

(2010) 11 NCDRC CK 0011

In the National Consumer Disputes Redressal Commission

Saravpreet Singh

APPELLANT

Vs

Principal Lala Lajpat Rai Institute of Engineering And
Technology

RESPONDENT

Date of Decision : 10-11-2010

Acts Referred:

Citation : 2010 0 NCDRC 211 : 2010 4 CPJ 318 : 2010 4 CPR 148

Hon'ble Judges : Suresh Chandra J.

Final Decision : Appeal is allowed

Judgement

1. CHALLENGE in this revision petition is to the order of the State Consumer Disputes Redressal Commission, Punjab ("State Commission" for short) dated 22.05.2009 passed in appeal no.384 of 2003. The petition has been filed by Saravpreet Singh (hereinafter referred to as the complainant).

2. HAVING cleared the CET - 2001 test conducted by Respondent No.2 (Punjab Technical University), the complainant deposited the counseling fee of Rs.10,000/- and participated in the counseling. Out of this amount of Rs.10,000/-, Rs.7,500/- was to be remitted by Respondent No.2 to Respondent No.1- Institute at Moga. The complainant thereafter was granted admission in the Institute of Respondent No.1 at Moga and accordingly he also deposited the fee of Rs.80,820/- with the Respondent No.1- Institute on 16.08.2001. It is not in dispute that Respondent No.1 - Institute also received the amount of Rs.7,500/- from the counseling fee of Rs.10,000/- from Respondent No.2- University. Thereafter, a further special counseling was held by Respondent No.2 - University in which also the complainant participated and based on which, he was granted admission in R.E.C. at Jalandhar. The complainant, therefore, deposited the necessary fee at the R.E.C., Jalandhar and got admission there. HAVING secured his admission at the R.E.C., Jalandhar, the complaint applied for his release from Respondent No.1 " Institute on 30.08.2001. Simultaneously, the father of the complainant requested the Principal of the Respondent No.1 - Institute for refunding the tuition fee and other charges deposited by the

complainant with Respondent No.1 " Institute. Respondent No.1 - Institute, however, refunded only Rs.16,400/- vide bank draft dated 12.12.2001 and that too after a legal notice in this regard on 30.11.2001. HAVING received only a part of the amount deposited by the complainant with Respondent No.1- Institute, a protest letter was sent to the Respondent No.1- Institute on 04.01.2002. However, vide its letter dated 09.01.2002, the Respondent No.1- Institute refused to grant any further refund. Aggrieved by this response from Respondent No.1- Institute, the complainant filed a consumer complaint before the District Forum, Jalandhar on 07.06.2002 which came to be dismissed by the District Forum vide its order dated 06.02.2003. Appeal filed by the complainant against this order before the State Commission also came to be dismissed vide impugned order dated 22.05.2009 and hence this revision petition. We have heard learned counsel for the petitioner/complainant and the respondent nos. 1 & 2. The case of the complainant is that immediately after securing admission into the R.E.C. at Jalandhar on 29.08.2001, he informed the Respondent No.1- Institute and was also issued a -No Due Certificate- on the very next day on 30.08.2001, a copy of which is filed at Annex.R-4. Classes at Respondent No.1- Institute had not even started at that point of time. A separate application for refund of the fees deposited with Respondent No.1 - Institute was also made by the father of the complainant on 30.08.2001. In the circumstances, learned counsel for the petitioner/complainant has submitted that the fora below have erred in accepting the version of Respondent No.2 that first intimation about the petitioner/complainant leaving Respondent No.1 - Institute was received in November 2001. He further submitted that while refusing to refund the fees deposited by the complainant with Respondent No.1 - Institute, the authorities thereof have violated the rules and instructions set out in the Punjab Education Code and by the All India Council for Technical Education. In support of his contentions, learned counsel for the petitioner has relied on the judgments of the National Commission in the cases of Nipun Nagar Vs. Symbiosis Institute of International Business [I (2009 CPJ 3 (NC))] and the Registrar, Andhra University Vs. Janjanam Jagedeesh in Revision Petition no.3926 of 2009. Learned counsel has further submitted that since it is a case of request for refund of fees on account of change of institution as per rules, the judgment of the Hon'ble Supreme Court delivered in the case of Bihar School Education Board Vs. Suresh Prasad Sinha [(2009) 8 SCC 483] will not be applicable to the present case because that judgment is in the context of conduct of examinations only.

