

Globsyn Business School Vs Mayuri Ghosh

Court: NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Date of Decision: May 31, 2013

Citation: 2013 0 NCDRC 482 : 2013 3 CPJ 118

Hon'ble Judges: K.S.CHAUDHARI , B.C.Gupta J.

Advocate: CHANDRACHUR BHATTACHARYA , Rajesh Biswas

Judgement

1. THIS revision petition has been filed by the Petitioner against the impugned order dated 25.9.2012 passed by the West Bengal State Consumer

Disputes Redressal Commission, Kolkata (in short, "the State Commission ") in S.C. Case No. FA/120/11 - Globsyn Business School Vs.

Mayuri Ghosh by which, while upholding order of District Forum, quantum of refund was modified.

2. BRIEF facts of the case are that complainant/respondent applied for admission in P.G.P.M./P.G.P.I.B. programme at the institution of

OP/petitioner on 24.2.2009. OP informed complainant about her selection and on 10.3.2009, complainant received offer letter for admission for

the session 2009-2011. On 8.4.2009, complainant sent cheque of Rs.35,000/- towards admission fees for P.G.P.M. course. OP also intimated to

the complainant that total course fees is Rs.5,35,000/-. On 7.5.2009, the complainant being hard pressed for financial crisis, requested OP to

refund Rs.35,000/- deposited as admission fees and later on also requested to admission coordinator for refund of fees. OP refused to refund fees

of the complainant. Alleging deficiency on the part of OP, filed complaint before the District Forum. OP contested complaint, filed written

statement and submitted that admission fees was non-refundable, as per offer letter dated 10.3.2009 and complainant deposited fees after having

knowledge of this condition. It was further revealed that out of 180 seats for this session, 165 seats were filled and 15 seats remained vacant. It

was further submitted that Rs.1,41,667/- was incurred as expenses by OP per candidate towards admission process and OP has already suffered

loss of Rs.21,25,000/-; hence, OP was not in a position to refund Rs.35,000/- received as admission fees and prayed for dismissal of complaint.

Learned District Forum after hearing both the parties allowed complaint and directed OP to refund Rs.35,000/-. Appeal filed by the petitioner was

dismissed by the learned State Commission vide impugned order, but reduced payment of Rs.35,000/- by Rs.1,000/- and directed petitioner to

refund Rs.34,000/- against which, this revision petition has been filed.

Heard learned Counsel for the parties and perused record.

3. LEARNED Counsel for the petitioner submitted that as per offer letter, admission fees was non-refundable, even then, learned State

Commission has committed error in dismissing appeal and affirming order of District Forum; hence, revision petition be allowed and impugned

order be set aside and complaint be dismissed. On the other hand, learned Counsel for the respondent submitted that order passed by learned

State Commission is in accordance with law, which does not call for any interference; hence, revision petition be dismissed.

4. IT is admitted case of the parties that complainant applied for admission in the institution of OP and OP vide letter dated 10.3.2009 selected

complainant for admission and asked complainant to make payment of first term tuition fees in confirmation of admission. It has specifically been

mentioned in this offer letter ""The fees once tendered as per the Fee Schedule will not be refunded under any circumstances "". Thus, it becomes

clear that as per offer letter, fees deposited by complainant upto first term tuition fees was non-refundable. Learned Counsel for the petitioner has

placed reliance on Vol. CXXXIV-(2003-2) The Punjab Law Reporter - Navdeep Singh Vs. I.I.T.T. College of Engineering, Village Pojewal,

District Nawanshahar and Ors. in which it was observed in paragraph 6 as under:

6. The petitioner has neither controverted the assertion contained in the written statement of respondent No.1 that as per the prospectus issued by

the University tuition fee and charges deposited at the time of admission are not refundable nor he has challenged the legality of that provision.

Therefore, in the fact of the prohibition contained in the prospectus against the refund of fee deposited at the time of admission, the Court cannot

issue a mandamus to the respondents for refund of fee to the petitioner "". He has also placed reliance on VOLCVII - (1994-2) The Punjab Law

Reporter - Raj Singh Vs. The Maharshi Dayanand University and Ors. in which it was observed in paragraph 10 as under: ""10. Students seeking

admission to professional colleges and even otherwise are fairly mature and are supposed to understand the full implications of filling the admission

forms and in any case these forms are invariably signed by their parents/guardians and it is so in the present case. The student, therefore, will have

to be taken to be bound by the information supplied in the admission form and cannot be allowed to take a stand that may suit him at a given time.

For what has been noticed, the view taken in Madhvika Khurana 's case (supra) cannot stand scrutiny and consequently the same is over-ruled.

He has also placed reliance on W.P. No. 2933 of 2011 - Amit Sadashiv Vaidya Vs. The Principal, K.C. College of Engineering, Kopri, Thand

and ors. in which Hon 'ble Bombay High Court observed as under: ""2. The rules which have been framed by the Directorate of Technical

Education provide for a refund of tuition fees in certain eventualities. In so far as is material, the rules stipulate that no refund of fees except for the

security of deposit can be granted where a request for cancellation of admission is received before or after the start of the academic session and

the seat cannot be filled by the institute. In the present case, the First Respondent has filed an affidavit stating that the seat which is allotted to the

petitioner could not be filled upon the petitioner vacating the seat. The petitioner, as the facts will show, withdrew from the seat at 3.40 p.m. on the

cut-off date which was 15 September 2010. Since the seat has remained vacant, a refund of fees is not envisaged under the rules. The college has

in fact stated that during a hearing before the AICTE, when the grievance of the petitioner was taken up, the college offered on humanitarian

grounds a refund of 25% fees which the petitioner refused to accept. Be that as it may, having regard to the clear provisions which have been

made in the rules, no case for the grant of a refund has been made out. The rules seek to balance on the one hand the refund of tuition fees to

students who obtain more preferential allotments with the rights of managements. In the present case as a result of the withdrawal by the petitioner

from the seat allotted, the seat would remain vacant for a period of four years. Hence, no case for interference is made out. The petition is

dismissed "".

In the light of aforesaid judgements, it becomes clear that admission fees deposited by complainant was not refundable and complainant was not

entitled to seek refund only on the ground of severe financial crises, particularly, when seat filled by the complainant remained vacant. As per

learned Counsel for the petitioner, out of 180 seats, 165 seats were filled and in such circumstances, complainant was not entitled to get refund of

fees and learned District Forum committed error in allowing refund of fees and learned State Commission has committed error in dismissing

appeal.

5. LEARNED Counsel for the respondent simply submitted that on account of financial crises, complainant was compelled to withdraw his

candidatures and sought refund of fees, in the light of University Grants Commission (UGC) Circular dated 23.4.2007. Learned Counsel for the

petitioner submitted that as petitioner was not getting any aid from the UGC, this Circular was not applicable in the present case. Learned Counsel

for the respondent could not show any document by which, it can be inferred that petitioner was getting aid from UGC and in absence of any aid,

Circular issued by UGC was not applicable and petitioner has not committed any deficiency in refusing refund of Rs.35,000/- received as

admission fees.

6. CONSEQUENTLY , revision petition is to be allowed and order passed by learned State Commission is set aside and complaint filed by the

respondent is dismissed with no order as to costs.