

CC/16/2023

Date of filing: 25.01.2023  
Date of Disposal: 20.10.2023

**BEFORE THE BANGALORE URBAN II ADDITIONAL  
DISTRICT CONSUMER DISPUTES REDRESSAL  
COMMISSION, SHANTHINAGAR, BANGALORE - 560027**

**DATED THIS THE 20<sup>th</sup> DAY OF OCTOBER 2023**

**CONSUMER COMPLAINT NO.16/2023**

**PRESENT:**

**SRI VIJAYKUMAR.M.PAWALE, B.A., LL.B., (Spl)., ... PRESIDENT**  
**SRI B.DEVARAJU, B.A.L., LL.B., PGDCLP., (NLSIU) ... MEMBER**  
**SMT.V.ANURADHA, B.A., LL.B., ... MEMBER**

**COMPLAINANT:**

Smt.Sarita Chaudhary,  
Aged 47 years,  
W/o. Mr.Ved Prakash,  
R/at No.B401, Concorde Manhattan Apartment,  
Neeladri Road, Electronic City, Phase-1,  
Bangalore - 560100.

(Complainant is In-person)

V/s

**OPPOSITE PARTY:**

Allen Career Institute,  
HSR Layout Campus Bengaluru,  
Address: No.530 C/531 A,  
19<sup>th</sup> Main Road, opposite Poorva  
Vantage Apartments,  
Sector 3 HSR Layout,  
Bengaluru,  
Karnataka - 560102.

(OP is rep.by Adv. Sri. Mrs.Sarita Chaudhary)

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Author **SMT.V.ANURADHA, MEMBER**

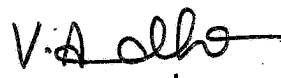
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**// JUDGMENT //**

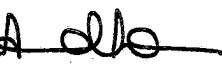
1. This complaint has been filed by the Complainant under Section 35 of the Consumer Protection Act, 2019 (hereinafter referred as the Act) seeking direction against the opposite party for refund of amount.

2. The case of the complainant in brief is as under;

The complainant joined her daughter at opposite party institute on 06.08.2022 and paid coaching fees of Rs.1,30,000/- for whole year. On 11.08.2022 the complainant daughter attended the classes till 04.10.2022. As the complainant got letter that her daughter got admission in MBBS program in abroad Russia Penza University. At the same time the complainant have intimated the opposite party on 05.10.2022 in person and through E-mail on 06.10.2022 and requested for refund of balance coaching fee. The complainant has paid full fees payment at once inspite option to pay in installments that they are confidence if in case complainant's daughter gets anywhere admission the opposite party will refund their coaching fee. Further the complainant also produced few documents in evident of her daughter got admission in Russia. According to the complainant her daughter has taken 3<sup>rd</sup> time tution in the opposite party institution. Due to admission in the abroad in Russia Penza University for study of MBBS, she asked for refund of balance tution fee, but the opposite party has failed to refund. Hence, tis complaint.


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3. Upon service of notice, the opposite party appeared through their Counsel and filed written version. The opposite party contended in their written version that the complaint filed by the complainant is not maintainable either in law or on facts and the complainant has not approached this Commission with clean hands and suppressed the material facts. The complainant is not a consumer has reliefs claimed by her.
4. The opposite party admitted that the complainant's daughter took admission for "Medical Leader Batch" to make the preparation NEET Examination for the academic year 2022-23. On 6<sup>th</sup> August 2022 and the course was started on 11.08.2022 and the total payment of Rs.1,30,000/- was done through Paytm and the opposite party also generated fee challan. The complainant's daughter attended the classes till 4<sup>th</sup> October 2022, on 5<sup>th</sup> October 2022 the complainant in person informed that she would like to discontinue the course of her daughter as she had joined for MBBS Course in Russia University. In this regard due to refund date has lapsed the said opposite party branch was not in condition to refund, and advised to contact the head office of the opposite party. The university has acknowledged the receipt of the documents for MBBS admission and also the admission is subject to result NEET India Examination 2022-23. That it is not the case of the complainant that there was some deficiency

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of service at the hand of opposite party and that being the reason she want her child to quit.

