

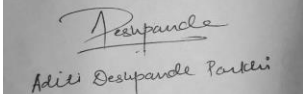
ADITI DESHPANDE PARKHI
ADVOCATE, SUPREME COURT OF INDIA
B.A. LL.B, LLM (CRIMINOLOGY), PGD(ADR)
RES./OFF- P-303, SISPAL VIHAR, SECTOR 49, SOHNA ROAD, GURGAON
HARYANA- 122018
E-mail- : sanika5422@gmail.com
Mb. No- 09975996309.

LEGAL NOTICE /RPAD

Date- 28/10/2020

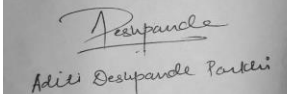
To,

1. TRAVEL AGENTS FEDERATION OF INDIA,
Through Its Competent Authority ,
710/711,"The Avenue", International Airport Road,
Opp. Hotel Leela,Andheri (East),Mumbai 400059.
Phone: 022 - 28391111, 28392222
Email ID : info@tafi.org.in
2. TRAVEL AGENTS ASSOCIATION OF INDIA,
Through Its Competent Authority.
TAAI Secretariat, Mumbai,
2-D Lawrence and Mayo House,
276, DR. D N Road, Fort, Mumbai - 400 001.
taai@taai.in
3. TRAVEL AGENTS ASSOCIATION OF INDIA
Through Its Competent Authority,
TAAI Office, Delhi, 212, New Delhi House,
27, Barakhamba Road,
New Delhi – 110001
taaidelhi@gmail.com
4. INDIA ASSOCIATION OF TOUR OPERATORS,
Through Its Competent Authority,
310 Padma Tower II, 22 Rajendra Place
New Delhi - 110 008
Tel : 91-11- 25754478, 011-25738803
Fax : 91-11- 25750028
Emails: iato@airtelmail.in , admin@iato.in
5. KESARI TOURS PVT. LTD,
Through Its Competent Authority,
Head Office situated at 314, L.J Road,
Mahim, Mumbai-400016.
holiday@kesari.in



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6. VEENA PATIL HOSPITALITY PVT. LTD,
Through Its Competent Authority,
7th Floor, Veena Patil Hospitality Pvt. Ltd
Neelkanth Corporate Park,
Kiroi Rd, Vidyavihar Society,
Mumbai, Maharashtra 400086
travel@veenaworld.com
7. MANGO HOLIDAYS INDIA PVT LTD,
Through Its Competent Authority
302, Swojas capitals above Tata motors ,
Law college Rd, Pune 4111004
info@mangoholidays.in
8. EXPERIENCE ANDAMANS,
Through Its Competent Authority,
Dairy farm Junction, Opposite Premier Industry,
Port Blair, Andaman and Nicobar Islands 744103
info@experienceandamans.com
9. BHAGYASHRI TRAVELS PRIVATE LIMITED,
Through Its Competent Authority,
11, Namjoshi Bhavan, Lal Bahadur Shastri Road,
486, Sadashiv Peth, Pune- 411030
inttour1@bhagyashritravel.com
inttour2@bhagyashritravel.com
10. SHIVSANGH PRATISHTHAN,
Through Its Competent Authority,
Capt. Nilesh Giakwad- Shivsangha Pratishthan,
1st Floor Ketaki Building, Near Alka Talkis,
Navi Peth, Pune- 411030
replyshubha@gmail.com
11. NEEM HOLIDAYS PVT. LIMITED,
Through Its Competent Authority,
501, Synergy Business Park,
Behind Pravasi Industrial Estate, Shhakar Wadi,
Off. Aarey Road, Goregaon, Mumbai- 400063.
neemholidays@gmail.com
12. KANCHAN HOLIDAYS,
Through Competent Authority,
2nd Floor, Rahi Chambers
Opp. Poona Hospital
20 Sadashiv Peth, Pune – 30
And,
Kanchan Holidays, Shop No 3,
Avadhoot Heights, Opposite Santosh Hall,
Sinhagad Road, Pune 411 051
kanchanholidays@yahoo.co.in



