
(2008) 09 AHC CK 0171

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 29160 of 2007

Bundelkhand University Jhansi

APPELLANT

Vs

Consumer Dispute Redressal Forum

RESPONDENT

Date of Decision : 01-09-2008

Acts Referred:

Citation : (2008) 09 AHC CK 0171

Hon'ble Judges : Ashok Bhushan, J and A.P.Sahi, J

Final Decision : Allowed

Judgement

1. Heard Sri R.P. Tiwari, and Sri Prakash Padia for the petitioner and Sri Ajeet Kumar Srivastava for the respondent No. 2.

2. The respondent No. 2, after passing his Intermediate examination, applied for admission in B.Tech. Course advertised by the petitioner University. The petitioner was called for counselling and he also deposited a sum of Rs. 38,000 for pursuing the said course. Thereafter, the petitioner approached the institution for attending classes when he was informed that such a course is not recognized by the appropriate authority and, as such, aggrieved by the aforesaid action of the petitioner, the respondent No. 2 filed a claim petition before the District Consumer Forum, Jhansi. The Consumer Forum allowed the claim of the respondent No. 2.

3. The University has questioned the proceedings of execution pursuant to the order passed by the Consumer Forum dated 4.6.2007, whereby the University has been called upon to refund the amount of Rs. 38.000/ along with 8% interest and further a compensation of Rs. 10,000/ has been awarded to the respondent No. 2 coupled with costs of Rs. 500/. It is urged that the nature of the claim is not entertainable under the Consumer Protection Act, 1985, inasmuch as the said claim does not fall within the definition of the word "service" as defined in the provisions of the aforesaid Act.

4. The ground of challenge is that the Consumer Forum had no jurisdiction to

entertain such a claim and make an award. Learned counsel for the petitioner in support of his submissions has relied on para 19 of the decision of the Calcutta High Court, reported in AIR 1992 Cal 95, Smt. Taneja and another v. Calcutta District Forum and others, followed by a Division Bench order of this Court in Bundelkhand University v. District Consumer Forum and others, 1998 (3) UPLBEC 1963, the final verdict whereof was delivered on 23.5.1998 and a copy whereof is on page 23 of the paper book of the writ petition. Learned counsel for the petitioner has further invited the attention of the Court to the another Division Bench decision of this Court dated 6.1.2006 in Civil Misc. Writ Petition No. 35317 of 1994, (Registrar Sampurnanand Sanskrit University, Varanasi v. Distt. Consumer Redressal Forum Jaunpur and others) wherein the same view has been taken holding that such claim is not maintainable before the District Consumer Forum.

5. Learned counsel for the respondent No. 2 has urged that the University unauthorisedly trapped the petitioner for admission into the course in question inspite of the fact that same had not been recognized by A.I.C.T.E. It is urged that in such a situation, the respondent No. 2 is at least entitled to the refund of the amount, which has been unjustifiably collected by the University, as the University was not entitled to run any such course.

6. Having heard the learned counsel for the parties and having gone through the ratio of the aforesaid decisions cited by the learned counsel for the petitioner, we are of the considered opinion that the impugned proceedings and order dated 4.6.2007 are without jurisdiction and the District Consumer Forum had no authority to proceed with the adjudication of the claim of the respondent and its execution, as such all proceedings arising out of case No. 48 of 2006 stand quashed. However, in view of the submissions advanced by the learned counsel for the respondent No. 2 which has not been disputed by the learned counsel for the petitioner, we further direct that in case the respondent No. 2 approaches the University for refund of the amount, which has been deposited by the said respondent for pursuing the course in question, then the University within a period of one month shall refund the same without any further delay. The respondent No. 2 shall present himself before the University for collection of the said amount.

7. With the aforesaid directions the writ petition stands allowed.