



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON: 07.03.2019
DELIVERED ON : 12.04.2019
CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

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C.R.P. (PD) (MD) No. 2468 of 2015
and
M.P. (MD) No. 1 of 2015

The Principal and Dean,
C.S.I. Jeyaraj Annapackiam College of
Nursing and Allied Sciences,
Pasumalai,
Madurai - 625004.

.. Petitioner /Respondent No.1

Vs.

1.A.Preveena Melba, B.Sc., (Nursing)

...Respondent 1/Complainant

2.The Director,
Tamil Nadu Nurses and Midwives Council,
Chennai-600004.

3.The Registrar,
Tamil Nadu Dr.M.G.R. Medical University,
Chennai-600032.

4.The Joint Secretary,
Indian Nursing Council,
Combined Council Buildings,
Kottar Road Temple,
New Delhi-110002. .. Respondents 2 to 4/Respondents 2 to 4

Prayer : This Civil revision petition is filed under Article 227 of the Constitution of India, to call for the records and strike of the Consumer complaint in C.C.No.25 of 2015 filed by the first respondent/complainant from the file of the Tamil Nadu State Consumer Dispute Redressal Commission, Madurai Bench and strike of and reject the same and thus allow this Civil Revision Petition.

For Petitioner	: Mr.T.R.Jeyapalam
For 3 rd Respondent	: Mr.C.Karthik
For 1 st Respondent	: Mr.A.Gandiappan
For 2 nd Respondent	: No Appearance

ORDER

Heard Mr.T.R.Jeyapalam, learned counsel appearing for the petitioner, Mr.C.Karthik, learned counsel appearing for the third respondent and Mr.A.Gandiappan, learned counsel appearing for the first respondent.



2. This Civil Revision Petition has been filed against the order passed in C.C.No.25 of 2015 filed by the first respondent/complainant from the file of the Tamil Nadu State Consumer Dispute Redressal Commission, Madurai.

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3. On the side of the petitioner, it is stated that the petitioner is the Principal and Dean of the College in which the first respondent was a student and that the first respondent has filed a petition before the Consumer Forum which is not maintainable. It is stated that a student cannot be consumer and the issue was already decided by the Hon'ble Supreme Court in the Judgment passed in the case of **Maharshi Dayanand University v. Surjeet Kaur** reported in **2011 (1) MLJ 345** wherein it is stated that the student is not a consumer and the Consumer Forum is not entitled to entertain any complaint. A student is not receiving any service and the fees paid by the student is for educating them and not for any service.

4. The learned counsel appearing for the petitioner would rely upon the Judgment passed by the Hon'ble Supreme Court in the case of **Bihar School Examination Board v. Suresh Prasad Sinha** reported in **(2009) 8 Supreme Court Cases 483**, which reads as follows:

"Service"- "consumer"-Education matters-Whether a statutory Board conducting academic examinations, a service provider and examinee, a consumer under the Act-Held, statutory Board does not provide any service in the sense the term is used in the Act and examinee is not a consumer-Examinee on the other hand requests the examining body to test his competence to acquire a particular qualification-Examination fee paid by the examinee is also not a consideration for providing any service-Any dispute relating to fault in holding of examination and non-declaration of result of an examinee does not fall within the purview of the Act-Education and Universities-Educational examinations-Nature of legal relation between examining body and examinee"

5. On the side of the petitioner, it is argued that the first respondent is a student and the Management offered some concessions for her and she need not even pay the hostel fees. Even the amount after deduction was not paid by the first respondent. The certificate was already issued to her and just because her father is an Advocate, the petitioner has filed a consumer case and prayed the consumer case to be struck off.

6. On the side of the first respondent, it is stated that the first respondent jointed the Nursing course and the petitioner levied more fees than what was fixed by the Government. Even after the first respondent completed the course in the year 2012, the certificate was not handed over to her within the time for non payment of fees. Due to which, the first respondent lost the



opportunity of getting a foreign job. This create mental agony to the first respondent and the first respondent approached the Consumer Forum. Only after verifying the maintainability of the case, the Consumer Forum has admitted the case of the first respondent by fixing the first respondent as consumer. It is stated that if the petitioner is aggrieved by that, the petitioner can raise all the above said points in the consumer case before the Consumer Forum and there is no necessity to strike off the complaint before the Consumer Forum.

7.A perusal of the complaint reveals that the first respondent has failed to state what is the actual fees permitted by the Government and what is the fees demanded by the petitioner and the payment particulars thereof. There is a vague allegation that the petitioner has demanded extra fees and whether the first respondent has paid the said amount or not is not clearly stated in the petition. No list of documents is annexed with the complaint. No bank statement was filed to show that the loan was availed by the first respondent whether the loan amount was paid to the petitioner or to the institution is not clearly stated in the complaint.

8.It is seen that the first respondent was a student and she has completed her course and obtained the certificate. There is a vague allegation in the complaint that issuance of certificate was delayed for non payment of fees. When the certificate was due to be issued and when the same was actually issued to the respondent were not clearly stated in the complaint. What was the job opportunity missed by the respondent is also not stated in the petition.

9.The first respondent is only a student and the relationship between the petitioner and the first respondent is not of a consumer and a service provider. As there is no relationship of consumer and service provider, the Consumer Forum has no jurisdiction to try this case. If necessary the first respondent can approach the proper forum for getting her relief.

10.In the above circumstances, this revision petition is allowed and the complaint lodged by the petitioner in C.C.No.25 of 2015 on the file of the Tamil Nadu State Consumer Dispute Redressal Commission, Madurai is strike off. No Costs. Consequently, M.P.(MD) No.1 of 2015 is closed.

Sd/-

Assistant Registrar

/ True Copy /

Sub Assistant Registrar (CS)



To

1.The Tamil Nadu State Consumer Dispute Redressal Commission,
Madurai.

2.The Director,
Tamil Nadu Nurses and Midwives Council,
Chennai-600004.

+1 CC to M/s.T.R.JEYAPALAM, Advocate(SR-60952[F] dated 15/04/2019)

+1 CC to M/s.C.KARTHIK, Advocate(SR-60981[F] dated 15/04/2019)

+1 CC to M/s.GANDIAPPAN, Advocate(SR-61188[F] dated 16/04/2019)

C.R.P. (PD) (MD) No.2468 of 2015
12.04.2019

ES/DS/26.04.2019/4P/6C