
(2009) 09 NCDRC CK 0013

In the National Consumer Disputes Redressal Commission

MADHYAMIK SHIKSHA PARISHAD

APPELLANT

Vs

Manoj Kumar And Ors.

RESPONDENT

Date of Decision : 04-09-2009

Acts Referred:

Citation : 2009 4 CPJ 309

Hon'ble Judges : R.K.BATTA , P.D.SHENOY J.

Final Decision : R.P. partly allowed

Judgement

1. HEARD Dy. Secretary, Regional Office of Madhyamik Shiksha Parishad, UP and Respondent/complainant, Manoj Kumar finally in the matter.

2. THE Complainant had appeared in the High School Exam, 1997 conducted by the petitioner. However, on 20.6.1997, marks sheet was issued to the Complainant wherein he was declared fail. In Science -2 paper he was shown absent. However, according to the Complainant, he was present and had appeared in the said paper. According to the Complainant, he had contacted the opposite party No. 1/petitioner many times for correction of result but, he had not heard anything further in the matter from the opposite party No. 1/petitioner and, as such, he filed a complaint before the Consumer Forum on 7.10.1997. In this complaint, it was requested that full and correct examination result of the Complainant be declared after correcting the result of Science -2 paper. The Complainant also claimed litigation and other expenses as also the damages.

3. THE present petitioner took up the plea that the complaint was barred under Section 80, CPC as also under Order 27, Rule 5A of CPC as well as under Rules 21 and 22 of the UP Madhyamik Shiksha Parishad. It was specifically pleaded that the result of the complainant was sent vide letter dated 17.8.1997 to the District Inspector of Schools, which was received by DIOS on 19.8.2007. The District Forum found deficiency on the part of the petitioner and awarded compensation of Rs. 30,000 as well as cost of Rs. 5,000. This order was challenged by the petitioner before the State Commission. The State Commission confirmed the order of the District Forum. It appears that before the State

Commission, none of the parties had appeared. The order of the State Commission is the subject matter of challenge in this revision.

4. BEFORE us, it was argued by the Dy. Secretary, Regional Office for the petitioner that the Complainant was barred on account of the provisions of the CPC and Rules 21 and 22 of the UP Madhyamik Shiksha Parishad. We would like to point out that the remedy under the Consumer Protection Act is in addition to the remedies available under general law. The provisions of CPC are not applicable. The result of the complainant was declared on 20.6.1997 where he was declared fail and the complaint in question was filed on 17.10.1997. It is now well settled that when fee is charged for appearing in examination, the candidate is a consumer vis -a -vis declaration of result. Therefore, there is no merit in the preliminary objections raised by the petitioner.

5. COMING to the merits, admittedly, the complainant was declared as having failed and absent in Science -2 paper whereas he had in fact appeared in the examination. The case of the complainant is that the petitioner had not informed him of result. The case of the petitioner, on the other hand, is that the petitioner had in fact sent letter dated 17.8.1997 to the District Inspector of Schools who had received the said letter on 19.8.2007. The complainant also produced a letter dated 4.4.2009 from the Principal of the School wherein it is stated that the envelope containing the revised marks sheet of 1997 High School had been received, but the result was not collected for 5 years by the petitioner and it was collected only on 30.5.2002.

6. BE that as it may, one thing is crystal clear that the petitioner had wrongly shown in the marks sheet dated 20.6.1997 that the Complainant had not appeared in Science -2 paper whereas in fact he had appeared in the said paper. Therefore, there is certainly deficiency on the part of the petitioner in issuing the marks sheet dated 20.6.1997, wherein he was shown fail in Science -2 paper. It appears that subsequently this deficiency was rectified and corrected marks sheet was sent by the petitioner to the District Inspector of Schools vide letter dated 17.8.1997, which is said to have been received by DIOS on 19.8.1997 and the same was also received by the School. Thus, deficiency on the part of the petitioner has been duly proved. It appears that the complainant neither collected the marks sheet from the School, nor there is anything to show that he was informed about it as a result of which, he had approached the District Forum for redressal of his grievance.

7. TAKING into consideration the above mentioned facts, we are of the opinion that a consolidated compensation of Rs. 15,000 would be sufficient, just, fair and equitable inasmuch as ultimately the Complainant had failed not only in Science -2 paper but also in mathematics -2 paper and was declared fail. The petitioner has deposited Rs. 15,000 with the District Forum, Meerut and the Complainant is entitled to receive the same from the District Forum, Meerut. Consequently, the revision is partly allowed in aforesaid terms with no order as to cost.