

Preeti Khatri Vs. Punjab College of Engineering and Technology Through Its Principal and Another

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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. 762 of 2009

Appellant : Preeti Khatri

Respondent : Punjab College of Engineering and Technology Through Its Principal and Another

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 21.10.2008 passed by the District Consumer Disputes Redressal Forum, Patiala(hereinafter called æthe District Forum?) in consumer complaint No.116 dated 26.3.2007 vide which the complaint was partly allowed and the Ops were directed to refund the refundable securities to the complainant on filing the application form.

2. The complaint was filed by the complainant against the opposite parties on the allegations that she took the admission with the respondents in first year of Electronics and Communication Engineering and deposited a sum of Rs. 25,536/- as fee vide receipt No. 84 dated 22.7.2006 and also submitted original documents and issued the receipt. At the time of taking the admission, the respondents did not mention the criteria of fees in the admission form. However, due to personal reason the complainant had to take admission in some other College, as such, the father of the complainant on 23.9.2006 sent an e-mail to the respondents with a request to refund amount of Rs. 25,536/-. However, the respondents did not return the amount to the complainant. The father of the complainant on 12.10.2006 sent another FAX to the respondents, however, the respondents linger on the process of refund of fee on one pretext or the other and finally the father of the complainant got issued a legal notice to the respondents but they failed to return the amount of fee. The respondents had filled up the seat of the complainant. The respondents had used the money of the complainant for their personal gains. In another case, Additional District Judge, Chandigarh had ordered for the refund of the fee of the student. The action of the respondents amounts to unfair trade practice and deficiency in service and the complaint with the direction to the respondents to refund a sum of Rs. 25,536/- alongwith interest @ 18% p.a., Rs. 50,000/- on account of deficiency in service and compensation and litigation expenses.

3. The complaint was contested by the opposite parties, who filed the reply and admitted that the complainant had taken the admission with the respondents. It has been denied that at the time of admission they did not mention the criteria of fee in the admission form. The details of the fee, terms and conditions were mentioned in the prospectus of which the complainant had full knowledge and fee structure and terms and conditions/rules of College have also been mentioned in the Prospectus of the PTU. The respondents are not liable in case the complainant is ignorant. As per the rule of the College, the intimation was to be given to surrender the seat to the College upto 7.8.2006 as mentioned in Clause 7(b) of the PTU Prospectus, which was not given by the complainant, therefore, the complainant is not entitled to any amount from the respondents as the respondents had suffered a huge loss due to the seat remained vacant. The complainant had sent the Fax on false facts, therefore, the complainant is not

entitled to any refund. The complaint was filed just to harass the respondents.

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. C-1, receipt Ex. C-2, certificate dt. 18.8.06 Ex. C-3, letter written to Ops Ex. C-4 and 5, legal notice Ex. C-6, postal receipt Ex. C-7, news item Ex. C-8. On the other hand, the opposite parties had tendered into evidence affidavit of Dr. V.P. Batra Ex. RW-1/A, power of attorney Ex. R-1, prospectus Ex. R-2, admission form Ex. R-3, registration form Ex. R-4, list of students Ex. R-5, list of students of 2nd year Ex. R-6, declaration Ex. R-7, attendance sheet Ex. R-8, authority letter Ex. R-9.

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 after referring to the terms and conditions given in the Prospectus has observed that the intimation to surrender the seat was not given in time but the Ops were directed to refund the refundable security only.

7. Not satisfying 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 contended that the respondent had confirmed the admission on 18.8.2006 and stated that the Honble Supreme Court and the Honble National Commission in number of judgments have stated that fee is required to be refunded after deduction of 10% of the amount.

9. It is a case of refund of fee, therefore, the Consumer For a does not have the jurisdiction to adjudicate the matter as per 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. It was also held by the 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.?* that *œthe Education Boards and*

Universities are not Service Provider and the complaints against them are not maintainable, therefore, we are of the opinion that the appeal filed by the appellant is without any merit and the same is hereby dismissed. The order of the learned District Forum is set-aside. No order as to costs.

10. 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.

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

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