5. As per the policy of the opposite party which the complainant is well aware of it is clearly mentioned in the fee acknowledgement that first refund date is 21.08.2022 with a deduction of Rs.25,000/- and second refund date is on 09.08.2022 with a deduction of Rs.50,000/- and as per point No.1 in refund under special cases after last refund date and also mentioned on the opposite party's website and official information booklet "If an enrolled student get admission in any Medical/Engineering College (for which he has taken Admission) located in India for MBBS/BDS/B.Tech/B.E/B.Arch. only through any competitive Examination, refund will be made after deducting amount equivalent to last refund amount out of Fee paid. Refund shall not be payable if amount paid is less than amount equivalent to last refund amount". Wherefore the complainant has lost choice to seek refund. Even though there is no fault of opposite party, the study materials has all be given to the complainant's daughter and trying to take undue advantage of the same. Hence there is no deficiency on the part of the opposite party and prays for dismissal of the complainant.
6. The complainant filed affidavit evidence and relies on 11 documents and got marked Ex.P1 to P11. The opposite party Deputy Manager has filed affidavit evidence and

  
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relies on 11 documents and got marked Ex.R1 to R11.

Heard arguments of both side. We perused the records.

7. The following points do arise for our consideration;

1. **Whether the complainant proves the deficiency of service on the part of the opposite party?**
2. **Whether the complainant is entitled to the relief claimed in the complaint?**
3. **What order?**

8. Our findings on the above points are as under;

1. **POINT NO.1** : In the Affirmative;
2. **POINT NO.2** : Partly in the Affirmative;
3. **POINT NO.3**: As per final order for the following;

#### REASONS

9. **POINTS NO.1 & 2**: It is the admitted fact that the complainant has joined her daughter in opposite party institution for MBBS NEET coaching by paying Rs.1,30,000/- on 06.08.2022 through online as per Ex.P6. According to the complainant her daughter has attended the classes from 11<sup>th</sup> August to 4<sup>th</sup> October 2022. Thereafter the complainant's daughter was invited by the Ministry of Internal affairs of Russia as per Ex.P7 has complainant's daughter got admission to the course of MBBS in Penza State University for 6 years as per Ex.P3, to substantiate this contention the complainant has produced Ex.P2 and P4. Hence the complainant approached the opposite party to refund

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the amount through E-mail on 30.10.2022 as per Ex.P5.

10. Further as per the document produced by the complainant, the complainant's daughter has attended 55 classes out of 270 days. Due to the complainant's daughter got admission in Russian Penza University for MBBS course the complainant's discontinued the coaching of the opposite party and requested for refund of balance amount of coaching fee.
11. In the other hand the opposite party also took contention that the complainant's daughter was admitted in their institution for coaching of NEET on 06.10.2022 by paying fee of Rs.1,30,000/-. As per Ex.R5 attendance record the complainant's daughter has attended the classes on 11.08.2022 to 04.10.2022. The opposite party also acknowledged the fee as per Ex.R6. The complainant has sent several E-mail requesting the opposite party for refund of tuition fee as per Ex.R7. According to the opposite party the first refund dated is 05.10.2022 deductible amount Rs.25,000/- and last refund date is 09.09.2022 deductible amount is Rs.50,000/- as per Ex.R6. As per Ex.R11 the refund in special cases after last refund date is 31.12.2022. Subject to, if an enrolled student get admission in any medical engineering college located in India For MBBS/BDS/B.Tech/B.E/B.Arch only through any competitive examination, refund will be made after deducting amount equivalent to last refund amount out of fee paid.

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12. We carefully perused the pleadings, documentary evidence and affidavit evidence produced by both the parties. It is relevant to refer the document of the opposite party as per Ex.R6, the first refund date is 25.08.2022 and second refund date is 09.09.2022 and the complainant's daughter got intimation regarding the admission at Russian University on 22.09.2022 for the academic year 2022 to 2028. Due to this reason the complainant asked for refund of balance tuition fee and according to the opposite party terms and condition the second refund date is 09.09.2022. As per Ex.R11 the last date for special case refund is 31.12.2022.

