



W.P(MD)No.28035 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2023

CORAM

THE HONOURABLE **MR.JUSTICE G.R.SWAMINATHAN**

W.P(MD)No.28035 of 2022

and

W.M.P(MD)No.22109 of 2022

The Registrar,
Shanmuga Arts and Science Technology
and Research Academy (SASTRA),
Tirumalaisamudram,
Thanjavur.

... Petitioner

Vs.

1.The District Consumer Disputes Redressal Commission,
Thanjavur.

2.B.Anjandevi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records in connection with the impugned order passed in C.C.No.71 of 2015 on the file of the first respondent, District Consumer Disputes Redressal Commission, Thanjavur, dated 29.06.2022 and quash the same.

For Petitioner : Mr.K.K.Senthil

For R-1 : Mr.M.Siddharthan
Additional Government Pleader

For R-2 : No appearance



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ORDER

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Heard the learned Counsel for the writ petitioner and the learned Additional Government Pleader for the first respondent. Though the second respondent has been served and her name has printed in the cause list, she has not chosen to enter appearance.

2. The case of the second respondent is that the petitioner Institution must compensate her to a tune of Rs.2,81,000/- for non refund of the tuition fee. The second respondent filed C.C.No.71 of 2015 before the District Consumer Disputes Redressal Commission, Thanjavur, vide order, dated 29.06.2022. The complaint was partly allowed and the petitioner herein was directed to pay a sum of Rs.2,81,000/- with 12% interest. Challenging the said order, this writ petition came to be filed. It is true that an order passed by the District Consumer Disputes Redressal Forum is appealable before the State Commission. However, where the lack of jurisdiction is apparent, the writ jurisdiction of this Court is very much available to be invoked.

3. The learned Counsel for the petitioner points out that the Hon'ble Supreme Court in the decision reported in **2010 (11) SCC 159 (Maharshi Dayanand University Vs. Surjeet Kaur)** had held that an Education Institution



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is not rendering service within the meaning of Consumer Protection Act and therefore any complaint filed against the Education Institution will not be maintainable. The said decision was recently followed by a learned Single Judge of this Court in W.P(MD)No.1631, 2972 & 16137 to 16140 of 2014, dated 29.11.2022. Interestingly, the petitioner herein was the petitioner in the said writ petition also. In paragraph Nos.18 to 23, the learned Single Judge has referred to earlier decisions of the Hon'ble Apex Court. Paragraph No.24 of the order reads as follows:

*"24. A combined reading of the judgments of the Hon'ble Supreme Court cited supra make it clear that, the Hon'ble Supreme Court has held that education is not a 'commodity' and Educational Institutions are not providing any kind of service and therefore, the matter of admission, fees etc., there cannot be a question of deficiency of service. Based on the said findings, the Hon'ble Supreme Court has categorically held that such matters cannot be entertained by the Consumer Forum under the Consumer Protection Act, 1986. It is also brought to the notice of the Court that the order of the National Consumer Disputes Redressal Commission in **Manu Solanki's case** has been challenged before the Hon'ble Supreme Court and the same has been admitted by an order, dated 15.10.2020. A perusal of the said order indicates that no interim order has been passed by the Hon'ble Supreme Court."*



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4. In the decision reported in **2020 SCC Online NCDRC page 7 (Manu Solanki and Others Vs. Vinayaka Mission University)** in paragraph No.51 it was held as follows:

“51. In view of the foregoing discussion, we are of the considered opinion that the Institutions rendering Education including Vocational courses and activities undertaken during the process of pre-admission as well as post-admission and also imparting excursion tours, picnics, extra co-curricular activities, swimming, sport, etc., except Coaching Institutions, will, therefore, not be covered under the provisions of the Consumer Protection Act, 1986.”

5. The order impugned in this writ petition was passed on 29.06.2022. I fail to understand as to how the President and two other members of the District Commission could have remained unaware of the binding precedents. In any event, the District Consumer Disputes Redressal Forum could not have acted contrary to the decision of the Hon'ble Full Bench of the National Consumer Disputes Redressal Commission. Accordingly, the order impugned in the writ petition is set aside and the writ petition stands allowed. There shall be no order



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as to costs. Consequently, connected Miscellaneous Petition stands closed.

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23.01.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Btr

To

The District Consumer Disputes Redressal Commission,
Thanjavur.



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G.R.SWAMINATHAN, J.

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