

H. P. STATE CONSUMER DISPUTES REDRESSAL
COMMISSION, SHIMLA.

First Appeal No.: 248/2024
Date of Presentation: 25.10.2024
Order reserved on: 29.08.2025
Date of Decision: 12.09.2025

.....
Rohit Bhagwat S/o Sh. Ramesh Chand, Permanent resident
of Village & P.O. Bharmar, Tehsil Jawali, District Kangra,
H.P.

.....Appellant/Complainant

Versus

1. Air India Airways,
Air India Ltd. Airlines House, 113, Gurudwara Rakabhanj
Road, New Delhi-01.

2. Alliance Air Aviation Limited,
Alliance Bhawan Domestic Terminal, IGI Airport, Postcode-
110037, New Delhi.

....Respondents/Opposite Parties.

.....
Coram

Hon'ble Justice Inder Singh Mehta, President.
Hon'ble Mr.Partap Singh Thakur, Member.

Whether approved for reporting?¹ Yes.

For the Appellant: Mr.Ajay Jagga, Advocate.
For Respondent No.1: None.

¹ Whether Reporters of the local papers may be allowed to see the order?

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**For the Respondent No.2: Mr. Sanjay Sharma,
Advocate vice Mr. Sanjay
Gandhi, Advocate.**

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Justice Inder Singh Mehta, President

ORDER:

Present appeal is preferred against the order dated 12.09.2024 of learned District Commission, Shimla in consumer complaint No.16/2020 titled Rohit Bhagwat Versus Air India Airways & Anr., whereby the complaint filed by the complainant was dismissed.

Brief facts of Case:

2. Brief facts as stated in the complaint are that the complainant booked one ticket from Delhi to Shimla in Flight No.AI-9803, Ticket No.0989443104267, in the name of Dr.Subramanian Swamy for 19th October, 2019. As per ticket, the time of departure of flight was 7:50 AM. Dr.Subramanian Swamy was coming to Shimla on 19th October, 2019 to preside over the Lecture which was organized by the students

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of Himachal Pradesh University on the subject of "Rashtravad (Nationalism)". When Dr.Subramanian Swamy reached Delhi Airport to board the flight, it was informed to him that flight had already departed at 6:50 AM. Thereafter, another ticket was purchased by him at his own cost to reach Chandigarh and from Chandigarh a special Chopper was arranged. Due to above said act of the opposite parties, whole function got ruined. As such, there is deficiency in service and unfair trade practice on the part of the opposite parties. Hence, the present complaint.

3. The opposite party/Air India filed reply and stated that the ticket was purchased in the name of Dr.Subramanian Swamy, however, the present complaint has been filed by Mr.Rohit Bhagwat on behalf of Dr.Subramanian Swamy, which is not maintainable. Flight was booked on 10.10.2019 for 19.10.2019 from Delhi to Shimla in the name of Mr.Subramanian

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Swamy. Departure time of flight from Delhi to Shimla was 06:15 AM and arrival time was 7:25 AM. Flight schedule was changed on 9th October, 2019, specifically only for the day of 10th October, 2019. All the passengers were duly informed that the departure time of flight No.91803 DEL/SLV from Delhi to Shimla was 6:15 AM instead of 7:50 AM and the time was altered only for the day of 10th October, 2019, however, due to some technical error, the same was being reflected on the website till 12th October, 2019. Numerous calls were made to Mr.Subramanian Swamy on the mobile numbers 8628818003 and 01204880880 provided on the ticket but he did not answer the calls. Since e-mail ID was not provided by Mr.Subramanian Swamy, hence mail could not be sent to this effect. On 19th October, 2019, Special Handling Unit's staff Ms.Pooja called Mr.Swamy to confirm his arrival in order to provide him the protocol but Mr.Swamy replied

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that he is not able to catch the flight and hence his name was deleted from the flight. There was negligence on behalf of Mr.Swamy to catch the flight. Therefore, there is no deficiency in service on the part of the opposite party. A prayer for dismissal of complaint was made.

