

(2012) 05 SC CK 0081

In the Supreme Court Of India

Case No : Petition for Special Leave to Appeal (Civil) No(s). 24819 of 2009

Khaja Educational Society and Ors.

APPELLANT

Vs

E. Veesha Yadav and Anr.

RESPONDENT

Date of Decision : 04-05-2012

Acts Referred:

Citation : (2013) 2 ALT 27 : (2013) 4 AWC 3793 : (2013) 1 JT 42 : (2012) 12 SCALE 480 : (2013) 2 SCT 1 : (2013) 1 SLJ 201

Hon'ble Judges : Mr. G.S. Singhvi and Mr. Sudhansu Jyoti Mukhopadhaya, JJ.

Bench : Division Bench

Advocate : Mr. S.W.A. Qadri, Advocate, for the Appellant; Mr. Darpan K.M., Advocate, Mr. B. Subrahmanya Prasad, Advocate, for the Respondent

Final Decision : Disposed Of

Judgement

1. This petition is directed against order dated 28.05.2009 of the National Consumer Disputes Redressal Commission, whereby the appeal filed by the petitioners was dismissed and the direction given by the Karnataka State Consumer Disputes Redressal Commission for refund of rupees eight lakhs and fifty thousand to respondent no.1 was upheld but the rate of interest was reduced from 15% to 9% and the amount of compensation was also reduced from rupees two lakhs to rupees fifty thousand.

2. A perusal of the record shows that the petitioners had engaged agents for facilitating admission of the students in medical courses and one such agent had accepted a sum of rupees eight lakhs and fifty thousand from respondent no.1 for the purpose of admission of his daughter. The amount accepted by the agent was deposited in the account of petitioner no.1.

3. Although, daughter of respondent no.1 was not admitted in 1st year MBBS course, the petitioners did not refund the amount. Instead the demand draft was handed over to the agent named Mohd. Tanweer, who did not pay the amount of respondent no.1.

4. Respondent No.1 filed complaint under Section 15 of the Consumer Protection Act, 1986 (for short, "the Act") for refund of the amount paid for admission of his daughter. He also claimed compensation by alleging that there were deficiency in service on the petitioners" part.

5. In the counter filed on behalf of the petitioners, it was averred that they had not engaged any agent and respondent no.1 is not entitled to seek refund because the amount had already been paid to Shri Mohd. Tanweer. After examining the rival pleadings and hearing of the counsel for the parties, the State Commission concluded that the petitioners were guilty of deficiency in service and, accordingly, directed them to refund rupees eight lakhs and fifty thousand to respondent No.1 along with interest at the rate of 15% per annum and compensation of rupees two lakhs and cost of rupees five thousand.

6. The National Commission declined to interfere with the finding recorded by the State Commission that there was deficiency in service on the petitioners" part but reduced the rate of interest from 15% to 9% per annum and the amount of compensation from rupees two lakhs to rupees fifty thousand.

7. We have heard Shri S.W.A.Qadri, learned counsel for the petitioners and Shri B.S. Prasad, learned counsel for respondent no.3 and perused the record.

8. In our view, the concurrent findings recorded by the State Commission and the National Commission that the petitioners were guilty of deficiency in service does not suffer from any legal infirmity requiring interference under Article 136 of the Constitution. We are further of the view that the National Commission rightly held that respondent no.1 was a "consumer" within the meaning of Section 2(d) of the Act and the complaint filed by him was maintainable. The direction given by the State Commission to the petitioners to refund Rs. 8,50,000/- to respondent No.1 with interest, which was substantially upheld by the National Commission was legally correct and the National Commission did not commit any error by dismissing the appeal filed by the petitioners.

9. With the above observations, the special leave petition is dismissed.

10. If the petitioners have any grievance against their agent or the bank, then they shall be free to avail appropriate legal remedy.