

Sohan Singh Bansal Vs. Ramgarhia Institute of Engineering and Technology and Others

Sohan Singh Bansal Vs. Ramgarhia Institute of Engineering and Technology and Others

SooperKanoon Citation : sooperkanoon.com/1148693

Court : Punjab State Consumer Disputes Redressal Commission SCDRC Chandigarh

Decided On : Jan-24-2014

Judge : The Honourable Mr. Gurcharan Singh Saran, Presiding Judicial Member & the Honourable Mr. Vinod Kumar Gupta, Member

Appeal No. : First Appeal No. 553 of 2009

Appellant : Sohan Singh Bansal

Respondent : Ramgarhia Institute of Engineering and Technology and Others

Judgement :

(Order)

Gurcharan Singh Saran, Presiding Judicial Member:

1. The appellant/complainant (hereinafter called æthe complainant?) has filed the present appeal against the order dated 17.3.2009 passed by the District Consumer Disputes Redressal Forum, Kapurthala(hereinafter called æthe District Forum?) in consumer complaint No.150 dated 15.10.2008 vide which the complaint filed by the complainant was dismissed.

2. The complaint was filed by the complainant against the opposite parties on the allegations that Mr. Gagandeep Singh son of the complainant is student of 7th Semester in Computer Science, Engineering Degree with the respondents/opposite parties(hereinafter called the Ops?). He had passed three years Diploma in Information Technology from SBCMS Polytechnic College, Attalgarh-Mukerian, Distt. Hoshiarpur in May, 2006 and after that he joined with the Ops for degree in Computer Science and got admission in the 3rd Semester and had deposited Rs. 1,80,000/- approximately including tuition fee and other charges till 7th semester whereas he has to appear in 7th semester and now the Ops have thrown out Gagandeep Singh from their College so that he could not appear in the examination in the 7th semester. The complainant had sent representations to the Ops but all in vain and then he got issued legal notice dated 11.3.2008, they filed reply to it and admitted their deficiency, therefore, the Ops have failed to provide the services of the Education by not allowing the complainant to appear in the examination of 5th and 6th semester and now thrown him out of the College. Accordingly, the complaint filed with the direction to the Ops to return Rs. 1.80 lacs along with interest @ 18% per annum and Rs. 2 lacs on account of damages.

3. The complaint was contested by the Ops No. 1 and 2 only, who filed written statement taking preliminary objections that there is no deficiency in service on the part of the respondents, the complainant is estopped by his act and conduct to file the complaint as he himself is not appearing in the semester examinations and he has got no cause of action or locus-standi to file the complaint. On merits, it has been stated that there is no class study in the 7th semester. The student is to undertake the six months industrial training in some reputed industry or organization relating to his course and thereafter, the examination be taken by the PTU. It has been denied that the son of the complainant was thrown out of the College. It has also denied that the respondent did not allow the son of the complainant to appear in the 5th and 6th semester. In fact the son of the complainant indulged in cheating by concealing written slip and book pages concerning the papers and was advised 2nd time not to use the written slip and the respondent is not liable due to mis-acts of the son of the complainant. It was denied that the son of the complainant was mis-handled in 6th semester

examination. He was issued roll No. whereas the son of the complainant deliberately absented from the examination. The son of the complainant is average student and had been absented from the University examination. The respondent did not receive any notice dated 11.9.2008 or the same was replied. The respondent was neither expelled nor thrown out the complainant from the College. The complainant is still a 7th semester student of the College and was to gain experience regarding his course from the Industry. The present complaint has been filed just to harass the College Authorities and to take the refund from the College authorities as the complainant has not been able to clear the semester so held by the University, therefore, it was held that there is no merit in the complaint and the same be dismissed.

4. The parties were allowed by the learned District Forum to lead their evidence.

5. In support of his allegations, the complainant had tendered into evidence his affidavit Ex. CW-A, writ petition Ex. C-1, matric certificate Ex. C-2, diploma certificate Ex. C-3, certificate of Technical Board Ex. C-4, receipts Ex. C-5 to C-13, letter to Director Ex. C-14, letter to Chairman Ex. C-15, postal receipts Ex. C-16 and 17, legal notice Ex. C-18 and 19, Letter of Lecturer Manish Kumar Ex. C-20, envelop and postal receipts Ex. C-21 and C-22. On the other hand, the opposite parties had tendered into evidence affidavit of Sh. R.K. Dhawan Ex. RA, attendance sheet Ex. R-1, roll no. slip of Gagandeep Ex. R-2, payment slip Ex. R-3 to R-9, mark sheets Ex. R-10 to 13 and attendance sheet of sixth semester Ex. R-14.

6. After going through the allegations in the complaint, written statement filed by the OPs, evidence and documents brought on the record, the learned District Forum in the impugned order observed that Gagandeep Singh is not interested in his studies and not regularly attending his classes. The Ops allowed to sit him in the examination but he never passed any semester, therefore, the learned District Forum did not find any merit in the complaint and the same was dismissed.

7. Aggrieved with the order passed by the learned District Forum, the appellant/complainant has filed the present appeal

8. In the grounds of appeal, it has been mentioned by the appellant that the complaint has been wrongly dismissed merely because of the fact that it was not filed by the Student rather by the father. The order passed by the learned District Forum is liable to be set-aside and the complaint filed by the complainant should have been allowed.

9. None has come present on behalf of the appellant. On behalf of the respondents Sh. Karan Nehra, Advocate for Sh. Rahul Sharma, Advocate it has been stated that the education matter are not covered by the Consumer Fora and has referred the judgment of the Honble Supreme Court in *œMaharshi Dayanand University v. Surjeet Kaur?* wherein it was held that matter of admission, fees etc. cannot be a question of deficiency in service and barred to entertain the Consumer dispute under the Consumer Protection Act, 1986. He has also relied upon Honble Supreme Court in *œBihar School Examination Board versus Suresh Prasad Sinha?* as well as *œP.T. Koshy and Anr. v. Ellen Charitable Trust and Ors.?*

10. These judgments have not been controverted by the appellant. Even otherwise the complaint has not been filed by the complainant whereas his father, who has filed the complaint is not the consumer nor Gagandeep Singh is minor but major, therefore, the relationship of consumer and service provider does not arise. Even otherwise in case he did not appear in the examination or could not qualify the semester system that does not make the Ops liable to refund the fee.

11. Taking the case from any angle, we do not see any merit in the appeal and the same is hereby dismissed. The impugned order of the District Forum is affirmed. No order as to costs.

12. The arguments in this appeal were heard on 21.1.2014 and the order was reserved. Now the order be communicated to the parties as per rules.

13. The appeal could not be decided within the statutory period due to heavy pendency of Court cases.