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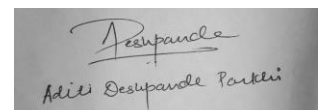
13. GOIBIBO.COM

Through Competent Authority,
B-36, 1st Floor, Pusa Road,
New Delhi – 110005
GOIBIBO
19th Floor, Tower C, 10, DLF Cyber City,
DLF Phase 2, Gurugram, Haryana
travel@goibibo.com

Under the instructions and authority of my client Akhil Bharatiya Grahak Panchayat, Pune and Vidarbha Prant through its Competent Authority, I, Shri. Vijay Sagar, President, Akhil Bhartiya Gharak Panchayat, Pune, Aged- Adult, having office at 634, Sadashiv Peth, Gole Complex, Fadtare Chowk, Kumthekar Road, Pune 411030, Maharashtra I have to serve you with following Legal Notice as under,

Respected Sir/Madam,

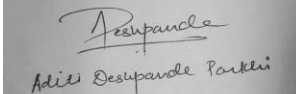
1. That my client namely, Akhil Bhartiya Grahak Panchayat is a registered social organization, registered at Sr. No. 9194 under the Societies Registration Act, 1860 set up in the year 1978 to redress the grievances of general public as well as the consumers in various fields. It has been carrying out social work since the last more than 40 years. It protects the interests of consumers engaged in the industry by highlighting the need to maintain high ethical standards and ensuring compliance of rules, regulations and guidelines set by the consulates, government and private authorities. That in fact the Organization has been instrumental in implementation of the Consumer Protection Act, 1986. That my client has no vested or personal interest in agitating this issue for the redressal of the various/all consumers/complainants and not for publicity. So sympathetic approached is to be taken into consideration while deciding this issue in the interest of principle of natural justice.
2. It is further submitted that the Tour operators and tour agencies are service providers while all the individuals who have booked tours through them are their “consumers” as per Consumer



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Protection Act 2019. Therefore on behalf of the consumers who approached Akhil Bhartiya Grahak Panchayat with their complaints from various Districts. That my client is taking cognizance of these various complaints received through electronic media , physical capacity etc Thus my client is taking steps for the redressal of various grievances of the various complainants with respect to “Air Tour”. Therefore we are issuing this Legal Notice in representative capacity to you Noticees for the refund of the tour amounts paid by the each and every complainants/ consumers/ aggrieved persons for the tour cancelled during the lockdown due to COVID-19 and after Lock down due to pandemic .

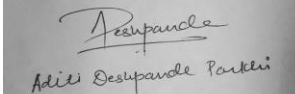
3. It is further submitted when a consumers/complainants/ aggrieved person or persons thinks of travelling, they have to think about many things including the place of journey, date of journey, schedule of journey, whether the journey is domestic or international, who all will accompany to the tour, which is the best tour agency who will be a good service provider for the journey. Many consumers travel during the vacation periods as the schools are on break and they can take the children with them. Then there are senior citizens who after their retirements or any other reason want to enjoy and spend some leisure time with family and friends by paying their hard earned money to respective Tour Agencies operators etc. The said amount for respective Tours, Trip, marriage, business trip, meetings, Holiday trips etc was received by respective Noticees . For such tours the consumers book their tour packages approximately 6 months prior to the actual date of journey. As there are my formalities to be completed extra time is required to finish such processes, documentation etc. the consumers approached the Tour operators and tour agencies for booking and proceed with the payments partial or full and other formalities required. Its takes lots of physical, mental and financial energy to confirm and book a dream tour which they wants to spend happily.
4. It is further stated that it is unfortunate to say that in the year 2020 the novel Corona Virus i.e COVID-19 was spread and is still affecting the lives of all around the world and the tourism was on temporarily since March 2020 halted due to the lockdown imposed by the Government of India. That because of the National as well



