

S. Suresh Kumar Vs. Newton's Institute of Engineering, Rep. by Its Correspondent, Guntur and Another

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Court : Andhra Pradesh State Consumer Disputes Redressal Commission
SCDRC Hyderabad

Decided On : Jul-30-2010

Judge : Sri Syed Abdullah, Honourable Member & Sri R. Lakshminarasimha Rao, Honourable Member

Appeal No. : FA 904 of 2008 against C. D. No. 162 of 2006 on the file of the District Forum, Guntur

Appellant : S. Suresh Kumar

Respondent : Newton's Institute of Engineering, Rep. by Its Correspondent, Guntur and Another

Advocate for Pet/Ap. : Counsel for the Appellant: Party-in-person. Counsel for the Respondents: M/s. M. Haribabu, Advocate.

Judgement :

(As per Sri Syed Abdullah, Honble Member)

Being not satisfied with the relief granted by the District Forum in CD 162/2006 before the District Forum, Guntur, this appeal is preferred questioning that the District Forum failed to appreciate the evidence on record in proper perspective.

The facts of the case are that the complainant is a Diploma Holder and wanted to take admission in Engineering Course and appeared for E-CET 2001-02 in which he qualified. Thereafter, he made an application seeking admission in B. Tech Course. In the mean while, the opposite party gave an advertisement to admit candidates on spot admission in its institution. The opposite parties after verifying the certificates had collected Rs.26,500/- towards fee and Rs.20,000/- towards donation on 04.01.2002. OP. 1 also collected original certificates. The complainant was regular in attending to the classes and paid examination fee also. The complainant was sanctioned scholarship by the Welfare Department for his studies.

The complainant was assured that he would be allowed to sit for examination. But to his surprise the opposite parties in the month of May, 2003 informed that his admission in the Institution was not ratified by the University as more candidates were taken against original strength and informed the complainant not to attend the classes in view of the cancellation of his admission by the University. The complainant was issued with student bus pass as he was bonafide student of the opposite parties Institution which was signed by the 2nd opposite party. Knowing fully well that admitting candidates beyond its sanctioned strength is illegal, more candidates were admitted in order to gain fees and donation. By admitting more candidates they played with the career of the students. The complainant and some other students also were victims of the act or omission as a result of which the complainant had lost two academic years and also suffered pecuniary loss which amounts to deficiency in service.

The first opposite party filed its version and it was adopted by the second opposite party in which the allegations are denied totally. It is stated that AICTE (All India Council of Technical Education) which is a statutory body had sanctioned approval of Lincolns Educational Society for establishment of Newtons Institute of Engineering, Macherla for the year 2001-02. It is located in backward area with an intention to help the students from poor and downtrodden community. It is started on the basis of no loss and no profit motto. For the last six years, the Opposite partys institution never faced any sort of remarks from any quarter. Engineering admissions are done as per the guidelines of the Government. The complainant

never applied for the admission in their institution. Further he is not a bonafide student of the institution.

During enquiry, on the side of the complainant along with his evidence affidavit Ex. A-1 to A7 were marked consisting of Ex. A-1 admission slip dated 04.01.2002 of the Opposite parties Institution, Ex. A-2 is the original receipt issued by the Opposite parties Institution collecting a sum of Rs.26,500/- towards fees, Ex. A-3 is the advertisement given by the opposite parties in paper publication notifying the availability of a few seats for spot admission, Ex. A-4 is the true copy of the Diploma Certificate, Ex. A-5 is the copy of community, nativity and Date of Birth Certificate of the complainant, Ex. A-6 I the student bus pass and Ex. A-7 is the earlier order passed by the District Forum II, Vijayawada returning the complaint in proper form. The opposite parties also filed evidence affidavit in support of their contention.

After going through the evidence on record, the District Forum granted relief in favour of the complainant directing the opposite parties 1 and 2 with joint and several liability to refund Rs.26,500/- and to return his original certificates with compensation of Rs.5000/- and costs of Rs.500/-. The complainant being not satisfied with the quantum of compensation awarded for mental agony suffered besides loss to his career he has preferred this appeal seeking enhancement of compensation of Rs.50,000/-.

Point for consideration is, whether the appellant is entitled for enhancement of compensation and whether the impugned order suffers from any factual and legal infirmity for its interference ?

