

(2008) 06 NCDRC CK 0010

In the National Consumer Disputes Redressal Commission

SOLAPUR EDUCATION SOCIETY

APPELLANT

Vs

DEEPALI SHAMRAO CHAVAN

RESPONDENT

Date of Decision : 13-06-2008

Acts Referred:

Citation : 2008 4 CPJ 92

Hon'ble Judges : B.B.Vagyani , P.N.Kashalkar , S.P.Lale J.

Advocate : Anand Kulkarni , Anita Marathe

Judgement

1. -THIS appeal is directed by the original O. Ps. against the judgment and award passed by the District Consumer Forum, Solapur in Consumer Complaint No. 150/2006 decided on 17. 1. 2007, whereby O. Ps. have been directed to refund tuition fee of Rs. 19,000, refund amount of Rs. 1,100 spent towards college dress and pay Rs. 5,000 for the expenses incurred for stay and to pay Rs. 50,000 as compensation for one year lost by the complainant. Facts to the extent material may be stated as under:

2. COMPLAINANT had passed S. S. C. examination by obtaining 68. 40% marks. She also passed H. S. C. examination by obtaining 67. 70% marks. She was to get admission in Government Technical Institute at Solapur. In the meantime she had also applied for admission in O. P. No. 1's S. E. S. Institute at Solapur (O. P. No. 2). She had applied for admission in first year course of Information Technology, but since O. Ps. found that complainant had obtained First Class in Information Technology, they suggested her to take admission in Second Year course of Information Technology Diploma directly. She had deposited Tuition Fees of Rs. 19,000 with O. Ps. She was required to stay at Solapur spending Rs. 6,360 for 6 months. She had incurred expenses of Rs. 1,100 for purchase of college dress. She had joined private tuition class for mathematics and spent Rs. 3,700 for that tuition class. In the first unit test of first session she got good percentage of marks, but one day, O. P. No. 2 told her that she would not be permitted to appear for Board examination, however, she could come and attend the college. Complainant was greatly shocked. In the Diwali vacation she had

gone to her native place. She told this fact to her parents. Father of the complainant contacted O. Ps. and asked why she could not be allowed to sit in the college. On 7. 1. 2006, O. Ps. informed complainant's father that her admission in the second year Information Technology Diploma had been cancelled, because she could not get eligibility certificate from Maharashtra State Board of Technical Education and, therefore, they could not do anything in this regard. According to complainant, because of mess created by O. P. Nos. 1 and 2, she lost one academic year permanently. She had been put to lot of inconvenience, mental stress and her expenses were ruined. She had applied for first year course with O. P. 's Institute, but instead of giving admission in first year course, they gave her admission directly in second year course without bothering to know that she had not passed H. S. C. with Mathematics as a subject and eligibility for direct admission to second year Information Technology Diploma required that student should have passed mathematics invariably. Since she was not having mathematics subject, eligibility was refused. So it was deficiency of service on the part of O. P. Nos. 1 and 2. They did not give her admission in First Year course and thereby, her whole academic year was lost and thousands of rupees spent during that one year had gone to drains. Hence she filed consumer complaint alleging deficiency in service on the part of O. Ps. and claimed damages of Rs. 5 lakh from the O. Ps. She also claimed refund of various expenses, she incurred for attending second year course at the college by O. P. Nos. 1 and 2.

O. P. Nos. 1 and 2 filed written statement and denied their liability. According to O. Ps. she was admitted in their college for the second year Information Technology Diploma on provisional basis. She would have been given final admission only after Maharashtra State Board of Technical Education Pune issued eligibility certificate. According to O. Ps. , complainant had withheld from them the fact that she had not passed H. S. C. with mathematics as subject. They were not knowing that she had already applied for admission for Government Technical Institute at Solapur. According to them only because eligibility was refused by the Maharashtra State Board of Technical Education, her admission was cancelled by sending letter dated 23. 9. 2005. They denied that they had for the first time informed complainant by letter dated 7. 1. 2006 that admission of complainant was cancelled owing to non-receipt of eligibility from the Maharashtra State Board of Technical Education. They, therefore, pleaded that they cannot be held guilty of deficiency in service and they pleaded that complaint should be dismissed with cost.