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as State Governments guidelines for lockdown, the tours were cancelled and consumers were left with no choice but to seek refund from the Tour operators and tour agencies. It is further observed that after Lockdown there will total change in life style, guidelines for safe travelling ,for live safely ,total climate change , changes in medical field , hospitality environment etc. Due to aforesaid reasons it is not possible for every aggrieved person who are consumers of you respective Noticees and the Ministry of tourism have full administrative control over you respective Noticee. That tourist have every right to travel with joy, freely, without tension free through out Domestic Tour or International Tour. But due to Pandemic they are helpless, some tourist are senior citizens, students, professional, businessman, homemaker etc. In this Pandemic they decided not to travel so as to protect their life. Therefore the aggrieved consumers requesting to refund the entire amount with interest and mental, physical compensation with expenses. It is further submitted that you respective notices received their hard earn amount. That you Noticees earned entire payment from the aggrieved consumers, you Noticees utilized the said amount for your personal use or for expansion of your business. The said act of you Noticees amounts to breach of Contract and refusal to return / refund of entire amount amounts to unfair contract, unfair trade practice within the meaning of Consumer Protection Act, 2019. Therefore it is mandatory on the part of the you Noticees to refund the entire amount of each and every aggrieved consumers along with interest and compensation. That you Noticees could not compelled to avail Credit Shell and travel in future with such scenario at the cost of their life. The Tour operators and tour agencies instead of giving refunds are mandatorily providing credit shell or rescheduling the tours to a future date within a limited time period. The said act amounts to deficiency in services rendered by you Noticees and amounts to unfair trade practice which is liable to be declare null and void as per due provisions of laws by invoking the provisions of Law.

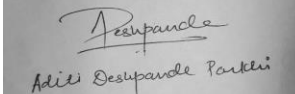
5. It is further submitted that, you notice, after receipt and acceptance of the amount toward various tours issued details and itinerary of the tours to all of your consumers. That the said act of acceptance and receipt amounts to admission that you noticee



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received your amount towards tour but apart from that you are still vehemently refusing and declining the request of refund to the consumers to the tours cancelled globally.

6. It is further submitted that the issue of refund of tour packages has become a major source of grievance amongst consumers /aggrieved persons. While the Government was committed not to interfere in the commercial practices of the tour operators the volume of the complaints necessitates some affirmative action to safeguard the interest of the traveling public. The matter was discussed in several meetings with the Tour Operators with no improvement in the system adopted by them for refund of tour amount paid. It was then considered that the onus rests with the Government to fix some minimum benchmarks, as far as their fund policy was concerned in order to stem the growing dissatisfaction among the consumers regarding the refund procedures adopted by some tour operators.
7. It is further submitted that, many of the consumers are senior citizens, all passengers form different age group. That as per all the guidelines issued by the UOI senior citizens were not supposed to travel and were supposed to stay at home. A health advisory for protection of senior citizens was also issued on 13th April 2020 for the senior citizens above the age of 60 years and especially those with health conditions. Now because of the lockdown and COVID situation the senior citizens are in dire need of money so refund of the entire amount paid towards the respective Tours along with interest and compensation. That the consumers first choice as compared to credit shell or reschedule of the tours is to not avail the said credit shell but refund of their hard earn money form you respective Noticees in the interest of justice. It is further stated that many passengers/ complainants have approached the applicant organization to seek justice and are still approaching us as the tour operators, instead of fairly refunding the payments made, have offered a credit shell, valid for a specified time, i.e instead of refunding the amounts received by the you Noticee under various heads the offer for rescheduling of Tour is not acceptable to the consumers/aggrieved persons/complainants.
8. The consumers/aggrieved persons/complainant directly or through travel agents, in many cases, have made group bookings or corporate bookings or even individual bookings to travel to a



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particular destination, on a particular date, to attend a particular event, such as a seminars, corporate conference or vacation, visiting or other such specific event. In such case, a reschedule of the tour is of no use to the passenger, since the said event itself for which the travel was to take place has been cancelled. In the circumstances, the passenger cannot be compelled to accept a credit shell or rescheduling the Tour instead of receiving a full refund towards cancellation of the Tour. Therefore, in such cases insisting the consumers/aggrieved persons/complainant to use and avail rescheduling of tour during extended period would amount to unfair and restricted trade practice and abusive business practice in global terms. The said act of you Noticees amounts to deficiency in services rendered by you Noticees within the meaning and definition of deficiency, unfair trade practice, false promise, breach of contract as per due provisions of Consumer Protection Act, 2019.

