

S/76

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION  
NEW DELHI**

**REVISION PETITION NO. 3926 OF 2009**  
(Against the order dated 25.03.2009 in Appeal No. 616/2006 of the  
State Commission, A.P.)

1. THE REGISTRAR,  
ANDHRA UNIVERSITY  
VISHAKHAPATHAM,  
ANDHRA PRADESH
2. THE PRINCIPAL  
COLLEGE OF SCIENCE & TECHNOLOGY  
ANDHRA UNIVERSITY  
VISHAKHAPATNAM  
ANDHRA PRADESH

... Petitioner

Versus

JANJANAM JAGEDEESH  
S/O SHRI SESHAGIRI RAO  
R/O VALAPARALA,  
MARTUR MANDAL,  
PRAKASAM DISTRICT,  
ANDHRA PRADESH

... Respondent

**BEFORE:**

**HON'BLE MR. JUSTICE ASHOK BHAN, PRESIDENT**  
**HON'BLE MR. S.K. NAIK, MEMBER**

For Petitioner : Mr. M.Padhi, Advocate for  
Mr. S.S.Mishra, Advocate  
For Respondent : Mr. V.Sridhar Reddy, Advocate

**Pronounced on 6<sup>th</sup> July, 2010**

ORDER

Per S.K. Naik, Member

Aggrieved by the order of A.P. State Consumer Disputes Redressal Commission, Hyderabad (for short 'State Commission') dated 25.3.2009, the opposite parties before the District Consumer Disputes Redressal Forum, Ongole (for short 'District Forum') have filed this revision petition before us.

Facts of the case in brief are that on the basis of his performance in the entrance examination conducted by Andhra University and consequent to the counseling held for admission into various disciplines ; the respondent/complainant, as per his choice was given admission in M.Sc., Animal Biotechnology in the College of Science & Technology, Vishakhapatnam, Petitioner/opposite party No.2 an affiliate College of the University. The complainant paid a sum of Rs.40,600/- which was the fees for one academic year and got himself admitted on 30.6.2004. He had also deposited his original certificates with the petitioners/opposite parties. The complainant, it appears, had appeared in another entrance test conducted by National Dairy Institute at Hyderabad and on the basis of its result, he was offered admission into that institute. The offer, however, came to him

only after he had deposited the admission fee and certificate etc. with the petitioners/opposite parties. Since, the complainant wanted to switch over to the latter institute, he approached the petitioners/opposite parties to not only release the original certificates but also refund the fees deposited by him. The opposite parties, however, asked for a payment of another sum of Rs.40,315/-, which was the amount of fees for the second year as a condition precedent for returning his original certificates. Finding no other way, the respondent/complainant paid the fees for the second year as well allegedly, under pressure and got back his certificates for admission into the National Dairy Institute at Hyderabad. Since, he had not availed any service in the form of attending the course in the petitioners - institute, he filed a complaint before the District Forum seeking refund of total fees paid by him. The complaint, however, was resisted by the present petitioners on the ground that the complainant was asked to pay the total fees prescribed for two years under their rules and regulations. The opposite parties, however, had failed to file any evidence in support of their written statement. The District Forum, on consideration of the contentions raised by the parties, allowed the complaint and ordered the refund of the fees and in addition, awarded a compensation of Rs.20,000/-. Aggrieved thereupon, the present petitioners filed an appeal before the State

Commission who vide the order under challenge, upheld the District Forum's order with regard to the refund of the entire fee deposited but it reduced the award of compensation by 50% to Rs. 10,000/- only.

Aggrieved once again that the opposite parties who are the petitioners herein, have filed this revision petition.

We have heard the learned counsel for the parties and have perused the available records of the case.

For the reasons stated in the application for condonation of delay and there being no objection on the application from the learned counsel for the respondent/complainant, we condone the delay of 97 days in filing the revision petition.

