

**(2012) 03 P&H CK 0432**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : CWP No. 3637 of 2012**

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| Sri Ravi Shankar Maharaj and Others                             | APPELLANT  |
| Vs                                                              |            |
| State Consumer Disputes Redressal Commission, Punjab and Others | RESPONDENT |

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**Date of Decision :** 07-03-2012

**Acts Referred:**

Constitution of India, 1950 — Article 226, 227  
Consumer Protection Act, 1986 — Section 11, 12, 13, 14, 17

**Citation :** (2012) 166 PLR 758

**Hon'ble Judges :** Ajay Kumar Mittal, J

**Bench :** Single Bench

**Advocate :** Chetan Mittal and Mr. M.S. Nain, for the Appellant;

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## Judgement

Ajay Kumar Mittal, J.—The petitioners have challenged the order dated 28.11.2011, Annexure P. 6 passed by the State Consumer Disputes Redressal Commission, Punjab (in short, "the State Commission"), dismissing the appeal filed against the order of the District Consumer Disputes Redressal forum, Sangrur (in short, "the District Forum") dated 9.1.2007, Annexure P. 4. Brief facts as narrated in the petition may be noticed. Petitioner No. 1 is a sanynasi. He has numerous followers in the area of Madhya Pradesh and Uttar Pradesh. He is residing at Rawatpura, District Bhind, Madhya Pradesh, in an ashram. Petitioner No. 2 is a devotee of petitioner No. 1 and is involved in various activities run by petitioner No. 1. There is a trust created by the followers of petitioner No. 1 known as "Sri Rawatpur Sarkar Lok Kalyan Trust". After coming into force the Chattishgarh Niji Vishwavidalaya (Sathapana and Niaman) Act, 2002 (in short, "the 2002 Act"), the followers of petitioner No. 1 and the Trust submitted a proposal for the purpose of creation of a University in accordance with the provisions of the 2002 Act. The Trust fulfilled all the formalities for the purpose of creation of the university and accordingly, the State notified the said University through notification dated 7.9.2003 known as Sri Rawatpura Sarkar International University, Raipur. Various colleges and institutions got themselves

affiliated with the University within and outside the State of Chhatisgarh. The office of the University was at Raipur. Petitioner No. 1 was made Chancellor who is also the Chairman of the Board of Governors. As per the Rules and regulations, respondent No. 3 entered into a Memorandum of Understanding (MOU) for the purpose of Education Centre/Study Centre. The said document was executed on 18.9.2003, Annexure P. 2. Thereafter, various writ petitions were filed challenging the vires of the 2002 Act before the Apex Court. The Apex Court vide judgment dated 11.2.2005 quashed the said enactment and all the universities notified under the said Act were declared to cease to exist. However, certain safeguard measures were laid down by the Apex Court in the said judgment. Respondent No. 3 filed a complaint dated 1.8.2006, Annexure P. 3 in respect of rights and liabilities arising out of MOU dated 18.9.2003 at District Forum, Sangrur. After considering the matter, vide order dated 9.1.2007, Annexure P. 4, the complaint was allowed with a direction to all the respondents to pay the various amounts with interest as calculated in the order. Thereafter, a petition u/s 27 of the 1986 Act was filed on 4.5.2007, Annexure P. 5 by respondent No. 3 for compliance of the order dated 9.1.2007. The petitioners after collecting the entire documents filed an appeal before the State Commission, Punjab alongwith an application for condonation of delay. Notice was issued and execution proceedings were stayed meanwhile. It was also directed that if the petitioners fail to deposit 50% of the demanded amount in the Commission within four weeks, the stay order shall stand vacated. In terms of the said order, the petitioners deposited an amount of Rs. 2.50 lacs and as a result, proceedings u/s 27 of the 1986 Act were dropped. Finally, the appeal was dismissed vide order dated 28.11.2001, Annexure P. 6 impugned herein. Hence the present writ petition.

2. Learned counsel for the petitioners submitted that respondent No. 3 - claimant filed a petition claiming to be "consumer" on the basis of MOU and had filed a case against the University, which is not in existence, in view of judgment of the Hon'ble Supreme Court in Prof. Yashpal and Another Vs. State of Chhattisgarh and Others, . It was further submitted that Courts at Sangrur had no jurisdiction to adjudicate the matter and in the light of the Apex Court Judgment, the petitioners had rightly invoked the writ jurisdiction of this Court by filing the present writ petition.

3. The issue regarding challenging the order passed under the Consumer Protection Act, 1986 (in short, "the 1986 Act") against the orders of the District Forum or the State Commission came up for consideration before the Apex Court in whereunder after analyzing Nivedita Sharma v. Cellular Operators Association of India and others,<sup>2</sup> Civil Appeal No. 10706 of 2011, decided on 7.12.2011 the various provisions of the Act, the Apex Court pronounced as under:-

A reading of the plain language of Section 17 shows that every State Commission has the jurisdiction to entertain complaints where the value of the goods or services and compensation, if any, claimed exceeds Rs. 20 lacs but does not

exceed Rs. 1 crore. By Section 18, the provisions of Section 12 to 14 and the Rules made thereunder, for the disposal of complaints by the District Forum, have been made applicable for deciding the disputes by the State Commission. Section 19 provides for remedy of appeal against an order made by the state Commission in exercise of its powers under sub-clause (i) of Clause (a) of Section 17. If Sections 11, 17 and 21 of the 1986 Act which relate to the jurisdiction of the District Forum, the State Commission and the National Commission, there does not appear any plausible reason to interpret the same in a manner which would frustrate the object of legislation.

What has surprised us is that the High Court has not even referred to Sections 17 and 19 of the 1986 Act and the law laid down in various judgments of this Court and yet it has declared that the direction given by the State Commission are without jurisdiction and that too by overlooking the availability of statutory remedy of appeal to the respondents.

We also find that the High Court has taken cognizance of the statement made on behalf of the counsel for the petitioners that their clients would challenge clause (iii) of para 38 of the State Commission's order by filing an appeal u/s 19 of the Act and the fact that one of the aggrieved parties, namely, American Express Bank Limited has already filed an appeal questioning paragraph 38(iii) of the order of the State Commission. After having noticed that some of the petitioners were inclined to avail the remedy of appeal against the particular portion of the order passed by the State Commission, the High Court should not have entertained the writ petition filed under Article 226 of the Constitution and the miscellaneous petitions filed under Article 227 of the Constitution and directed them to avail remedy of appeal u/s 19 of the 1986 Act

4. Further, on a query being put to learned counsel for the petitioners that against the order of the District Forum why the petitioners had adopted to file the appeal before the State Commission under the Act, no reply much less satisfactory could be tendered. In view of the above, the petition is disposed of by granting liberty to the petitioners to challenge the order of the State Commission by availing alternative remedy u/s 19 of the 1986 Act.