3. ON the basis of affidavits and documents placed on record, learned District Consumer Forum held that there was deficiency in service on the part of O. P. Nos. 1 and 2. They misled the complainant. They should have known eligibility criteria for the students to be admitted directly for the second year Information Technology Diploma course. As an Educational Institute, it was their duty to know what is the eligibility criteria for giving admission to the students in various streams. They also did not bother to look carefully the statement of marks of S.

S. C. and H. S. C. submitted by the complainant Kumari Deepa Chavan. Had they seen the Marksheet carefully, they would have learnt that complainant passed SSC and HSC without Mathematics subject and Mathematics subject was compulsory for giving admission to the second year Information Technology Diploma, which fact was overlooked by the O. P. Nos. 1 and 2 and, therefore, Forum below allowed the complaint holding deficiency in service and unfair trade practice on the part of O. Ps. and directed refund of tuition fees, refund of dress cost, granted Rs. 5,000 for the stay of complainant at Solapur for 6 months and also awarded Rs. 50,000 as compensation for the one academic year lost by the complainant. Aggrieved by this order, original O. Ps. have filed this appeal. We heard submissions of Mr. Anand Kulkarni, Advocate for the appellants and Mrs. Anita Marathe, Advocate for the respondent.

4. UPON Bearing Advocates of both the parties, we are clearly of the view that mess was created by O. Ps. /appellants herein. O. Ps. should know eligibility criteria for the various admissions they are giving to the students in various streams in their college. When they found that complainant had secured good percentage of marks in Information Technology subject, they suggested complainant to take admission directly in second year diploma course for Information Technology. They admitted her for second year diploma course without bothering to know what is the eligibility criteria laid down for such admission by Maharashtra State Board of Technical Education. We reiterate that whenever college is giving any admission to the student in any specialty or stream, they should know what is the criteria, what is the educational qualification required for the students taking admission in a particular stream. In this case, Kum. Deepa Chavan had applied for first year admission for Information Technology course. But O. Ps. suggested that she could be directly given admission in second year Information Technology Diploma course, since she had secured first class in Information Technology subject. So they induced her to take admission in second year diploma course and charged her tuition fee of Rs. 19,000. She was required to spend Rs. 1,100 for her college dress. She was required to spend Rs. 5,000 for staying in Solapur for 6 months before they ultimately cancelled her admission on the ground that Maharashtra State Board of Technical Education had not granted her eligibility certificate. In the totality of the circumstances, we are finding that when complainant had applied for first year course of Information Technology diploma, they should have given admission in the first year itself. Secondly, they should not have suggested her to take admission in second year Information Technology Diploma course when they should have known that mathematics was the essential subject, which every student must have taken at his or her HSC examination. In this case, Kum. Deepa Chavan had not passed HSC by taking Mathematics subject and, therefore, she was ab initio not eligible to be admitted in second year course in Information Technology. This was totally overlooked by the O. Ps. while giving admission to Deepa Chavan directly in second year course and thereby her whole academic year was lost because of ignorance, indifference on the part of O. P.

Nos. 1 and 2 in not properly scrutinizing her mark sheets and educational qualification before giving her admission to second year course of Information Technology. Thus they were rightly held to be guilty of deficiency in service and unfair trade practice by the Forum below.

5. WE are, therefore, of the view that the Forum below rightly allowed the complaint in favour of the complainant. However, we are finding that amount of Rs. 50,000 granted to the complainant towards loss of academic year is slightly on the higher side. So while allowing this appeal partly, we are inclined to reduce this amount to Rs. 25,000 instead of Rs. 50,000. Rest of the order stands confirmed. Hence the following order : ORDER 1. Appeal is partly allowed. 2. Figure of Rs. 50,000 in operative clause No. 1 of the order be read as Rs. 25,000. 3. Rest of the order stands confirmed. 4. No order as to costs. 5. Pronounced and dictated in the open Court. 6. Copies of the order herein be furnished to the parties. Appeal partly allowed.