

**IN THE COURT OF THE DIST. CONSUMER DISPUTES REDRESSAL COMMISSION,CUTTACK.**

C.C.No.289/2023

Mr. Ashirbad Tripathy,

S/o: Lingaraj Tripathy,

At:Mahajanpur,P.O:Nischintakoili,

Dist:Cuttack,State:Odisha.

... Complainant.

Vrs.

The Managing Director,

UPSC Pathshala,

Care of :uFaber Edutech Pvt. Ltd.,

1<sup>st</sup> Floor,Global-1,

Above Croma Showroom,LBS Road,

Kurla West,Mumbai,Maharashtra-400070.

... Opp. Party.

Present: Sri Debasish Nayak,President.

Sri Sibananda Mohanty,Member.

Date of filing: 23.08.2023

Date of Order: 08.12.2023

For the complainant: Self.

For the O.P : None.

**Sri Sibananda Mohanty,Member.**

The case of the complainant in short is that he paid Rs.40,000/- towards online learning course fee for UPSC examination preparation classes to the O.P on 16.01.2022 and the period of said course is of three years. It is stated by the complainant that after few days of smooth functioning of mobile application, problems arose in joining the classes offered by the O.P, such as the Website of the O.P was down most of the time so also there was issue in joining the online classes due to lengthy navigation and also content of website were old as it was meant for the year 2016/2017. It is also stated that the teaching methodologies were not examination oriented and not par with the changing trend of UPSC examination. Due to such problem, the complainant complained his difficulties before

the O.P many times but his problem could not be solved by the O.P. It is stated by the complainant that on 27.5.2022 he had informed the O.P that he was not satisfied with their service and requested to refund his rest course fee i.e. Rs.35,324/- after deducting Rs.4676/- for the services availed by him for 128 days from 19.1.2022 when the on-line classless started. It is also stated by the complainant that he made multiple e.mail follow-ups with the O.P even shared all the reasons for opting out from course alongwith evidence of the issues faced in mobile application and website. It is further stated by the complainant that the O.P after lapse of 52 days of his refund request on 18.7.2022 and 21.7.2022 intimated him that his refund was under process but surprisingly, the O.P on 21.7.2022 in 2<sup>nd</sup> hour intimated him that his refund request cannot processed. The complainant being aggrieved by such action of the O.P approached the National Consumer Help line, Govt. of India on 21.7.2022 as well as State Consumer Advice Centre, Govt. of Odisha on 5.8.2022 for redressal of his grievances which yielded no result. Hence, the complainant has approached this Hon'ble Commission with a prayer for a direction to the O.P to refund rest of his course fee i.e. Rs.35,324/- as well as compensation of Rs.2,64,930/- towards his mental agony and unnecessary harassment so also a sum of Rs.50,000/- towards his litigation expenses.

In order to prove his case, the complainant has filed copies of some documents alongwith his complaint petition.

2. Having not preferred to contest this case, the O.P has been set exparte vide order dt.4.10.2023.
3. The points for determination in this case are as follows:
  - i. Whether the case of the complainant is maintainable?
  - ii. Whether there was any deficiency in service on the part of the O.P?
  - iii. Whether the complainant is entitled to the reliefs as claimed by him?

**Point no.ii.**

Out of the three points, point no.ii being the pertinent one, is taken up first for consideration here in this case.

It reveals from the complaint petition as well as copies of documents in particular e-mail correspondences as filed by the complainant that the complainant had faced problem in attending the online classes offered by the O.P due to the Website problem besides other issues. The e-mail correspondences as filed by the complainant also reveals that the O.P had admitted the defect in their Website to some extent. The complainant being dissatisfied with the O.P on 27.5.2022 had requested the O.P to refund the rest of course fees by deducting the fees for the period in which he had attended the classes. But the O.P after repeated correspondences made by the complainant for refund of course fees, only on 18.7.2022 after lapse of 52 days responded and processed the file of the complainant. At the first instances i.e. on 18.7.2022 & 21.7.2022(first hour) the O.P had processed case of the complainant in refunding part of course fees to the complainant. But surprisingly on 21.7.2022 at second hour rejected the refund requests of the complainant.

At this juncture it is relevant to go through the terms and conditions of O.P as filed by the complainant. As per clause-6 of that condition, the O.P is required to refund the full course fees, partial course fees if the student faces problem in joining the on-line classes. The O.P has not filed his written version. As such the contentions made by the complainant are deemed to be true. Hence, it is held that during on-line classes of O.P there was problem in Website, problem in joining the on-line classes, as well as extremely lengthy navigation of Website and for which the complainant wanted to discontinue the on-line classes of the O.P and wanted refund of his course fees. The clause-6 of the condition further stipulates that the problems are to be resolved within 30 days. But the O.P took 52 days for processing refund request of the complainant by violating the said condition of the clause.

Moreso, it would also be pertinent to quote the decision of the Hon'ble Supreme Court in the case of M/s. Fitjee Ltd. Vs. Jaipreet Singh Kaushal decided on 9<sup>th</sup> July,2018(Arising out of impugned final judgment and order dated 14.11.2017 in R.P No.918/2015 and 10.01.2018 in R.A No.261/2017 passed

by the National Consumer Disputes Redressal Commission, New Delhi wherein their lordships had upheld the decision of the Hon'ble National Consumer Disputes Redressal Commission and had dismissed the appeal preferred by M/s. Fitjee Ltd. In R.P. No.198/2015 decided on 10.1.2018, wherein the Hon'ble National Consumer Disputes Redressal Commission had observed that the Educational Institution is a facilitator/trainer body which comes under the definition of "service" as per the C.P.Act,2019. Accordingly, their lordships in the said Fitjee Ltd. case had directed refund of the coaching fee deposited by the complainant. Keeping this pertinent decision in mind, it can undoubtedly be said here in this case that the O.P is definitely a facilitator who provides educational service to the intending students by receiving coaching fee from them. The O.P has also admitted about the defects to some extent in its Website for which the complainant faced problem to attend the online classes. In view of the above discussions, it is held that the O.P has committed deficiency in service by not refunding the rest of the course fees to the complainant when it failed to provide proper service to him. Accordingly, this point goes in favour of the complainant.

**Points no.i & iii.**

From the discussions as made above, the case of the complainant is definitely maintainable and the complainant is entitled to the reliefs as claimed by him. Hence, it is so ordered;

**ORDER**

The case is allowed exparte against the O.P. The O.P is thus directed to refund the rest of the course fees i.e. Rs.35,324/- to the complainant alongwith interest thereon @ 8% from the date of refund application i.e. 27.05.2022 till the amount is quantified. The O.Ps are also directed to pay a sum of Rs.50,000/- to the complainant towards compensation for his mental agony and harassment as well as a sum of Rs.10,000/- towards cost of his litigation. This order is to be carried out within a period of 30 days from the date of receipt of copy of this order.

Order pronounced in the open court on the 8<sup>th</sup> day of December,2023 under the seal and signature of this Commission.

Mohanty  
Sri Sibananda

Member

Sri Debasish Nayak

President