
(2004) 09 NCDRC CK 0074

In the National Consumer Disputes Redressal Commission

MADHYAMIK SHIKSHA PARISHAD

APPELLANT

Vs

SHAMBHOO SINGH RANA

RESPONDENT

Date of Decision : 22-09-2004

Acts Referred:

Citation : 2005 2 CPJ 210

Hon'ble Judges : K.D.Shahi , Surendra Kumar , Luxmi Singh J.

Final Decision : Appeal allowed

Judgement

1. THIS is an appeal against the order dated 15.7.1997 passed by the District Forum, Uttarkashi whereby the complaint of the complainant was allowed directing the appellant Regional Secretary, Madhyamik Shiksha Parishad to pay a compensation of Rs. 2,500/- and cost of litigation of Rs. 500/-. The complaint was dismissed against the Principal of the institution.

2. THE brief facts of the case are that the complainant appeared in the examination of 1996 as a private candidate from Government Inter College, Kusthi Kasaur, Uttarkashi, opposite party No. 2. THE examination was conducted by Madhyamik Shiksha Parishad, opposite party No. 1. THE complainant appeared in all the papers but he was shown absent in Biology IInd paper. He has alleged that he has also appeared in the IInd paper of Biology and signed the attendance register. THE centre manager has also given certificate of his attendance but when the result was declared, he was shown fail. On inquiry it was revealed that he was shown absent in the said paper. He has sent a notice but it was not replied. He went to the Meerut Office and spent a sum of Rs. 3,000/- in journey. It is alleged that this is deficiency in service of the opposite party and, therefore, he filed the complaint. The opposite party No. 2 in its written statement has alleged that it is only an agent to take examination and by letter dated 14.3.1997, he has written to the Regional Secretary to declare the result.

The opposite party No. 1, appellant filed written statement and alleged that the examiner did not show the marks obtained by the complainant in the mark

sheet, therefore, the result remained incomplete. The complainant has obtained only 4 marks and he was informed about the result on 18.2.1997.

3. WE agree with the entire allegations of the complainant that there has been deficiency in service of the appellant but at the same time it is settled principle of law that the Consumer Forums cannot examine statutory duties of any authority. The complainant has appeared in the examination. His result was not declared. This is definitely deficiency in service but at the same time the complainant has scored only 4 marks. He could not have passed the examination. Therefore, even if the result has been declared late, there is no loss to the complainant because if he has failed, he cannot be declared pass and he has again to appear in the examination. Since the complainant himself has failed, he could not have taken admission in B. Sc. or could not have given the examination thereof. It is true that if result would have been declared immediately, the complainant should have again appeared in the intermediate examination but it is not said anywhere that the complainant has not appeared in the examination in the subsequent years and has passed the examination. Since there was no loss to the complainant, there was no question of any compensation and the complaint should have been dismissed. We do not want to go into the details of the rulings reported in III (2000) CPJ 337, Secretary, Madhyamik Shiksha Parishad v. Km. Satya Kapoor and Another. And III (2004) CPJ 70 (NC)=2003 (3) CPR 14 (NC), Praveen Rani v. Punjab School Education Board and Another, in which it has been held that in the matters of examination conducted by the Board or University, the Consumer Forum has no jurisdiction.

4. IN the case of First Appeal No. 293/1996, reported in I (2003) CPJ 251 (NC) Ex-Sub. Sachida Nand Sharma v. Chairman, C.B.S.E., there was similar question. The result of the student could not be declared for want of INTERNAL Grades Certificate. The Hon"ble National Commission held that this was not a consumer dispute. The complainant is free to agitate his claim in the Civil Court if he has got any injury but this being not a consumer dispute, the complaint could have been dismissed merely on this ground. ORDER The appeal is hereby allowed. The order dated 15.7.1997 is hereby set aside. The complaint is hereby dismissed. However the complainant is free to file a civil suit, if he so wishes for getting relief from the competent Court of jurisdiction. Cost of this appeal shall be easy. Appeal allowed.