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(1995) 02 NCDRC CK 0006

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

RUCHIKA BHARTIA

APPELLANT

Vs

C.B.S.E.

RESPONDENT

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Date of Decision: Feb. 13, 1995

Citation: 1995 2 CPJ 436

Hon'ble Judges: R.N.Mittal , S.Brar J.

Advocate: Anita Sahni

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Judgement

1. -THIS order will dispose of Complaint Nos. C-4/92 and C-532/92 which contain common questions of law and fact. The facts in the order are being given from C-4/92. The complainant appeared in the examination of Class X, held by the Central Board of Secondary Education (C.B.S.E.) Opp. Party No. 1 (Opp. Party. 1), but her result was not declared by them. No. 2 is the General Secretary, Sanjay Gandhi Education Society Ltd. The Society is running the school named a Sanjay Bal Vidhyalaya, Noida and Opp. Party. 3 is the Managar of the said school. The complainant has prayed that her result in the above said examination be declared and the mark-sheet or the certificate be issued to her by Opp. Party. 1. She has also claimed damages from the Opp. Parties.

2. THE complaint has been contested by the Chairman of Secondary Education, Opp. Party 1. He inter-alia pleaded that the C.B.S.E. is not rendering any service, while conducting examinations and consequently the complainant is not a consumer as defined in the Act and therefore, cannot file a complaint.

The main question that arises for determination is, whether the complainant is a "consumer". We have heard the complainant and the learned Counsel for R-1 at a considerable length. It is pleaded by Opp. Party 1 in Para-2 of the preliminary objections that it is an autonomous body which is self financed. The Secretary, Department of Education, Ministry of Human Resource Development is its controlling authority. The Board is discharging the public functions of conducting public examinations at the Secondary and Senior Secondary level, affiliating schools all over the country and abroad, prescribing educational courses and generally maintaining the standards of school education, and advising the Government of India when called upon to do so on the matters pertaining to school education. From a reading of the aforesaid plea it is clear that the Board is autonomous and is not depending on the Government regarding finances. It is not necessary to dilate upon the question, as it has been held by the National Commission in Registrar, University of Bombay v. Mumbai Grahak Panchayat, Bombay I (1994) CPJ 146 (NC), 1st Appeal No. 284 of 1992 decided on 7.12.93, that the University while valuing the answer papers, or undertaking the re-valuation of the answer papers or the rechecking of marks awarded to a candidate at the instance of a candidate who had appeared for the examination, is not performing a "service" which had been hired or availed of for consideration and no consumer dispute can, therefore, be said to arise when a complaint made by the concerned candidate that the valuation, re-valuation or re-checking had not been properly done. It has relied upon its own decision in Joint Secretary, Gujarat Secondary Education Board v. D. Nithakar, I (1994) CPJ 187 (NC) decided on 29.9.93. It is true that in the present case the C.B.S.E. has not been constituted under a statute but it is an autonomous body and is conducting examinations of Class X and Class XII, which are recognised by all the Universities in the country. Therefore, in our view the above observations are applicable to C.B.S.E. as well. Consequently, Opp. Party 1 is not rendering service while conducting examinations of Class X and Class XII. As Opp. Party 1 is not rendering any service, therefore, the complainant is not covered by the definition of the word "consumer" as given in the Consumer Protection Act. If the complainant is not a "consumer", he is not entitled to file the present complaint. In Complaint No. 532/92 the complainant was suspected to have used unfair means and she was served with a notice by Opp. Party 1. After providing an opportunity of being heard, Opp. Party 1 came to the conclusion that she had not used unfair means and consequently her result was declared. She has claimed damages for harassment. She also does not fall within the definition of the word "consumer", and hence not entitled to file the complaint. For the aforesaid reasons we dismiss the complaint. However, we leave the parties to bear their own costs. Complaint dismissed without costs.