

(2002) 10 NCDRC CK 0036

In the National Consumer Disputes Redressal Commission

RABINDER NATH

APPELLANT

Vs

SCIENCES AND RESEARCH PRINCIPAL, S.B.PATIL INSTITUTE
FOR DENTAL

RESPONDENT

Date of Decision : 25-10-2002

Acts Referred:

Citation : 2002 3 CPJ 232 : 2003 1 CLT 263 : 2003 1 CPR 139

Hon'ble Judges : D.P.Wadhwa , J.K.Mehra , Rajyalakshmi Rao , B.K.Taimni J.

Final Decision : Revision Petition dismissed

Judgement

1. IT is the complainant who is the petitioner before us. He is, in fact, the father of Abhishek Nath, who got admission in B.D.S. (Bachelor of Dental Surgery) course in the medical college run by the respondents/opposite parties. Complaining deficiency in service in not providing proper education and admitting his son to an institution not recognised by the Dental Council of India, a complaint was filed before the District Forum. Complainant sought refund of the capitation fee and other fees deposited by him and also damages and compensation. Opposite parties denied the allegations of the complainant. However, District Forum allowed the complaint and directed refund of Rs. 1,65,100/- with interest at the rate of 18% p.a. and awarded damages and costs respectively of Rs. 10,000/- and Rs. 1,000/-.

2. THIS order of the District Forum was challenged by the opposite parties in the Karnataka State Consumer Disputes Redressal Commission, which by the impugned order allowed the appeal, set aside the order of the District Forum and dismissed the complaint. The respondent/opposite party is running an institution for imparting dental education under the name and style of the S.B. Patil Institute for Dental Sciences and Research. Abhishek was admitted in the institute of the respondents for the academic year 1995-96 for first year B.D.S. Course. A sum of Rs. 1,50,000/- was paid as capitation fee and further sum towards fees totalling to Rs. 1,65,000/-. It is stated that after the admission the complainant came to know that the institute was not recognised by the Dental

Council of India; that it was having inadequate staff to teach the students; that there was lack of infrastructure to run the institute; that the admission was done in contravention of the provisions of the law and the rules of the University and malafidely demanding the original certificates of Abhishek. It is further complained that Abhishek was given merciless ragging by the students of the institute and the management did not take any action to protect Abhishek from the students which resulted in mental agony and torture suffered by Abhishek. Then the complainant says that he got his son treated at Hyderabad from a Physician and Psychiatrist where he had to spend a huge amount. Complainant also stated that the institute was indulging in unfair trade practices. His grouse was that one year of his son's career had been lost. Apart from the refund of the amount paid by the complainant he also sought Rs. 1 lakh as damages for mental agony and costs.

All these allegations were denied by the respondents which stated that the college was duly affiliated to Gulbarga University and Government of Karnataka had given permission for running the Dental College. A letter to that effect was produced. It was further submitted that the matter was pending recognition with the Dental Council of India. It was submitted that the respondent had informed the complainant that his son would be admitted in the management quota where the capitation fee of Rs. 6 lakhs had to be paid. On the promise given by the complainant that further sum of Rs. 4 lakhs will be paid within 6 months" period, admission was granted to his son in the management quota, as per that letter. It was submitted that when the amount of Rs. 4,50,000/- was demanded from the complainant, that lead to the filing of the complaint. Six students were selected in the management quota and because of the complainant withdrawing his son, the management has lost Rs. 4,50,000/-. It was also submitted that the admission was given keeping in view provisions for free seats and management quota seats. These however need not detain us as all these are provided by the judgment of the Supreme Court and the Rules made by the various State Governments. It was stated by the respondents that there was sufficient staff of Lecturers and Professors to impart education. Original certificates were demanded from the complainant as per rules as he had filed only xerox copies of the marks. These were not complied with. It was then submitted that Abhishek was not regular in attending classes and when he appeared for first year B.D.S. Examination, he failed in two subjects. He did not appear in other subjects. It was also submitted that he had misbehaved with girl students which lead to the filing of the complaint before the police station. This was subsequently compromised.

3. STATE Commission after examining the pleadings and documents on record came to the conclusion that the respondents need not be blamed in rendering deficient services. We do not find any fault in the reasoning of the STATE Commission to hold that there was no error of jurisdiction or otherwise in coming to the conclusion that there was no deficiency in service by the respondents. We do not find it to be a fit case to exercise our jurisdiction under Clause (b) of

Section 21 of the Act. State Commission after conclusion of the judgment still gave liberty to the complainant to approach the Civil Court, if so advised and to seek exclusion of time vide Section 14 of the Limitation Act as per the decision of the Supreme Court in the case of Laxmi Engineering Works v. P.S.G. Industrial Institute, II (1995) CPJ 1 (SC)=(1995) 3 SCC 583. This aspect, we are not able to understand that after writing 17 pages of the judgment and having considered all the aspects, there was any circumstance left for the State Commission still to permit the complainant to approach the Civil Court. Accordingly this petition is dismissed. Revision Petition dismissed.