
(2003) 07 NCDRC CK 0062

In the National Consumer Disputes Redressal Commission

ARCHANA SAH

APPELLANT

Vs

BHAGALPUR TILAKMANJHI UNIVERSITY

RESPONDENT

Date of Decision : 02-07-2003

Acts Referred:

Citation : 2003 3 CPJ 377 : 2003 3 CPR 296 : 2004 1 CLT 518

Hon'ble Judges : Chowdhry , S.N.Mishra , S.Hansda J.

Final Decision : Appeal allowed

Judgement

1. THE unsuccessful complainant is the appellant against the judgment and order dated 27.8.1999 whereby the District Forum, Sahebganj has non-suited the complainant on the ground of complaint being not maintainable. 1. THE complainant/appellant Archana Sah was a student of B.A. (Hons.) for the Session 89-92 of Sahebganj College, Sahebganj. THE examination of the B.A. (Hons.) final was held by respondent/University on 27.11.1993 when the complainant Archana Sah appeared. THE result of the said examination was published in July, 1994. However, the result of the complainant was withheld. THE complainant came to know that the result was withheld, firstly on the ground that the mark sheet of Part I and II of the B.A. (Hons.) Examination was not furnished. Secondly, there is defect in the name of the complainant as well as her father, namely instead of Archana Sah, the name was mentioned as Archana Kumari Sah. Thirdly, the registration number was not correctly mentioned in the admit card of the final examination. And Lastly, the name of the father of the examinee was mentioned as Bhupendra Prasad Sah instead of Bhupendra Sah. THE complainant immediately removed the defects as pointed out by the Principal of the College. THE Registrar of university by his letter dated 28.9.1994 informed the complainant that vide order dated 26.7.1994, the Vice Chancellor has ordered for necessary correction in the name and registration number and accordingly asked the complainant to see him on 18th January, 1995. THE complainant is approaching the university officials times without number since then, which is apparent from the endorsement made from time to time by the officials of the university on the said letter of the Registrar aforesaid. A copy of

the letter dated 28.9.1994 is on the record of this Commission as Annexure-I wherefrom it appears that by the order of the Vice Chancellor dated 26.7.1994, necessary corrections have been made both in the name of the complainant and her father including registration number as Archana Sah, Bhupendra Sah and Registration No. 17100 of 89 respectively. It further appears from the endorsement made on the letter of the Registrar dated 28.9.1994 directed the office to make necessary correction in the admit card on the basis of the order of the Vice Chancellor. All necessary formalities have been completed by the complainant as per direction of the university. As stated above, in spite of the order of the Vice Chancellor, no steps were, however, taken by the university till 11.8.1995.

2. THE complainant again filed a petition before the Controller of Examination on 11.8.1995 praying therein to publish the result on priority basis since all formalities have already been completed. She has to take admission in Post Graduate in Delhi University. THE said petition was endorsed to one Sri B.K. Mishra for taking steps for publication of the result of the complainant. Simultaneously the complainant also wrote letters to the respondent Principal on 25.8.1995 and 10.11.1995 which were duly received in the office of the Principal as it appears from the endorsement made thereon, copy of which, are made Annexures 4 and 5 respectively. Since then, the result was not published which prevented the complainant to take admission in Delhi University. Ultimately, the result was published after delay of more than four years wherein she was declared successful in Ist Division. The case was taken up for hearing on 4.6.2003 when the counter affidavit was filed on behalf of the respondent university. However, the Counsel for the university was not ready with the brief, the case was adjourned to 5.6.2003.

On the adjourned date of hearing, in course of hearing, the learned Counsel appearing on behalf of the respondent university doubted the correctness of the documents filed before this Commission and accordingly a prayer has been made for adjournment so as to examine those documents with reference to the original records. Accordingly the hearing was adjourned to 16.6.2003. Meanwhile, the Counsel for the university was directed to produce all the original documents pertaining to the complaint. The case was taken up on 16.6.2003. Again a prayer for time has been sought for on behalf of the university. The original documents were not produced as directed earlier. Again the case was adjourned at the request of the university subject to the payment of Rs. 500/- as cost and accordingly the case was adjourned to .

