

(2004) 05 NCDRC CK 0067

In the National Consumer Disputes Redressal Commission

MILLENNIUM SCHOOL BHARATIYA ACADEMIC SOCIETY

APPELLANT

Vs

JAGAN LAL BADWANI

RESPONDENT

Date of Decision : 17-05-2004

Acts Referred:

Citation : 2004 2 CPC 343 : 2004 3 CLT 619 : 2004 3 CPJ 325 : 2005 1 CPR 719

Hon'ble Judges : V.K.Agrawal , Veena Misra , R.S.Awasthis J.

Final Decision : Appeal dismissed

Judgement

1. THIS appeal under Section 15 of the Consumer Protection Act, 1986, is directed against the order dated 22.1.2003 in Complaint No. 354/02 by District Consumer Disputes Redressal Forum, Raipur (hereinafter called the "Distt. Forum" for short) directing the appellant to refund an amount of Rs. 2,900/- with interest @ 12% per annum thereon. Cost of the complaint was also awarded.

2. UNDISPUTABLY the appellant's school is run by Bharatiya Academic Society. The complainant/respondent's son Ashish Badwani was admitted in class 2. Total amount of Rs. 2,900/- towards etc. for the academic session 2000-2001 was deposited on 27.6.2000 by the complainant/respondent. The said academic session of 2000-2001 was to start from the month of July. However, when the complainant went to the school with his minor son, Ashish Badwani on 31st, he was informed that admissions would continue till 31.7.2000 and academic session would start thereafter. The complainant/respondent again went to the school with his son on 31.7.2000, but it was found that the school has been closed. The complainant, therefore, demanded refund of the amount of fees etc. deposited by him. The complaint was resisted by the appellant inter alia on the grounds that the complainant/respondent is not the consumer of the appellant and that the complaint was barred by limitations.

The Distt. Forum repelled the defence as above of the appellant and held that the complainant/respondent is the consumer of the appellant and that the complaint was not barred by limitation. Accordingly the complaint was allowed and the appellant was directed to refund Rs. 2,900/- to the complainant/respondent.

3. IN this appeal learned Counsel for the appellant submitted that the District Forum erred in holding that the complainant/respondent is the consumer of the appellant. It was further submitted that since the amount of fee etc. was admittedly deposited with the appellant on 27.6.2000, the complaint filed on 24.7.2002 was barred by limitation as it was filed beyond the period of two years after the date of deposit of fee. So far as the contention of the learned Counsel for the appellant that the complainant/respondent is not the appellant's consumer, it may be noticed that the complainant had admittedly deposited the fee and security deposit with the appellant for the purpose of admission and education of his minor son. In view of above the complainant was the consumer of the appellant as is the ratio laid down by the Supreme Court in *Spring Meadows Hospital and Another v. Harjo Ahluwalia through K.S. Ahluwalia and Another*, I (1998) CPJ 1 (SC), in which the parents of the minor child who was treated by the doctor were held to be consumers being the beneficiary of the service hired. Since the complainant had paid the fee on behalf of his minor son for his education, he was the beneficiary and was covered by the definition under Section 2(1)(d)(ii) of the Consumer Protection Act, 1986. Therefore, the contention of the learned Counsel for the appellant that the complainant/respondent was not the consumer of the appellant, cannot be accepted.

4. THE learned Counsel for the complainant next submitted that the cause of action in the instant case arose on 27.6.2000 the date on which the fees was deposited. THEREfore, complaint filed on 24.12.2002, after a period of two years from the date of deposit was barred by limitation. However, it may be noticed that the averments in the complaint are that after depositing the fee the complainant was told that the academic session would start after 31st July, 2000. However, on that date he found that the school was closed. Clearly, therefore, the grievance of the complainant/respondent arose on the said date i.e., on 31st July, 2000. THE cause of action, therefore, arose on 31st July, 2000. THE complaint having been filed on 24th July, 2002 was, therefore, filed within the period of limitation. THE finding as above of the learned Distt. Forum is based on proper reasoning as mentioned in the impugned order. THEREfore, the contention of the learned Counsel for the appellant that the District Forum erred in holding that the complaint was not barred by limitation cannot be accepted. THE said finding is affirmed. In view of above, there is no reason for interference in the impugned order. This appeal has no substance. It is accordingly dismissed. The appellant shall bear its own cost and shall pay that of the respondent which is quantified as Rs. 1,000.00 (Rupees one thousand) only. Appeal dismissed.