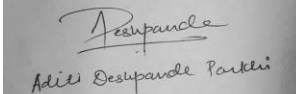
9. It is observed that, on 31.12.2019, Pneumonia of unknown cause detected in Wuhan, China was first reported to the World Health Organization (WHO) country office in China. A novel corona virus was eventually identified. The outbreak was declared as a “Public Health Emergency” of international concern by the WHO on 31.01.2020. the WHO announced a name for the new corona virus disease as COVID19.
10. It is further stated that the pandemic of Corona Virus has now spread all over the world and because of it thousands of people have died and lakhs of persons have been affected. The people all over the world, due to the life-threatening virus are either undergoing quarantine in hospitals or at home. India is also vastly affected by Corona Virus and the virus has spread all over the country. Because of this spread of Corona Virus all over the country, the Central Government as well as State Government all over the country have taken several measures and had declared a state of lockdown in the entire country. Due to the lockdown, all business, manufacturing and commercial activities, including transport by Rail, Road and Air have come to stand still.
11. It is to be noted here that on 23.03.2020, the Ministry of Civil Aviation, Government of India initially vide Order dated. 23.03.2020 suspended all the Scheduled domestic flights by any aircraft operator holding an air operator certificate issued by



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DGCA India with effect from 23.59 hrs IST on 24.03.2020 till 31.03.2020, except all-cargo flights and as per Hon'ble Supreme Court order the question of refund of air tickets was resolved for some of the consumers.

12. It is further stated that on 24.03.2020, the National Disaster Management Authority (NDMA), in exercise of the powers under section 6(2)(i) of the Disaster Management Act, 2005, issued an Order dated 24.03.2020, directing the Ministries/ Departments of Government of India, and the State/Union Territory Governments and State/ Union Territory Authorities to take effective measures to prevent the spread of COVID- in the country. Thereafter on 27.03.2020, the Government of India vide Circular dated. 27.03.2020, extended the suspension of Domestic flights till 14.04.2020. Thereafter, on 14.04.2020, the Government of India vide circular dated 14.04.2020, further extended the suspension of Domestic flights till 03.05.2020. Thereafter, on 16.04.2020, Government of India, Ministry of Civil Aviation vide Office Memorandum, issued advisory to all the Airlines to refund the full amount collected for the tickets booked during first lockdown period for travel during the same period (from 25.03.2020 to 14.04.2020) for the domestic and international travel if refund is sought by the passenger against the booking being cancelled. That various Office Memorandum are issued by Competent Authority for both domestic and international air travel and the consumers are not in position to travel therefore it is mandatory you Noticees to immediately refund the full amount collected without levy of cancellation charges, service charges or any other deductions but to refund with interest and compensation till realization in the interest of justice. .
13. It is further stated that of the steps taken by the travel agents/tour operators in understanding and appreciating the plight of consumers in these trying times, and facilitating return of money blocked in the form of tours including booking amount, full payment for tours, airline tickets, hotel booking visa charges, transit charges etc, to the consumers at large thereby protect the interest of the consumers at large. It is further stated that by mere perusal of record it is crystal clear that the cancellation and refund policies of you noticees respective tour agencies and tour operators are illegal, void and amounts to Unfair Trade Practice and needs



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to declare Null and void as per due procedure of laws. Some of the conditions mentions in the refund polices which are totally illegal. The Kesari Tour Policy is as follows-

“E. Cancellation due to force Majeure Situations

1. Under force Majeure Situation, we reserves the right to Cancel, partly cancel and/or reschedule the tour considering safety of the Guests.

2. No refund fully/partly applicable on cancellation under any circumstances due to Force Majeure

ii. No refund shall be payable:

a. for any missed / unused services of the tour including the meals due to whatsoever reason.

b. where full deposit is required to be paid in advance to the concerned authorities to enable Company to confirm the reservation.

