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STATE CONSUMER DISPUTES REDRESSAL COMMISSION
UTTAR PRADESH LUCKNOW

APPEAL NO. 1660 OF 2004

(against the judgment and order dated 31.07.2004 in Complaint case no. 304/2002 passed by the District Consumer Forum, Meerut)

Radha Govind Engineering College,
Garh Road, Meerut

Appellant

Versus

Sri Nitin Kapoor s/o Sri S.K. Kapoor,
r/o 955, Sector 2, Shastri Nagar, Meerut

Respondent

BEFORE

HON'BLE MR. JUSTICE BHANWAR SINGH, PRESIDENT
HON'BLE MR. CHANDRA BHAL SRIVASTAVA, MEMBER

For the Appellant : Sri S.K. Sharma, Advocate
For the Respondent : Sri Vikas Agarwal, Advocate

DATED: 30.03.2011

JUDGMENT

MR. JUSTICE BHANWAR SINGH, PRESIDENT (ORAL)

We have heard Sri S.K. Sharma, learned counsel for the appellant and Sri Vikas Agarwal, learned counsel for the respondent and perused the record.

The core issue which we are called upon to determine is as to "whether the appellant institute is or is not guilty of deficiency in service?"

The complainant applied for B.Tech. Electronics and Instrumentation Engineering Course in Radha Govind Engineering College and his application for admission was granted. He deposited on 13.07.2001 a sum of Rs.68,000/-. The engineering institute got permission to commence the course w.e.f. 01.11.2001. However, in the meantime, it appears that the respondent/complainant Nitin Kapoor lost ^{and justifiably so,} patience/as the education for the course could not be imparted from July to Oct. After long wait of more than three months he applied for return of his testimonials and then staked his claim for refund of fees.

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Whereas the appellant Radha Govind Engineering College has pleaded that the respondent was not entitled to claim refund of fees as per the terms and conditions of the admission, the respondent's version is that since there was an inordinate delay in commencement of the course and the position was uncertain he was driven to seek admission elsewhere and it was in these circumstances that he claimed refund of his fees. No doubt Clause 7 of the Admission Form appears to indicate that the fees once paid are not refundable yet the circumstances in which the complainant seems to have traversed does not justify the aforesaid Clause being attracted. Whereas the complainant had submitted that he kept on waiting for education of the course to commence upto Oct. 30, 2001 and when he could not get any intimation he applied for return of his educational certificates so that he could seek admission elsewhere, the appellant submits that it was not within its control to have forced the U.P. Technical University to grant permission to run the course before Nov. 2001. All the relevant facts and circumstances in which the delay for the requisite permission to run the course had taken place, have not been placed before us. And, then a very important question arises that unless the requisite permission to run the course was there why the appellant engineering institute had granted admission to the students. For a while, it can be assumed that it may be granted in anticipation of the permission to run the course but then if the permission is not received within a reasonable time, the students are bound to sink in frustration. It was perhaps under the same circumstances that Nitin Kapoor could not have waited for more than 3-1/2 months to join the class in the absence of University's permission. As already mentioned he deposited his fees amounting to Rs.68,000/- on 13.07.2001 and kept on waiting upto 30.10.2001 but all in vain. There is nothing on record that he had been informed well in advance about the permission to run the course having been granted to the college. We are therefore, of the decisive view that the respondent/complainant was fully justified for having withdrawn his educational certificates from the aforesaid college. Certainly the college was guilty of deficiency

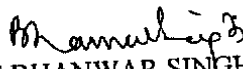
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in service as it had not run the course by making arrangement for imparting education to the students for more than 3-1/2 months. On account of this deficiency in service the complainant was entitled to claim refund of his entire fees i.e. Rs.68,000/-. Since one Pankaj Kumar Prajapati appeared in the examination with declaration of his result as is evident from the result sheet submitted by the learned counsel for the appellant, the college must not have certainly suffered any damages. We therefore, do not find any merit in this appeal.

Accordingly, the appeal is dismissed with costs which we quantify at Rs.5,000/-.

The complainant will get balance of the amount i.e. Rs.63,000/- alongwith interest @ 06% p.a. (Rs.5,000/- was paid soon after the refund was claimed).


(JUSTICE BHANWAR SINGH)
PRESIDENT


(CHANDRA BHAL SRIVASTAVA)
MEMBER

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