

(2007) 06 NCDRC CK 0007

In the National Consumer Disputes Redressal Commission

MANDSAUR INSTITUTE OF TECHNOLOGY

APPELLANT

Vs

AKSHAT

RESPONDENT

Date of Decision : 26-06-2007

Acts Referred:

Citation : 2008 4 CPJ 573

Hon'ble Judges : N.K.Jain , Neerja Singh J.

Advocate : Sushil Goswami , V.K.Jain

Judgement

1. THIS appeal is by opposite parties who have been directed by the Forum below to refund to respondent-complainant Rs. 1,07,390 with interest @ 8% p. a. from 27. 8. 2004 and pay Rs. 500 as cost of litigation.

2. FACTS of the case are more or less admitted between the parties. Appellant No. 2-Society runs an Engineering College-Mandsaur Institute of Technology (MIT)-the appellant No. 1 herein, at Mandsaur. Respondent took admission in appellant No. 1-Institution in Four Years" B. E. Mechanical Course in July 2003. In July 2004 he was promoted to second year. However in the meantime, he had applied for transfer and admission in Second Year B. E. in another Institution namely Institute of Engineering and Technology, Indore. Intimation for his admission to the said institute was received by him on 20. 8. 2004 whereupon he applied for NOC/leaving Certificate from the appellant-Institution. However, the appellant insisted for payment of the entire fees for the remaining two years i. e. third year and fourth year amounting to Rs. 71,160, besides registration fee Rs. 650. It was only on his depositing the fees as aforesaid that the appellants granted NOC to him. He approached the Forum below claiming refund of the entire fees charged from him in July and August 2004 by the appellants. The complaint was resisted by the appellants mainly on the ground that appellant-Institution was entitled to charge the fees for the entire course even if a student leaves the Institution in midstream as according to the appellants the seat would remain vacant for the remaining period of the course causing financial loss to the Institution. The Forum below over-ruled the contention of the appellants and

passed order for refund of the fees with interest as aforesaid. We have heard Mr. V. K. Jain, learned Counsel for appellants and Mr. Sushil Goswami, learned Counsel for respondent.

Information brochure of the appellant-Institution is filed in evidence as Annexure-1. While it provides details regarding the fees to be charged annually, no condition is incorporated in this brochure entitling appellant-Institution to charge fees for the entire course of four years even when a student leaves the Institution in midstream. No other rule providing for payment of fees for the entire remaining period of the course could be filed or proved in evidence by the appellants. Mr. V. K. Jain, learned Counsel for appellants, however, strenuously contended that in the matter of Technical Institutions like the appellant, the admissions are granted only in 1st year and if a student leaves in midstream the seat remains vacant for the remaining period of the course thus causing financial loss to the Institution. He further contended that the appellant-Institution was entitled to charge fees for the entire course even when the respondent-student left the Institution in the midstream. Reliance was placed on a Supreme Court decision in the case of Islamic Academy of Education and Anr. v. State of Karnataka and Ors. , AIR 2003 SC 3724. The Apex Court while dealing the question of charging of fees for the entire course by the Institution like the appellant herein, observed: "it must be mentioned that during arguments it was pointed out to us that some educational institutions are collecting, in advance, the fees for the entire course i. e. for all the years. It was submitted that this was done because the Institute was not sure whether the student would leave the Institute midstream. It was submitted that if the student left the course in midstream then for the remaining years the seat would lie vacant and the Institute would suffer. In our view an educational Institution can only charge prescribed fees for one semester/year. If an Institution feels that any particular student may leave in midstream then, at the highest, it may require that student to give a bond/bank guarantee that the balance fees for whole course would be received by the Institute even if the student left in midstream. "

(Emphasis supplied)No doubt the Apex Court in the aforesaid case has recognized rights of private Institutions to charge fees for the entire course and require a student leaving the Institution in midstream to pay fees for the remaining period. However, this would depend on a contract between the parties that is to say that an Institution may provide in its rules for charging of the fees for the entire course even in a case where student leaves the Institution in midstream. In the instant case as already pointed out, the appellants in their rules or the broucher did not incorporate any such condition entitling them to charge fees from a student for the period during which he did not study in the appellant's Institution and left in the midstream. No undertaking or bond was obtained from the respondent requiring him to pay fees for the remaining course. Under the circumstance, the ratio in the case of Islamic Academy (supra), was not available to the appellant and the Forum below was right in holding that the appellants could not have compelled the respondent to pay fees for the

remaining two years seeking transfer from the appellant-Institution. Direction for refund of the fees Rs. 71,600 charged for the remaining two years period of the course was fully justified calling for no interference in appeal by this Commission.

3. HOWEVER, the appellants are also ordered to refund the fees Rs. 35,580 charged for the second year course to which the respondent was promoted on his passing first year examination. Educational session for the year 2004-05 had already commenced before the respondent sought transfer to other Institution. In our view, therefore, the respondent was not entitled to refund of the fees amount of Rs. 35,580 deposited by him for the second year course. Similarly college registration fee Rs. 650 was also not refundable. To this extent, therefore, the appeal deserves to be allowed. In the result, the appeal succeeds in part and to the extent indicated above. Direction for refund of Rs. 35,580 and college registration fees Rs. 650 is set aside. However, rest of the order of the Forum below shall remain unaltered. We also make no order as to the cost of this appeal. Appeal partly allowed.