January 2020.
9. The complainants on being deceived by the inducement by the opposite party, paid to the Opposite party the following amounts: - A sum of Rs. 1,00,000/-( One Lakhs Only) vide Cheque bearing no. 520114 of Canara Bank, Candolim Branch, Goa being paid by complainant No.2, A Sum of Rs. 1,00,000/- (One Lakh Only) vide Cheque Bearing No. 000001 drawn on Bank Of Baroda, Calangute Branch, Goa paid by the complainant No.3, A sum of Rs. 50000/- (Fifty Thousand only) vide Cheque Bearing No 018660 drawn on Goa State Co-op Bank, Calangute Goa, paid by the Complainant No.5
10. Thereafter the complainant no. 1 along with his mother, his wife, and his son (Complainants Nos 2, 6 & 7 respectively) visited the office of the opposite party on 7/2/2020 and requested the opposite party to provide the entire itinerary of the tour in details, which was thereafter sent to complainant no.1 via WhatsApp on cell phone bearing No. 9822389898.
11. The complainants upon perusing the itinerary/ program were excited and looked forward to the dream pilgrim tour and had it not been for the inducement as portrayed by the advertisement as well as the itinerary/ program shared with the complainants via WhatsApp, the complainants would have never parted with their hard-earned money.
12. However, after having received the itinerary/program, the opposite party demanded the payment of a further sum of money. Left with no other option with the desire to travel, the said additional payment came to be paid in the following manner by the complainant's Nos. 1 & 4: A Sum of Rs. 2,00,000/- (Two Lakh Only) vide cheque bearing no. 005359 drawn on Goa State Co-op Bank, Calangute Branch, favoring the opposite party.