The opposite parties have totally denied the admission of the complainant in their institution and also took the stand that the complainant was not a bonafide student of their Institution who never attended to any classes for prosecution of his studies in Engineering Course. Discharging initial burden, the complainant had filed Ex. A-1 admission slip dated 04.1.2002 issued by the opposite parties for admitting the complainant in Computer Science Engineering Course for the year 2001-02 which acknowledges the receipt of School certificates along with AICTE rank card. Ex. A-2 is the receipt issued for Rs.26,500/-. Ex. A-3 is the paper clipping in which the

opposite parties Institution gave an offer to admit the aspirant students in their institution on fulfilling the conditions.

Ex. A-1 would clinchingly prove and establish that the Opposite parties Institution have collected Rs.26,500/- from the complainant by receiving E-CET Rank Card along with SSC, Diploma Certificate and Transfer Certificate produced for admission. Except bald denial of the allegations made in the complaint, the opposite parties failed to discharge their burden. The opposite parties Institution is expected to necessarily maintain its Registers showing the admission of the candidates for each year. But they failed to produce Register showing the admission of the candidates for the year 2001-02 for which Ex. A-1 and A-2 were issued by them. They could not specifically deny about these documents, i.e., Ex. A-1 and A-2. They also did not deny about the News Item published in the news papers luring aspirants for joining in their Institution. They simply have taken the stand that on the approval of AICTE they started the Institution and making the admissions of the students as per the guidelines and instructions by the Government of Andhra Pradesh. But they failed to rebut as to how Ex. A-1 and A-2 documents are not true and genuine. Having issued these Ex. A1 and A2 receipts burden is shifted on them to show that these are either fake or fabricated for the sake of the complaint. It may be that the opposite parties institution had collected an amount of Rs.20,000/- towards donation for meeting the expenditure of the establishment but the complainant failed to produce receipt for Rs.20,000/-. Since collection of donation is prohibited, no acknowledgement would be given or any receipt would be issued for the amount that was collected secretly. However, in the absence of any receipt produced by the complainant, he cannot claim Rs.20,000/-. Ex. A-6 is the Students Bus Pass that was issued by the Institution permitting to avail transport facility. All these documents clinchingly establish and prove that the complainant had joined in their Institution for prosecuting his studies in Engineering Course as a Diploma Holder having passed E-CET. He is eligible for admission in second year and he will be permitted to sit for second year examination. But no fault of him he was not allowed to sit for the examination as the University had cancelled the admissions of candidates who were admitted over and above the permitted strength of seats in its Institution. It can be said that it is a deliberate act on the part of the opposite parties Institution in admitting the

candidates more than its allotted seats which is nothing but unfair trade practice and deficiency in service. At first, the complainant filed the complaint at Vijayawada but the said complaint was dismissed directing him to file in the appropriate Forum, as such, he filed the case in the District Forum at Guntur, where, after considering the evidence on record, the opposite parties were directed to refund a sum of Rs.26,500/- and also the certificates that were given to the Institution at the time of Institution. The Opposite parties ought to have fairly admitted that since the University had not approved their admissions they were in disadvantageous position and they had no intention to cause any loss to the complainant or other students. Had the opposite party institution taken any steps to obtain any ratification by approaching the Government, educational career of the complainant would not have been affected. The complainant had lost his educational career and also suffered mental agony losing his admission. It is an irony that the complainant though filed a case earlier at Vijayawada and thereafter again at Guntur, the opposite parties have not come forward to return the documents until the order was passed directing them to return. The grievance of the complainant is that he lost his career so also lost a good amount causing him monetary loss. This sort of inconvenience would cause frustration in the minds of younger students. The act or omission on the part of the opposite parties is very much apparent. By producing the evidence, the complainant has established the same. The opposite parties have not filed any appeal questioning the correctness of the order. There is no factual and legal infirmity in the order passed but the grievance of the appellant is that he was not awarded with adequate compensation for the loss of educational career and for the mental agony suffered by him. Having regard to the facts and circumstances of the case, it is necessary to award compensation to a tune of Rs.50,000/-, so that, it may be a lesson to the management not to admit the candidates more than its quota allotted by the concerned authority.

In the result, the appeal is allowed by modifying the order in respect of the quantum of compensation enhancing it from Rs.5000/- to Rs.50,000/- and the rest of the order is confirmed. The respondents are directed to comply with the order within 30 days, else, the appellant/complainant may take necessary steps according to law.