13. The terms and condition of the opposite party for refund in special case after last refund date is one-sided. According to us the case of the complainant is also a special case. The daughter of the complainant got admission in Penza University Russia all of a sudden. The complainant also comes under the definition of the consumer for the reason, the complainant had paid Rs,1,30,000/- for her daughter tuition fee for obtaining service at the opposite party institution. At this stage it is relevant to refer the paper publication of The Times of India newspaper, the District Consumer Disputes Redressal Commission held that the same opposite party was directed by the Chandigarh District Forum directing the opposite party to refund of Rs.80,000/- with 15,000/-. The facts of the complaint is similar to this case. Hence, we are inclined and it is just and proper to direct the opposite party to refund

  
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Rs.70,000/- by deducting Rs.60,000/- out of Rs.1,30,000/-. The complainant is also entitled for Rs.3,000/- as a compensation. Hence we answer Point No.1 In the affirmative and point No.2 partly in the affirmative.

14. **POINT NO. 3:** In view of the discussion referred above, the complaint requires to be allowed in part. The opposite is directed to refund Rs.70,000/- and to pay Rs.3,000/- as a compensation. We proceed to pass the following;

**ORDER**

The complaint is allowed in part.

The opposite party is directed to refund a sum of Rs.70,000/- (Rupees Seventy Thousand Only) and to pay Rs.3,000/- (Rupees Three Thousand Only) towards compensation to the complainant.

The opposite party shall comply the order with 60 days from this date.

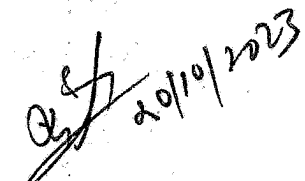
Supply free copy of this order to the parties.

Return spare copies of the pleading and evidence to the parties.

(Dictated to the Steno, typed by her, transcript corrected, Revised and then pronounced by the open Commission on 20<sup>th</sup> day of OCTOBER 2023).

  
(V. ANURADHA)  
MEMBER

  
(B. DEVARAJU)  
MEMBER

  
(VIJAYKUMAR.M.PAWALE)  
PRESIDENT



**//ANNEXURE//****Witness examined for the complainant's side:**

Mrs.Saritha Chaudhary, who being the complainant has filed her affidavit.

**List of documents filed by the complainant:**

1. Ex.P1: Certificate under Section 65 B,
2. Ex.P2: Copy of the E-ticket receipt,
3. Ex.P3: Copy of the invitation letter issued by the university,
4. Ex.P4: Copy of the bonafide certificate,
5. Ex.P5: Copy of the E-mail Communication,
6. Ex.P6: Copy of the bank transaction,
7. Ex.P7: Copy of the university Visa and invitation letter,
8. Ex.P8: Copy of the authorisation letter,
9. Ex.P9: Copy of relevant page of passport and Aadhar card of complainant's daughter,
10. Ex.P10: Copy of the pass port of complainant's husband,
11. Ex.P11: Copy of the complainant's Aadhar card.

**Witness examined on behalf of the Opposite Party:**

Mr.Srihari.M.B, who being the Deputy Manager of the opposite party has filed his affidavit.

**List of documents filed by the Opposite Party:**

1. Ex.R1: Certificate under Section 65 B,
2. Ex.R2: Copy of the Campus choice form,
3. Ex.R3: Copy of the fee challan,
4. Ex.R4: Copy of the receipt,
5. Ex.R5: Copy of the attendance record,
6. Ex.R6: Copy of the fee acknowledgement,
7. Ex.R7: Copy of the bunch of mail communication,
8. Ex.R8: Certificate under Section 65 B of Indian Evidence Act,
9. Ex.R9: Fee receipt,

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10. Ex.P10: H.S.R. Attendance sheet,  
11. Ex.P11: Copy of printout of refund rules issued  
by the opposite party.

*V.A. also*  
(V.ANURADHA)  
MEMBER

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*B. Devaraju*  
(B.DEVARAJU)  
MEMBER

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*Vijay Kumar M. Pawale*  
(VIJAYKUMAR.M.PAWALE)  
PRESIDENT

*Vijay Kumar M. Pawale*  
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