1. Thereafter on 17/2/2020, on instructions from the opposite party, the complainants went to Suade Chapel Mazalvaddo, Anjuna Bardez Goa along with their passports, copies of their FDs, IT returns, and photocopies of their Master cards/ Visa cards and photographs for process their visas, through the agent of the Opposite party. On verification of the same, the complainants were then asked to return to the office of the opposite party at 5 Orinha, Umta Vaddo, Calangute Bardez – Goa, on 23/02/2020.
2. As per the instructions given, the complainants attended the office of the Opposite party on23/02/2020 at which time the opposite party retained the original passports and photographs of the complainants and further instructed the complainants to pay the balance amount and accordingly the complainants No.1 paid a sum of Rs. 4,39,000/- (Four Lakh Thirty-Nine Thousand Only) vide cheque no. 530320 drawn on State Bank of India Calangute Branch Goa as and way of full payments for himself, his wife as well as his son, and the complainants no. 2, paid a further amount of Rs. 1,26,000/-( One Lakh Twenty Six thousand only ) vide cheque bearing no. 118341 drawn on Goa State Urban Bank, Porvorim Branch, and Rs 4000/- (Four Thousand Only) in case of travel insurance for complainant no.2 , being a senior citizen herself.
3. Complainant no.3 paid a sum of Rs. 1,26,000/- (One Lakh Twenty-Six Thousand Only) in cash as well as Rs. 4000/-(Four Thousand Only)in cash towards travel insurance to the opposite party.
4. Complainant no.5 paid an amount of Rs. 2,00,000/- ( Two Lakh Only) to the Opposite party, vide cheque bearing no. 018661 drawn on Goa State Co-op Bank Calangute Branch, Goa.
5. On receipt of the entire payments, the opposite party informed the complainants that they would be intimated about the visa appointment date and would be furnished with tickets as well as hotel booking documents in respect of the tour.
6. On 05/03/2020 the complainants were informed by the opposite party that the visa appointments at VFS Panaji, Gera Grande, Nr. Ginger Hotel was scheduled on 11/3/2020and the complainants were further instructed by the Opposite party to be present along with all their documents, however, all original documents including the passports of the complainants were in the possession of the Opposite party.
7. The opposite party forwarded two PNR numbers to the complainants no.1 one being63378144 and the other being 64004882. On verifying the above PNR numbers as furnished by the opposite party, said PNR numbers appeared to be invalid combinations, and when the opposite party was informed of the same, he assured the complainants that printouts of the tickets would be furnished to them on 1/7/2020 at the time of departure.
8. That, due to Covid -19, The Govt. of India enforced a lockdown on the 22nd of March 2020 and there was uncertainty regarding international flights as per S.O.P. on inquiring about the same, the opposite party informed the complainants that the tour was postponed till July 2020.
9. On receiving no communication from the opposite party thereafter, the aggrieved complainants were left with no other alternative but to request for a refund of the amount of RS. 13,49,000/-Thirteen Lakh Forty-Nine Thousand only) which was paid to the Opposite party as and by way of the total cost for the tour as it was evident that the opposite party deliberately and wilfully avoided any further communication with the complainants and by then the International travel was not permitted resulting in there being no possibility of the tour taking effect.
10. The complainants state and submit that although the opposite party collected a sum of Rs.13,49,000/-(Thirteen Lakh Forty Nine Thousand only) from the complainants, the opposite party neither furnished to the complainants the flight tickets for the entire tour, their visas, passports hotel accommodation voucher, and entry tickets to the pilgrim places which were part of the itinerary thereby making it evident that the opposite party never had the intention of organizing the tour and had not made any booking of either Flights, Hotels, Tours, Airport transfer, etc.
11. The actions of deceit and dishonesty on the part of the opposite party, to induce the complainants to pay the amount for the tour by taking advantage of their desire to go on a pilgrim tour of holy places which the opposite party never intended to conduct, tantamount to fraud on behalf on the opposite party.
12. The complainant states that from the conduct of the opposite party, it is evident that the opposite party has not only misled the complainants and belied their trust but also grossly neglected and failed to discharge the duty for which the complainant spent their hard-earned money. The opposite party having grossly failed to discharge his obligation and render service, for which the opposite party has received valuable consideration, is guilty of deficiency in service as defined under the Consumer Protection Act 2019 and the rules made there under having failed to discharge his obligation arising out of the said agreements.
13. The complainants thereafter approached the opposite party on several occasions for a refund of the money and the return of the passports as the passports were personal documents of the complainants, however, the opposite party neither refunded the amount nor returned the passports, and the complainants left with no other alternative complained to the police Inspector, Calangute police station on 18/04/2020.
14. The complainants submit that for the reasons best known to the Police, Calangute Police initially failed to register an F.I.R However, the complainants approached the Director Public Grievances and lodged a complaint dated 14/10/2020 and with the indulgence of the Director General of public grievances, an F.I.R bearing no. 266/20 came to be registered against the opposite party.
15. The complainants thereafter were summoned to the police station for recording statements and conducting an investigation, however, no attempt was made to recover the passports and hand over the same to the complainants.
16. The complainants thereafter being left with no other alternative complained before the passport officer and the complainants apprehended that the passports may be misused by the opposite party and the passport officer accordingly took note of the same and informed the Calangute police. The Complainants once again visited the Calangute police station for the release of the passports however the Calangute police informed the complainants that the passports could be released only from the order of the court and accordingly, the complainants being left with no alternative had to approach and advocate for initiating proceedings for release of the passports.
17. The complainants state and submit that they Complainants were forced to file applications for release of the passports under Section. 457(2) Cr. P.C before the Court of the Judicial Magistrate First Class at Mapusa, Goa, and Hon’ble Court of the Judicial Magistrate First Class at Mapusa, Goa was pleased to issue notice to the Calangute police of the said applications and the Calangute police was pleased to file reply wherein the police confirmed that the House of the opposite party was searched after obtaining the search warrant and 61 original passports belonging to different travelers including those of the complainants were attached.
18. The court of the Judicial Magistrate First Class at Mapusa, Goa after hearing the parties was thereafter pleased to order the release of the passports by order dated 28/6/2021, but not before directing the complainants to execute an indemnity bond of Rs. 10,000/-(Rupees Ten Thousand Only) each.
19. That all these proceedings have created serious distress and mental agony to the complainants.
20. The acts of the opposite party in deceiving the complainants and inducing them to part with a sum of Rs. 13,49,000/- (Rupees Thirteen Lakh Forty-Nine thousand only) without making any arrangement for the conduct of the tour and thereafter refusing to refund the said amount as well as the passports are blatantly illegal and amount to a serious invasion of the rights of the complainant, besides resulting in mental torture agony stress and needless exposure to additional cost for initiating proceedings for release of the passports which the opposite party refused to hand over/return to the complainants. The complainants state that the complainants have paid an amount of Rs. 50,000/- (Rupees Fifty Thousand Only) towards the cost of the release of passports inclusive of court fees, process fees, indemnity bonds, and legal fees.
21. The complainant states that they have also sent them a notice mentioning to them the details of the payment to be made to them along with the interest and then they filed the present complaint.
22. **Prayer**
23. The Opposite Party is directed to pay to the Complainant a sum of Rs.13,49,000/-(Rupees Thirteen Lakh and Forty-Nine Thousand only) along with the interest at the rate of 10% per annum from February 2020 till the date of effective payments.
24. The Opposite Party is also directed to pay the sum of Rs 3,00,000/- (Rupees Three Lakh Only) as compensation for causing mental torture, agony, and stress to the complainants
25. Grant such other reliefs as this Hon’ble Commission deems fit

**Bardez ADVOCATE FOR COMPLAINANT**

**/02/2024**

**Verification**

Herein I, John Constance D'Souza, the complainant no.1 in the above case have been authorized by the other complainants no. 2 to 6 to sign this verification. I do hereby state on the solemn affirmation that the contents of the above paragraphs are read over and explained to me in my vernacular, and the same is found to be true and correct to the best of my knowledge, belief, and information.

**Bardez**

**/02/2024 Complainant**