

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 6906 of 2020 (O&M)

Date of decision : 21.9.2020

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Grewal Eye Institute Pvt. Ltd.

.....Petitioner

vs.

State Consumer Disputes Redressal Commission,
U.T., Chandigarh and others

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Amrinder Singh, Advocate
for the petitioner.

Mr. Anil Mehta, APP UT, Chandigarh.

Mr. Sandeep Khunger, Advocate for respondents No. 4 and 5.

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H. S. Madaan, J. (Oral)

Case taken up through video conferencing.

Complainants – Sandeep Khunger and Shabnam Khunger had filed a complaint against M/s Apollo Munich Health Insurance Company Limited, Gurugram and its branch at Chandigarh, as well as Grewal Eye Institute Private Limited, Sector 9-C, Chandigarh, before District Consumer Disputes Redressal Forum-I, U.T., Chandigarh. That complaint was accepted and Grewal Eye Institute Private Limited, Chandigarh – opposite party No.3, was directed to

pay an amount of Rs.1,01,000/- to complainant No.2 Shabnam Khunger alongwith interest @ 9% per annum w.e.f. 22.11.2017 till realization, in addition to paying Rs.20,000/- as compensation for causing mental agony and harassment. Whereas such Institute alongwith M/s Apollo Munich Health Insurance Company Limited, were directed to pay Rs.15,000/- the complainant No.2 Shabnam Khunger as costs of litigation.

Feeling aggrieved by that order dated 29.8.2019, passed by District Consumer Disputes Redressal Forum-I, UT Chandigarh, Grewal Eye Institute Private Limited, opposite party No.3 had preferred an appeal before State Consumer Disputes Redressal Commission, UT Chandigarh, which was however dismissed vide order dated 11.2.2020.

Such hospital/institute has filed the present civil writ petition under Articles 226/227 of the Constitution of India, seeking quashing of impugned order dated 11.2.2020 passed by the State Consumer Disputes Redressal Commission, UT, Chandigarh.

Respondents No. 1, 4 and 5 had appeared on account of advance copy having been served upon them.

Then the question arose with regard to maintainability of the writ petition, for the reason that the petitioner had efficacious remedy of filing revision before the National Commission, under Section 21 of the Consumer Protection Act, 1986.

Learned counsel for the petitioner, referring to various judgments i.e. **State of Karnataka vs. Vishwabharathi House**

Building Coop. Society and others (2003) 2 Supreme Court Cases 412; Embassy Property Developments Pvt. Ltd. vs. State of Karnataka, 2019 SCC Online SC 1542; Haryana Urban Development Authority through Its Secretary vs. Raj Dulhari and others MANU/PH/265/1998; Jodhpur Development Authority, Jodhpur vs. State Consumer Disputes Redressal Forum and others MANU/RH/1989/2015 and Enzen Global Solution Pvt. Ltd. vs. President, District Consumer Disputes Redressal Forum and others 2018 (II) ILR-CUT-340, has submitted that this Court has got jurisdiction to entertain and try the writ petition, especially when State Consumer Disputes Redressal Commission, UT, Chandigarh, lacked jurisdiction in the matter.

However, I am not convinced by the submission made by learned counsel for the petitioner.

From the record, it does not come out that State Consumer Disputes Redressal Commission, UT, Chandigarh, lacked jurisdiction in the matter, rather such State Commission had dealt with the appeal filed by Grewal Eye Hospital Private Limited, Chandigarh, before it, aggrieved by the order passed by District consumer Disputes Redressal Forum-1, UT, Chandigarh. Petitioner itself having approached the State Commission and now when the verdict has gone against it, saying that it lacked jurisdiction in the matter, does not make any sense. Even otherwise, the petitioner has got efficacious remedy provided under the Consumer Protection Act, 1986, of approaching the National Commission by way of filing a

revision petition and such Commission can certainly look into the legality and propriety of the order passed by the State Consumer Disputes Redressal Commission, UT, Chandigarh as well as District Consumer Forum, Chandigarh. The question whether the State Commission lacked jurisdiction in the matter can also be looked into by the National Commission.

The judgments referred to by learned counsel for the petitioner that in certain eventualities writ petition can be entertained by the High Court, do not find application to this case, on account of different facts, circumstances and the context in which such observations had been made.

Therefore, the writ petition cannot proceed further before this Court. The same is disposed of relegating the petitioner to the remedy of approaching the National Commission by way of filing the revision petition.

Since the petitioner has pursued the matter before this Court for about 7 months, the National Commission may look into the desirability of condoning the delay in filing the revision petition, in accordance with law.

21.9.2020
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No