



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.5680 of 2015
and M.P.No.2 of 2015

The Principal,
St.Joseph's Matriculation Higher
Secondary School,
Trichy Road, Coimbatore - 641018.

...Petitioner

Vs

1.District Consumer Disputes Redressal
Forum [DCDRF],
Rep. by its President,
Collectorate Complex,
Coimbatore - 641 018.

2.Minor R.Sri Tharin
Rep. by her Natural Guardian
and Father A.Radhakrishnan.

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the
Constitution of India, to issue a Writ of Certiorari, calling
for the records in respect of CC.No.365 of 2013 on the file of
the first respondent and quash the same.

For Petitioner : Dr.FR.A.Xavier Arulraj
Sr.Advocate
For M/s.Arul Mary
For Respondents: No appearance

O R D E R

The writ on hand has been instituted to quash the complaint
filed by the second respondent in C.C.No.365/2013. The second
respondent filed a complaint under Section 12 of the Consumer
Protection Act, 1986 before the District Consumer Disputes
Redressal Forum at Coimbatore seeking the relief of compensation
and to repay the fees amount collected by the writ petition
Institution.

2.Challenging the very complaint, the present writ petition
has been filed.



3.The learned senior counsel appearing on behalf of the petitioner mainly contended that the petitioner is Educational Institution and the services provided are personal services and the second respondent will not fall under the definition of 'consumer' within the meaning of the Act. Therefore, the very complaint itself is liable to be quashed. The learned senior counsel drew the attention of this Court with reference to the judgment of the Hon'ble Division Bench in the case of Registrar, University of Madras vs. Union of India in W.P.Nos.1700/1992 and batch dated 19.12.1994. Relying on the judgment, it is contended that when the complaint itself is not maintainable and the District Forum has no jurisdiction to entertain a complaint, then the writ petition is to be entertained.

4.This Court is of the considered opinion that the complaint admittedly is filed by the second respondent seeking certain relief. The District Consumer Forum is empowered to adjudicate the issues on merits including the maintainability of the complaint. The District Forum is empowered under the Act to decide all issues raised between the authorities including the ground of maintainability of the complaint under the provisions of the Consumer Protection Act. Thereafter, if the petitioner is aggrieved, then they are bound to approach the State Consumer Forum. Contrarily, the writ petition need not be entertained under Article 226 of the Constitution of India for the purpose of quashing of the complaint filed by the second respondent under Section 12 of the Consumer Protection Act.

5.The Division Bench judgment referred by the learned senior counsel is of no avail in view of the fact that the said case was filed challenging the constitutional validity of some of the provisions of the Act and therefore, the writ petition was entertained by the High Court. In case where the Consumer Forum is not functioning or become defunct, then writ petitions may be entertained by the High Court but not otherwise. Therefore, the grievances of the petitioner are to be redressed before the District Consumer Forum concerned by filing an appropriate counter or by filing an application for grant of relief and thereafter if aggrieved has to approach the State Consumer Forum for adjudication. Contrarily, the writ petition cannot be entertained for the purpose of quashing of the complaint filed under the provisions of the Consumer Protection Act. In the event of entertaining such writ petition, no doubt the High Court is unnecessarily interfering with the functioning of the District Consumer Forum under the provisions of the Act and the same will set a wrong precedent so as to pave way for such persons to approach the High Court in each and every occasion for the purpose of quashing of the complaint which is otherwise not permissible under the provisions of the Act.



6.This being the principles to be followed, the petitioner is at liberty to pursue the case before the District Consumer Forum and thereafter approach the State Consumer Forum, if they are still aggrieved in the manner prescribed under the provisions of the Act and by following the procedures.

7.The learned senior counsel for the petitioner made a submission that the petitioner has filed a petition to reject the complaint on the ground of maintainability. It is for them to pursue.

8.With this liberty, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

cse
To

District Consumer Disputes Redressal Forum [DCDRF],
Rep. by its President,
Collectorate Complex,
Coimbatore - 641 018.

+1 cc to Dr.FR.A.Xavier Arulraj, Advocate Sr.NO. 1896
W.P.No.5680 of 2015

SJ(CO)
A.SK(01.02.2022)