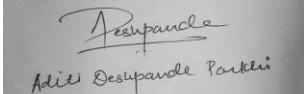
c. if services of the tour are modified, varied, amended, cancelled or not utilized.

d. if any guest decides and/or is required to cancel the tour due to any changes made in the rules by the concerned Government.

e. where Airfares are contracted in bulk for Airport to Airport.

f. if the tour is indefinitely postponed / cancelled due to natural calamity, riots, political calamities or any other unforeseen calamities”

14. It is specifically submitted that the above polices are fraudulent and amounts to cheating as without providing the services promised you Noticees the tour agencies wants to keep the amount paid by the consumers for the tours. If at all the tours of the consumers are cancelled due to certain reasons which are beyond the control of both the parties in such circumstances the service providers cannot impose its own terms and conditions of rescheduling the tours or giving mandatory credit shell without the consent of the consumers and keeping their hard earn money with themselves without any interest ,compensation whatsoever. Such a practice or act on behalf of the service providers is illegal in nature and arbitrary. It the moral duty of the Tour operators and tour agencies to refund the amount paid by the consumers for tours which got cancelled by the government because of the



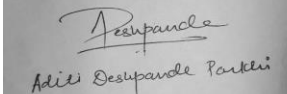
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natural calamity, Force Majeure, riots, political calamities or any other unforeseen calamities. The Tour operators and tour agencies cannot withhold such amounts with them and use it for expanding their own business. Such polices should be declared as illegal as this amounts to unfair and restrictive trade practices as per Consumer Protection Act. And an act which is against the principle of natural justice

15. It is specifically submitted that under Article 21 of the Constitution of India which is related with about right to life is being violated because the rescheduling of tours as no one can apprehend that when will COVID-19 stop spreading and will not negatively affect the life of the individual. The health of the consumer is utmost importance and should not be meddled with by any means.

16. It is specifically submitted that the cause of action is a continuous one. It arose when the complainants approached to the tour operators or respective noticees, it again arose when the complainant paid partial/entire/booking amount to you noticee, it again arose when you notice received the said amount, it again arose when you noticee submitted tour details, visa etc. it again arose when the lockdown was declared by the central as well as the state government due to the COVID19 pandemic. It again arose when you notice refused to refund the tour amount to the respective aggrieved consumers at large.

17. It is therefore I hereby call upon you all Noticees to take an immediate steps, issue appropriate directions, guidelines for refunding the entire amount paid by all consumers /aggrieved persons to respective tour Operators / Tour Agencies/respective Noticees along with interest @ 18 % per annum form the date of receipt of the respective amount from each and every consumers/aggrieved persons/ complainants , compensation of Rs. 2,00,000/ per person towards financial, physical, mental agony, expenses, legal expenses Rs. 1,00,000/- per consumer etc. forthwith so as to protect the interest of public at large in the interest of principle of natural justice within 07 days from the date of receipt of this legal Notice failing which my client will be constrained to file appropriate proceedings, complaints under relevant provisions of

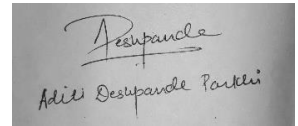


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laws and also for directions or an appropriate writ or suitable steps as per all relevant provisions of laws in the Court of Law against you all Noticees for the costs, risk and consequences arising there from, you all Noticees alone shall be solely responsible. Please, therefore, comply with this Legal Notice in order to avoid luxury of litigation and in your own interest as also to avoid future complications, legal consequences at the cost of you Noticees.

Notice Charges Rs. 50,000/-

Yours Faithfully,



ADV. ADITI DESHPANDE PARKHI

Date- 28/10/2020

Place- GURGAON

Copy to-

1. MINISTRY OF TOURISM,
Through Competent Authority,
Room No. 301, Transport Bhavan,
Parliament Street, New Delhi- 110010
prahladp@sansad.nic.in
2. INDIATOURISM MUMBAI,
Through Competent Authority,
Air India Building, Ground floor,
Nariman Point, Mumbai- 400 021
Maharashtra
Tel:022-22074333 , 022-22074334,
Fax: 022-22014496
indiatourism-mum@nic.in,
touristoffice-mum@nic.in