In the counter affidavit filed on behalf of Respondent No.1 - Institute, it has been stated that the advertisement by which the special counseling for admission into B.E/B.Tech. Course was to be held was published in "Daily Tribune" newspaper on 25.08.2001 and the date of this special counseling was 29.08.2001. It was specifically provided in the advertisement for special counseling that a candidate who has already taken admission shall not be allowed to participate in this counseling but in case he wants to do so, he will have to forfeit full fee deposited with the University and the College in which he has taken admission. This

advertisement was published by Respondent No.2 - University (Annex. R-3). It is submitted by learned counsel for Respondent No.1- Institute that since the petitioner had already taken admission in the Respondent No.1 - Institute and deposited the fees and yet decided to participate in the special counseling held on 29.08.2001, he could not be allowed full refund of the fees as claimed by him in view of the clear condition given in the advertisement for holding the special counseling. The fora below, therefore, rightly dismissed the complaint of the petitioner holding that there was no deficiency in service on the part of the Respondent No.1- Institute. The counsel, however, admitted that amount of Rs.7,500/- had actually been received by the Respondent No.1 - Institute from Respondent No.2 - University and hence this amount was also available with the Respondent No.1- Institute for adjustment. Learned counsel for the two respondents further submitted that the Punjab Education Code relied upon the complaint/petitioner is not applicable to the autonomous bodies such as Respondent No.1 & Respondent No.2 but they fairly admitted that the regulations issued by All India Council for Technical Education will be very much applicable to their institutions as well.

3. WE have considered the submissions made by the learned counsel for the petitioner and the respondents and have perused the record placed before us. At our instance, the counsel for the petitioner has filed copies of the extracts from Punjab Education Code, public notice of all India Council for Technical Education and information brochure of Respondent No.1 - Institute. It is true that the advertisement published on 25.08.2001 by Respondent No.2 - University specifically provided for forfeiture of the fee in case of those students who had already taken admission and yet would appear for the special counseling for admission into B.E/B.Tech. course. Nonetheless, it is not in dispute that the rules and tions issued by the All India Council for Technical Education are fully applicable to the institutions imparting technical education as in the present case. The public notice bearing no.AICTE/Legal/04 (01)/2007 published by the Member Secretary, AICTE and produced by the petitioner/complainant has not been disputed by the respondents. The relevant portion from this public notice is reproduced below:- "In the event of a student/candidate withdrawing before the staring of the course, the wait listed candidates should be given admissions against the vacant seat. The entire fee collected from the student, after a deduction of the processing fee of not more than Rs.1,000/- (Rupees one thousand only) shall be refunded and returned by the Institution/University to the student/candidate withdrawing from the programme. It would not be permissible for Institutions and Universities to retain the School/Institution Leaving Certificates in original. Should a student leave after joining the course and if the seat consequently falling vacant has been filled by another candidate by the last date of admission, the Institution must return the fee collected with proportionate deductions of monthly fee and proportionate hostel rent, where applicable."

In view of the above clear guidelines applicable to both Respondent Nos. 1 & 2

Institutions, they cannot be allowed to take plea of their advertisement and condition contained therein to deny refund of fees and other charges to the petitioner/complainant. In fact, we find that the present case is squarely covered by the two judgments relied upon by the counsel for the petitioner/complainant. It is mentioned in the two judgments supra that the guidelines issued by the United Grants Commission also provide for refund of fees in cases such as the present one before us. In the circumstances, the revision of the complainant/petitioner is allowed and the impugned order passed by the State Commission is hereby set aside. Respondent No.1 - Institute is accordingly directed to refund the entire amount of fees deposited by the complainant with it at the time of taking admission along with Rs.7,500/- which was received by the Institute from Respondent No.2- University. However, Respondent No.1 - Institute shall be free to deduct a processing fee of not more than Rs.1,000/- while refunding the amount of fees to the complainant. The refund of fees after deducting processing fee upto Rs.1,000/- shall be paid by the Respondent No.1 - Institute within a period of 3 weeks from the date of this order failing which, the Respondent No.1 - Institute shall be liable to pay interest @ 9% p.a. till the date of actual refund. In the facts and circumstances of this case, there shall be no order as to costs.