4. The complainant filed rejoinder to the reply filed by opposite party denying the objections in the reply filed by opposite party and reiterating those of complaint.

5. Thereafter, the parties led evidence in support of their respective pleadings. After hearing learned counsel for the parties, learned District Commission dismissed the complaint of the complainant.

6. Feeling aggrieved by the order of learned District Commission, the appellant/complainant has

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preferred the instant appeal before this Commission.

7. Arguments heard on behalf of the parties and perused the written arguments filed on behalf of both the parties as well as record of the case file carefully.

8. Learned counsel of the appellant/complainant has submitted that complainant booked one ticket of Air India flight from Delhi to Shimla in the name of Dr.Subramanian Swamy for 19.10.2019. He has further submitted that Dr.Subramanian Swamy was invited to give lecture on nationalism. As per ticket, departure time of flight was 7:50 AM. When Mr.Swamy reached Delhi Airport to board the flight, he was informed that flight has already departed at 6:50 AM. He further submitted that no prior intimation was given by the respondents/Air India regarding change of departure time of the flight. He has further submitted that impugned order is bad in law

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and prays that the appeal of the appellant/complainant be allowed and impugned order be set aside.

9. On the other hand, the respondent No.2/ Alliance Air has submitted that Dr.Subramanian Swamy is neither the complainant in this case, nor is the resident of H.P., therefore, learned District Commission has no jurisdiction to entertain the complaint. He has further submitted that complainant Rohit Bhagwat is not a consumer, however, he has purchased the ticket in the name of Dr.Subramanian Swamy. Time of flight was 6:50 AM, but due to some technical error, time of flight in the ticket was reflected as 7:50 AM. He has further submitted that all the passengers were intimated on their mobile phones as well as e-mail regarding the same. He has further submitted that the impugned order does not require any interference as the findings given by the learned District Commission are based on the material available on record. He prays for dismissal of the appeal.

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FINDINGS

10. Instant is an appeal filed by the appellant/complainant pertaining to purchasing of one ticket from Delhi to Shimla in Flight No.AI-9803, Ticket No.0989443104267, in the name of one passenger Dr.Subramanian Swamy for 19th October, 2019.

11. On 19th October, 2019, when passenger Dr.Subramanian Swamy reached Delhi Airport to board the flight at 7:50 AM, he was informed that flight has already departed at the scheduled time of 6:50 AM. The aforesaid flight departed from Delhi at 6:50 AM leaving behind passenger Dr.Subramanian Swamy in Delhi Airport on the said date. He was left with no option except to purchase another ticket for the flight from Delhi to Chandigarh. The plea of the complainant is that he arranged a chopper to fetch the said passenger from Chandigarh to Shimla. No prior intimation regarding

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changing in departing time of aforesaid flight was given to complainant or passenger Dr.Subramanian Swamy.

12. The aforesaid inconvenience caused to the passenger was due to fault on the part of the opposite parties/Air India who issued the ticket mentioning wrong time to board the flight in question.

13. The respondents/opposite parties have raised a specific contention that complainant does not fall under the definition of a 'Consumer' as no service has been availed by him or rendered to him by the respondents/Air India, as the ticket was purchased in the name Dr.Subramanian Swamy and not in the name of complainant, therefore, the present complaint is not maintainable.

14. It is admitted case of the respondent/Air India that ticket was purchased by the complainant and payment was made by the complainant himself through PayTM, therefore, the complainant is a Consumer in the

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present case, as ticket was purchased by the complainant himself and he is asking the relief to refund the ticket amount which has been paid by him and inconvenience was caused to him and his associates for no fault on their part.

