

**(2015) 01 NCDRC CK 0061**

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION**

**Case No:** None

Debi Prasad Dutta

APPELLANT

Vs

Ambika Prasad Dutta

RESPONDENT

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**Date of Decision:** Jan. 2, 2015

**Hon'ble Judges:** J.M.MALIK J.

**Advocate:** Pawan Kumar Ray

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**Judgement**

1. LEARNED counsel for the petitioners heard. The case of the complainant, Mr. Dipak Ghosh is this. In response to the advertisement made by Shri Debi Prasad Dutta and Shri Ambika Prasad Dutta, opposite parties 1 and 2, respectively; the complainant asked for admission of his daughter in MBBS course under management quota of some private medical colleges at Bangalore, Karnataka. This is an admitted fact that he paid a sum of Rs.15 lakhs for admission in the year 2010. As many as five years have already elapsed.

2. THE District Forum allowed the complaint and passed the following order:

"That the case being C.C. No. 144 of 2012 be and the same is decreed on contest against O.P. nos. 1, 2 and 5 and exparte against OP 4 with cost of Rs.10,000/- as prayed for and the case is dismissed on contest against OP 3 without cost.

All the OP except OP 3 are directed to refund the sum of Rs.15 lacs with interest @10% p.a. from the date of filing of the case till this day and to pay a compensation to the tune of Rs. 3 lacs within one month from this day, failing which, the entire amounts shall carry on interest @10% p.a. from the date of default till realization.

The cost shall be paid within the said period of one month from this day, in default the said amount shall also carry on interest @10% p.a. from the date of default till realization.

The said OPs are also directed to pay a sum of Rs.5 lac as penalty, out of which 25% shall be paid to the complainant and the rest 75% to be deposited to the Consumer Welfare Fund within one month from this day.

Let a plain copy of the judgment be supplied to the parties free of cost."

3. AGGRIEVED by that order, the appeal was preferred before the State Commission. The State Commission dismissed the appeal because it was delayed by 64 days.

Aggrieved by that order, a revision petition was filed before this Commission. This Commission directed the petitioner to deposit 50% of the decretal amount and directed the State Commission to hear the appeal. However, the petitioner did not deposit 50% on the ground that appellant No. 1 was suffering from illness and the appellants are not in a position to pay 50% of the decretal amount which is huge sum. That the appellants are unemployed. The State Commission gave a short shrift to this eye wash and dismissed the appeal.

4. STILL aggrieved, learned counsel for the petitioner has approached this Commission. He submits that OPs 1 and 2 did not obtain this money. This money was actually taken by Dr. Sumitra Gupta, OP 4. He is liable and the petitioners are not liable to pay the said amount.

5. LEARNED counsel for the petitioner asked for mercy. Those who cannot do mercy with others deserve no mercy for themselves. All the four opposite parties are working in cahoots with each other. Even if, the opposite parties 1 and 2 have not taken the amount, they are liable vicariously for the said amount. See the plight of the complainant who has lost Rs.15 lakhs for nothing. The OPs have tried to lead a

gullible person up the garden path.

6. LEARNED counsel for the petitioner submits that the complainant has received the part payment. Part payment be deducted and the rest amount be paid and the executing court is further directed to take similar action against OP 4 and decree be executed expeditiously.

7. I find no force in this revision petition, therefore, the same is hereby dismissed.