HC-KAR

NC: 2026:KHC:61276
WP No. 12810 of 2024

CNR: KAHC010269142024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE T.P.VIVEKANANDA

WRIT PETITION NO. 12810 OF 2024 (GM-CON)

BETWEEN:

EDUNEX-MYSKOOL
REPT. BY C.H. KALPANA
NO.101, A REGENCY ENCLAVE
MAGRATH ROAD, ASHOK NAGAR
BENGALURU-560 002

...PETITIONER

(BY SRI: N M SRINIVASA MURTHY, ADVOCATE)

AND:

MAMATHA ESTEVES
D/O LATE B.V. DAVID
REPT. BY ROSEMOUNT
INTERNATIONAL PRESCHOOL
R/O NO.142, 2ND MAIN, 2ND CROSS
DOMLUR 2ND STAGE
BENGALURU-560 038
(PARTY IN PERSON)

Digitally signed by
PREMCHANDRA M R
Location: HIGH
COURT OF
KARNATAKA

...RESPONDENT

(BY SRI: NISHANTH S K, ADVOCATE - [VC])

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO PASS ORDERS IN FORM OF CERTIORARI OR ANY OTHER APPROPRIATE ORDERS BY SETTING ASIDE THE ORDERS PASSED AS PER ANNEXURE-A DATED 20.04.2024 BY THE

LEARNED BENGALURU III ADDL. DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION BENGALURU IN CONSUMER COMPLAINT NO.96/2023 FILED BY THE RESPONDENT / COMPLAINANT IN THE ENDS OF JUSTICE AND EQUITY.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE T.P.VIVEKANANDA

ORAL ORDER

The petitioner is the opposite party in Consumer Complaint No.96 of 2023 before the III Additional District Consumer Disputes Redressal Forum, Bengaluru. The notice of the consumer complaint was served to the petitioner on 22.11.2023. In terms of the provisions of Section 38 of the Consumer Protection Act, 2019 (for short 'the Act'), the petitioner/opposite party was required to file the version within 45 days from the date of service of notice. The petitioner had filed the version on 08.01.2024 alongwith the application for condonation of delay in filing the version. The application for condonation of delay was considered by the District Forum and dismissed by order dated 03.05.2024 holding that the District

Forum has no power to condone the delay in filing the version and accordingly, proceeded further in the matter.

2. It is the submission of the learned counsel for the petitioner that the version was filed on 08.01.2024. On 07.01.2024 being Sunday, the version filed on 08.01.2024 is within 45 days and therefore, the order impugned is illegal and liable to be set aside and a direction be issued to the District Forum to accept the version and then proceed in the matter.

3. Learned counsel for the respondent, on the other hand, submits that the notice of the consumer complaint was served on 22.11.2023 and 45 days is expired on 06.01.2024 and therefore, there is delay of one day in filing the version, which cannot be condoned in light of the mandatory provisions of Section 38(2)(a) of the Act. In addition, it is the submission of learned counsel for the respondent that the order impugned is appealable under Section 41 of the Act before the State Consumer Dispute Redressal Commission and therefore, the writ petition is not maintainable.

4. At this juncture, learned counsel for the petitioner submits that notwithstanding the order impugned, by which, the application for condonation of delay is rejected and version filed by the petitioner is not taken on record, the petitioner be permitted to cross-examine the witness examined on behalf of the complainant and if such an opportunity is provided, he would not press the relief of setting aside the order impugned and for taking on record the version filed before the District Forum.

5. The said submission is not seriously opposed by the learned counsel for the respondent.

6. In the facts and circumstances of the present case, the request made by the learned counsel for the petitioner for providing an opportunity to the petitioner to cross-examine PW1 appears to be just and reasonable. It is well established that even in the absence of version having not been filed, the right of the opponent to cross examine the witness examined on behalf of the complainant cannot be denied.

7. The submission of learned counsel for the petitioner that he would not challenge the impugned order passed by the District Forum rejecting the application for condonation of delay in the light permission to cross examine the PW1 is placed on record.

8. In the result, the following:

ORDER

(i) The writ petition is ***disposed of.***

(ii) Challenge to the impugned order is rejected.

(iii) The petitioner is permitted to cross examine PW1 before the District Forum, on the next date of hearing.

Sd/-
(T.P.VIVEKANANDA)
JUDGE

BGN
List No.: 1 Sl No.: 39