15. Perusal of ticket Annexure A-1 indicates that on 10.10.2019 Flight No.AI-9803 was booked with Ticket No.0989443104267 in the name of one passenger Dr.Subramanian Swamy for 19.10.2019, wherein departure time from Delhi to Shimla is mentioned as 7:50 and arrival time at Shimla is mentioned as 9:00. Timing of aforesaid ticket is reproduced as under:-

Air India AI-9803	
DEL 07:50	09:00 SLV
Sat 19 Oct, 2019	Sat 19 Oct, 2019
Delhi, Indira Gandhi Airport, Terminal 3	Simla, Simla Airport
Traveller	Ticket
Mr. Subramanian Swamy	0989443104267
Delhi to Shimla	Airline Fee Rs.2,500/person

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16. The respondent No.1/Air India in para 13 of its reply has specifically alleged that they called Dr.Subramanian Swamy to confirm his arrival but he had replied that he was not able to catch the flight.

17. The contents of para No.13 of reply is reproduced as under:-

“....that on 19th of October Special Handling Unit’s staff Ms Pooja called Mr.Swamy to confirm his arrival in order to provide him the protocol being an Member of Parliament but Mr. Swamy replied that he is not able to catch the respective flight and hence his name was deleted from the flight....”

18. Ms.Pooja (Special Handling Unit’s staff) was the best witness to support the case of the respondents/Air India that she had informed Dr.Subramanian Swamy about the confirmation of flight in question but the respondents/Air India failed to examine this witness. Therefore, aforesaid plea of the

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respondents/opposite parties loses its significance in absence of affidavit of Ms.Pooja.

19. Moreover, no call records have been placed on record by the respondents to show that they had made numerous calls to passenger Dr.Subramanian Swamy on the mobile Numbers 918628818003 and 911204880880 mentioned in the ticket. Therefore, the respondents/Air India failed to prove that they had given prior intimation to passenger Dr.Subramanian Swamy regarding changing the departure time of flight in question.

20. Onus lies upon the respondents/Air India to inform the passenger pertaining to flight's timing but respondents/Air India have failed to discharge its onus by leading cogent and convincing evidence.

21. The findings given by learned District Commission below regarding non filing of affidavit of Dr.Subramanian Swamy is irrelevant in presence of the

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ticket Annexure A-1 issued in the name of Dr.Subramanian Swamy, wherein time of departure is given as 7:50 and accordingly, Dr.Swamy reached at Delhi Airport at the time mentioned in the ticket, but the flight in question had already departed from Delhi at 6:50 AM without any prior intimation to complainant or Dr.Subramanian Swamy, which amounts to deficiency in service on the part of the opposite parties. Therefore, the complainant is entitled for refund of ticket amount.

22. So far as the plea of complainant that he arranged chopper to bring Dr.Subramanian Swamy from Chandigarh to Shimla by spending Rs.1,80,000/- and also spent Rs.2,00,000/- for the function which was ruined due to act and conduct of the respondents/Air India, is concerned, the complainant has failed to produce on record any documentary evidence in this regard, therefore, the complainant is not entitled for the said amount.

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23. In view of the above stated facts, the appeal of the appellant/complainant is partly allowed and the impugned order dated 12.09.2024 passed by learned District Commission is set aside.

24. The opposite party No.1/Air India is directed to refund the ticket amount of Rs.2,500/- (two thousand five hundred) to the complainant alongwith interest @ 9% per annum from the date of filing of complaint till its realization.

25. The opposite party No.1/Air India is further directed to pay a sum of Rs.25,000/- (Twenty five thousand) to the complainant as compensation for harassment and mental agony besides litigation cost of Rs.25,000/- (Twenty five thousand).

26. The opposite party No.1/Air India is directed to comply the aforesaid order within 45 days from the receipt of the copy of this order.

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27. Certified copy of order be sent to the parties and their counsel strictly as per rules. File of District Commission alongwith certified copy of order be sent back and file of State Commission be consigned to record room after due completion. Appeal is disposed of. Pending applications, if any, also disposed of.

Justice Inder Singh Mehta
President

Partap Singh Thakur
Member

Veena