

**CONSUMER DISPUTES REDRESSAL COMMISSION-VII
DISTRICT: SOUTH-WEST
GOVERNMENT OF NCT OF DELHI
FIRST FLOOR, PANDIT DEEP CHAND SHARMA SAHKAR BHAWAN
SECTOR-20, DWARKA,NEW DELHI-110077**

CASE NO. 238/2013

**Date of Institution:- 06/05/2013
Order Reserved on: - 18/05/2023
Date of Decision: - 24/08/2023**

IN THE MATTER OF:-

Shri Sudhir
S/o Sh. Yashwant Singh Negi,
Currently Residence at:
House No. 13, Block No. 96,
Sector-1, Pushp Vihar,
Saket, New Delhi-110085

....Complainant

VERSUS

Registrar,
Guru Govind Singh Indraprastha University,
Sector-16, Dwarka,
New Delhi-110075

..... Opposite Parties

ORDER

Prs R.C. Yadav, Member

1. Briefly stated the facts of the complaint are that the complainant did his BA from the Himachal Pradesh University in March 2007 and copy of BA Marks is Annexure-C1. Thereafter, the complaint did his mass

communication from Punjabi University in 2011 and the copy of the same is Annexure-C2.

2. The complaint was eligible for doing MBA course and he had applied for MBA course with the OP in opening 2011 session.

3. The OP had conducted the common entrance test for the MBA course which was held on 04/06/2011. The complainant has applied for the MBA course and OP has notified common entrance test (CET) and allotted Roll No.- 24303125 to the complainant. The complaint has appeared in the test on 04/06/2011 and result of the same was declared 06/06/2011 at the serial number 3995 in the merit list.

4. The OP had given notice for the first counseling on 03/07/2011 and its website which commenced on 04/07/2011 and 05/07/2011. The complaint was not in a position to attend counseling as he belongs to far rural areas. The complaint has appeared in second counseling on 11/09/2011 and the complainant has deposited Rs. 53,000/- against Receipt Number-98/1003 dated 11/09/2011 which is Annexure-C3.

5. The OP has assure the complainant that the Institute will provide him specialization Human Recourse (HR) for MBA Course and the complainant had taken the admission for the MBA on the assurance of OP.

6. On the next day of the admission, OP has refused to provide specialization Human Resources (HR) for MBA and thereafter the complainant had decided to leave the course. The OP has assured to refund the whole amount within 1 month.

7. The OP has received Rs. 53,000/- from the complainant had returned Rs. 13,000/- vide Cheque Number-212693 dated 13/01/2012 and Rs. 40,000/- is still pending with the OP.

8. Thereafter, the complainant has sent legal notice dated 17/03/2012 for refund of his remaining amount but the OP has not refunded the remaining amount. The copy of the legal notice is Annexure-C4.

9. Alleging deficiency in service the complainants file the present complaint on 06/05/2013 U/S 12 Consumer Protect Act 1986. He has prayed for direction to OP Institutes to refund Rs. 40,000/- along with Rs. 50,000/- for cheating and Rs. 20,000/- form mental.

10. Notice was issued to the OP. They have stated in the reply that the complaint has given an undertaking to avoid by the rules and regulation mentioned in the admission brochure and the undertaking form is a part of brochure. According to the admission brochure, and the aforesaid notification, the withdrawal of the admission was allowed only up to 5 PM of 25/07/2011.

“Hon’ble Delhi High Court in the case of Doctor Marine Corps Vs. Guru Govind Singh University decided on 03/06/2011 cited as 2011 AD Delhi 2:47 observed once having not withdrawn from that admission before the due time from the deadline stipulated in the admission brochure then the student cannot escape from the recited consequences.”

The OP have stated that the complaint is not maintainable and neither the complainant can be turned as a consumer under this act nor is imparting education by the Institutes as define in this act hence the complaint is liable to be dismissed. The complainant was fully aware of the nature of the course and the degree for which he has enrolled. The admission fee is not refundable which is clarified in the brochure.

11. The OP has also cited the case law prayed by the Hon’ble Supreme Court in Bharti Knitting Company Vs. DHL worldwide courier division of the air freight limited AIR 1996 Supreme Court (2508). Wherein it is categorically pronounced that if there is a agreement between the parties is laying down terms and conditions there in, such parties are bound by such terms of contract. Hence, the complainant cannot go behind the contract/agreement, and thus the complaint should be dismissed on the ground.

12. The complainant filed his rejoinder stating that the OP has refunded Rs. 13,000/- as a part of amount in question and the OP is legally bound to returned Rs. 40,000/- . The OP has stated that Rs. 13,000/- was returned as a excess fee to the complainant. The OP has filed the judgment passed by the Hon'ble Appex Court in PT Koshy & Ors. Vs. Ellen Charitable Trust & Ors. 2012 (3) CPC 613 (SC) in which it is held that "In view of the judgment that court in Mehrishi Dayanand University Vs. Surjeet Kaur (2010 (2) CPC 696 (SC) which is placing reliance on earlier judgment has categorically held that education is not commodity. Education Institutions are not providing any kind of service. Therefore, in a matter of education admission, fees etc., therefore, cannot a question of deficiency in service. Such matter cannot be entertained by the consumer forum under the Consumer Protection Act 1986.

13. We had carefully perused the documents placed on record by the contesting parties and have thoroughly considered their testimonies.

14. In our view of the present complaint squarely falls within ambit of the judgment passed by the Hon'ble Nation Consumer Commission on 15/10/2020 in Mannu Solanki Vs. Vinayak Misssion University wherein it is held by the Hon'ble Commission as below :-

“The Institution rendering education including vocational course and activities under taken during the process of 37 pre admission as well as pro admission and also imparting excursion tour, picnic, extra activities, swimming, sports, except coaching institution will therefore not record on the Consumer Protect Act 1986.

15. Under the circumstance we are constraint to dismissed the present complaint in light of

- Order be given dasti to the parties.
- The file be consigned to Record Room.
- Order pronounced on 17/08/2023 at 3.30 PM.

(R.C. YADAV)
MEMBER

(DR. HARSHALI KAUR)
MEMBER

(SURESH KUMAR GUPTA)
PRESIDENT