3. EVEN on the day of the final hearing, the original documents have not been produced, however, supplementary affidavit has been filed stating therein that the result was withheld mainly on the ground that the name of the complainant did not talley with the certificate issued by the Bihar State Examination Board. However, it has been admitted that Registrar issued a letter on 28.9.1994 to the effect that necessary corrections have been made in the name as well as in the

registration No. vide order of Vice Chancellor dated 26.7.1994. It is alleged that though the order passed by the Vice Chancellor for necessary correction in the record as aforesaid, even then, the complainant failed to produce the details of the mark-sheet of Part I and II result. It is further alleged that after receipt of the notice from the District Forum, the respondent/Registrar immediately issued letter dated 21.8.1997 informing the Forum that though the necessary corrections have been made as per requirement but the result could not be published in absence of mark-sheet of Part I and II of the complainant. However, the result was finally published on 18.6.1998 during the pendency of the proceeding in the Court below. The learned Counsel appearing on behalf of the appellant submits that the required information sought for by the university was furnished in the month of August, 1994, itself, even then, the result was withheld for the reasons best known to the university authorities. The formal result of the B.A. (Hons.) final examination was published in July, 1994 whereas the result of the complainant was published in June, 1998. The complainant wanted to take admission for the Post Graduate course in Delhi University but because of the non-receipt of mark-sheets as well as provisional certificate she could not get herself admitted anywhere and in this way she lost more than four valuable years of academic career without any fault of her own. Necessary corrections have been made by the order of Vice Chancellor dated 26.7.1994 as it appears from the letter of the Registrar dated 28.9.1994. Even then, necessary corrections were not entered in the relevant register due to laches and negligence on the part of the university officials which has caused immense hardship to the student and virtually spoiled her academic career albeit all necessary documents including mark-sheets of the B.A. (Hons.) Part I and II have been submitted right in the year 1994 itself which is apparent from the endorsement made by the officials at Annexure-I. The result was withheld for more than four years. It is submitted that the stand taken in the supplementary affidavit to the effect that mark-sheet of the Part I and II have not been furnished resulting delay in publishing the result is afterthought inasmuch as, the entire documents including the mark-sheets have already been made available to the university, in the month of August, 1994 itself which stands admitted by the respondent as per endorsement made on the letter of the Registrar aforesaid.

4. THE only stand taken by the university during the course of hearing, is that non-submission of the mark-sheet of Part I and II have caused delay in publishing the result. From the facts as stated above, the submission seems to be wholly misconceived and uncalled for. THE letter of Registrar dated 28.9.1994 as aforesaid and the various endorsements made by the university authorities from time to time go to show that the complainant has taken all necessary steps and precautions in submitting the required information to the university and hence the submission raised on behalf of the university to the effect as aforesaid cannot be accepted. That apart, this was not the defect pointed out earlier either to the candidate and/or the respondent Principal. Further, first time such stand has been taken and that too, during the course of hearing of the appeal without

any pleadings to that effect. In the course of arguments, the learned Counsel appearing on behalf of the respondent university submits that the complainant is not a consumer and hence the District Forum has rightly dismissed the complaint being not maintainable. The submission seems to be wholly misconceived and uncalled for and has to be rejected as such, in view of the decision of the Apex Consumer Court in the case of Sreedharan Nair v. Registrar, University of Kerala, reported in 2001 (3) CPR 27, wherein it has been held that the student is a consumer within the meaning Section 2(1)(d) of the Consumer Protection Act and non-issuance of provisional degree is a deficiency in service on the part of the university. That apart this Commission has also held in several cases to the effect that non-publication of result as well as withholding the provisional certificate depriving the candidate from taking admission in higher class amounts to deficiency in service on the part of the educational institutions including the university. Accordingly the university is bound to indemnify the complainant for the loss of four years valuable academic career.

5. AFTER having heard the learned Counsels for the parties and going through the materials on record including the order under challenge, we are of the view that the learned District Forum without appreciating the case of the parties and the law laid down by the Apex Consumer Court has non-suited the complainant. In the result this appeal is allowed and the judgment and order passed by the District Forum, Sahebganj, is hereby set aside.

6. NOW coming to the quantum of compensation to the examinee Archana Sah, in the circumstances aforesaid we are of the view that albeit no amount of compensation will, any way, restore the valuable four academic years during which she remained idle. However, keeping in view the mental and physical harassment of the complainant during these four years, we direct the respondent university to pay a sum of Rs. 50,000/- (Rupees fifty thousand) by way of compensation which in our view, will meet the ends of justice. However, we further observe that the respondent university will be at liberty to realise the compensation amount from the person/s concerned who is/are found responsible for delaying the publication of the result. Before we part with the case, we direct the respondent university to pay the aforesaid compensation amount to the complainant within three weeks from the date of the receipt/production of a copy of this order failing which the complainant/appellant will be at liberty to realise the said amount in accordance with law including remedy available under Section 27 of the Consumer Protection Act. However, in that event, she will be entitled to the interest @ 18% p.a. from the date of this order till the date of realisation. Let a copy of this order be sent to the parties and/or their respective lawyers forthwith for needful. Appeal allowed.