

DoCA cautions Restaurants on forced charging of “Service Charges” on consumers,

Says it’s the discretion of the consumer; Calls National Restaurant Association on June 2nd to discuss the issue

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The Department of Consumer Affairs (DoCA) has scheduled a meeting on 2nd June, 2022 with the National Restaurant Association of India to discuss the issues pertaining to Service Charge levied by restaurants. The meeting follows as a result of DoCA taking notice of a number of media reports as well as grievances registered by consumers on the National Consumer Helpline (NCH). In a letter written by Shri Rohit Kumar Singh, Secretary, Department of Consumer Affairs to President, National Restaurant Association of India, it has been pointed out that the restaurants and eateries are collecting service charge from consumers by default, even though collection of any such charge is Voluntary and at the discretion of consumers and not mandatory as per law.

It has been pointed out in the letter that the consumers are forced to pay service charge, often fixed at arbitrarily high rates by restaurants. Consumers are also being falsely misled on the legality of such charges and harassed by restaurants on making a request to remove such charges from the bill amount. “Since this issue impacts consumers at large on a daily basis and has significant ramification on the rights of consumers, the department construed it necessary to examine it with closer scrutiny and detail”, the letter further adds.

The following issues pertaining to complaints by consumers would be discussed during the meeting.

- Restaurants making service charge compulsory
- Adding service charge in the bill in the guise of some other fee or charge.
- Suppressing from consumers that paying service charge is optional and voluntary.
- Embarrassing consumers in case they resist from paying service charge

It is relevant to mention that the Department of Consumer Affairs has already published guidelines dated 21.04.2017 on charging of service charge by hotels/restaurants. The guidelines note that entry of a customer in a restaurant cannot be itself be construed as a consent to pay service charge. Any restriction on entry on the consumer by way of forcing her/him to pay service charge as a condition precedent to placing an order amount to 'restrictive trade practice' under the Consumer Protection Act.

The guidelines clearly mention that placing of an order by a customer amount to his/her agreement to pay the prices displayed on the menu card along with the applicable taxes. Charging for anything other than the aforementioned, without express consent of the customer, would amount to unfair trade practice as defined under the Act.

As per the guidelines, a customer is entitled to exercise his/her rights as a consumer to be heard and redressed under provisions of the Act in case of unfair/restrictive trade practices. Consumers can approach a Consumer Disputes Redressal Commission / Forum of appropriate jurisdiction.

AM/TFK

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