

07.08.2023
Sl. No.678
Ct. 19
sayandeep

CO 2448 of 2023

**Shri Tapas Kumar Datta
Vs.
Assistant Registrar (PG&R) & Ors.**

Mr. Tapas Kumar Datta
... Petitioner-person

This revisional application has been filed by a scholar who is aggrieved by the dismissal of his complaint case being CC/56/2023 passed by the learned Consumer Dispute Redressal Commission Kolkata 1 (North). The grounds for challenge are that (a) the learned Commission did not hear the petitioner (b) his miscellaneous application was pending (c) the complaint case was not time barred as erroneously held by the commission (d) an appeal would not lie in view of the inherent defect in the order.

The facts of the case are that the petitioner as a research scholar had submitted his Ph.D thesis in the Department of Metallurgical & Materials Engineering, IIT, Kharagpur along with the submission fee of Rs. 1000/-. The petitioner was informed that the examiners had rejected the thesis. After series of communication, the petitioner was informed that the examiners had recommended the thesis in 1997. Thereafter, the petitioner waited for a call to appear for viva voce as per

the Ph.D Regulations. As the petitioner did not get any call for the viva voce from the institute, the petitioner waited and the cause of action continued.

The learned tribunal rejected the said complaint case on the ground that the same was barred by limitation. Moreover, the consumer Protection Act, 2019 would not be applicable to educational institutions as educational institutions did not come under the purview of the said Act.

It is submitted by the petitioner that educational institutions have not been explicitly excluded, so the complaint case was maintainable.

Heard the petitioner.

Section 69 of the Consumer Protection Act, 2019 provides that the District Commission shall not admit a complaint unless it is filed within two years from the date on which the cause of action arose. According to the petitioner, cause of action is continuing, whereas, learned District Commission found that the complaint was barred by law. The Commission also held that educational institutions would not come within the purview of Consumer protection Act, 2019. The order impugned has been passed on merits by a competent tribunal. There is no inherent lack of jurisdiction or perversity in the order. Alternative remedy would be a bar. The order is appealable as per law. There is no scope for interference.

The petitioner had filed the complaint case in the capacity of a P.hd student against the university. Whether such issue was rightly decided by the District Commission shall be decided in the appeal. The general power of superintendence cannot be invoked unless the order is wholly without jurisdiction or is based on no evidence or is contrary to law.

Petitioner will be at liberty to approach the appropriate forum in accordance with law.

Accordingly, CO 2448 of 2023 is dismissed without any order as to costs.

The petitioner is at liberty to get back the certified copy of the impugned order, upon furnishing the photocopy thereof.

All parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)