At the time of admission of this revision petition, vide our order dated 2.12.2009, notice to the respondent/complainant was issued limited to whether the fora below should have ordered refund of the entire fees in view of the settled law on the subject that an institution was entitled to retain certain amount as it incurs expenditure on any printing of its brochure, advertisement, holding of entrance examination etc.? When the matter was finally taken up for arguments, learned counsel for the petitioner has submitted that the State Commission has failed to consider that as per the prospectus and the rules of the University, the fees once paid, would

not be refundable under any circumstance, nor it could be adjusted to any other account. The respondent/complainant was bound by the terms of the rules and the State Commission has exceeded in the exercise of its jurisdiction in holding it otherwise. On being asked, to point out the specific provision in the prospectus or the rules, learned counsel has not been able to show us any provision which stipulated that the fees once paid will be forfeited if a candidate withdrew from the institute even within a fortnight without attending any class. We have perused the photocopy of general instructions filed by the petitioner at page 28 of the paper book but do not find any such stipulations. Para 6 of the general instructions only states that **"a student once admitted into a course will get his/her original certificates only after completion of the course. Hence, they are directed to keep sufficient number of photocopies of their certificates with them"**. This clause does not refer to any condition that fees once paid will not be refunded under any circumstance.

Learned counsel has also referred to the recent judgment of the Hon'ble Supreme Court delivered in the case of **Bihar School Examination Board Vs. Suresh Prasad Sinha (2009) 8 SCC 483** and has tried to persuade us that in view of the said judgment, the University was not rendering any service and, therefore, the respondent was not a consumer. We have

noted his argument but we find that the said judgment was delivered by Hon'ble Supreme Court in the context of the conduct of examination only. On the contrary, the University Grants Commission (UGC) which is the Apex body to regulate the activities of various Universities/Colleges as issued guidelines in this regard vide a Public Notice which reads as under

*"It has come to the notice of the University Grants Commission (UGC) that institutions and universities including institutions deemed to be Universities are admitting students to various programmes of the studies long before the actual starting of academic session, collecting full fee from the admitted students, and, retaining their schools/institutions leaving certificate in original. The institutions and Universities are also reportedly confiscating the fee paid if a student fails to join by such dates. The Commission is of the view that the institutions/Universities, by way of retaining the certificate in original, force retention of admitted students which limits the opportunities for the candidates from exercising other options of joining other institutions of their choice. However, it would not be permissible for institutions and Universities to retain the school/institution leaving certificate, mark sheet, caste certificate and other documents in original.*

*The Ministry of Human Resource Development and University Grants Commission have considered the issue and decided that the institutions and Universities, in the public interest, shall maintain a waiting list of students/candidates in the*

event of a student/candidate withdrawing before the starting of the course, the wait-listed candidate should be given admission against the vacant seat. The entire fee collected from the student, after a deduction of the processing fee of not more than Rs.1000/- (one thousand only) shall be refunded and returned by the institution/University to the student/candidate withdrawing from the programme. Should a student leave after joining the course and if the seat consequently falling vacant has been filled by another candidate by the last date of admission, the institution must return the fee collected with proportionate deductions of monthly fee and proportionate hostel rent, where applicable. The Universities/Institutions are requested to abide by the instructions issued by the UGC. The UGC shall on its own or on receipt of specific complaints from those affected, take all such steps as may be necessary to enforce these directions. Institutions/Universities are also required to convey these instructions to the colleges affiliated to them. This notice has been reiterated subsequently also."

As per these guidelines which will have overriding effect over the University's own guidelines and keeping in view that the respondent/complainant in this case, within a week of depositing the fees and the certificates had requested for being withdrawn from the course without attending any class and in view of the UGC guidelines (*Supra*), we are of the view that the petitioners/opposite parties – institute was unfair in

retaining the entire fee, even after the student withdrew from their College. Besides, the petitioners have failed to prove that the result and vacancy was not filled up by any other candidate from the waiting list. Accordingly, we direct the petitioners/opposite parties to retain only Rs.1000/- of the fee deposited by the respondent/complainant and refund the balance amount with 6% interest p.a. This amount should be paid to the respondent/complainant within a period of two months failing which the petitioners will pay interest @ 10% p.a. from the date of the complaint till its payment. The revision petition, accordingly, is disposed of in the terms above.

Sd/-  
(ASHOK BHAN, J.)  
PRESIDENT

Sd/-  
(S.K. NAIK)  
MEMBER

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