

STATE CONSUMER DISPUTES REDRESSAL COMMISSION UTTARAKHAND
DEHRADUN

Date of Admission: 22.12.2022
Date of Final Hearing: 17.01.2026
Date of Pronouncement: 22.01.2026

SC/5/A/295/2022

Manager, Kasiga School
Village Purkul, Mussoorie Dehradun Diversion Highway
Dehradun, E.B.D. Business Centre
49, Rajpur Road, Dehradun

(Through: Sh. Kanwaljit Singh, Advocate)
..... Appellant

Versus

Sh. Arvind Soni S/o late Balveer Singh
R/o Mahamaya Niwas, Near Kevin Care
Sector – 4, SIDCUL, P.S. SIDCUL
District Haridwar – 249403

(Through: Sh. Brijesh Bhatia, Advocate)
..... Respondent

Coram:

Ms. Kumkum Rani,
Mr. B.S. Manral,

President
Member

ORDER

(Per: Ms. Kumkum Rani, President):

This appeal has been directed against the impugned judgment and order dated 26.11.2022 passed by learned District Consumer Disputes Redressal Commission, Haridwar (hereinafter to be referred as “The District Commission”) in consumer complaint No. 41 of 2022, styled as Sh. Arvind Soni Vs. Manager, Kasiga School, wherein and whereby the consumer complaint was allowed and the appellant / opposite party was directed to refund the balance security deposit to the tune of Rs. 1,49,000/- to the respondent / complainant together with

interest @6% p.a. from the date of filing of the consumer complaint, i.e., 29.01.2022 till payment, besides to pay Rs. 5,000/- towards compensation and Rs. 5,000/- towards litigation expenses.

2. The facts giving rise to the present appeal, in brief, are, as such that in the month of April, 2018, the respondent / complainant got his ward Master Parth Soni admitted in Kasiga School in Class – XI. At the time of admission of his ward in the School, the complainant had deposited sum of Rs. 1,50,000/- towards security deposit and he was assured that at the time of issuance of transfer certificate of complainant's ward as well as No Dues Certificate by the School, the security deposit would be refunded. The complainant's ward had cleared / successfully completed Class – XII in the academic session 2019-2020 and in his transfer certificate issued by the School, it was duly mentioned that all his dues have been cleared. Upon asking for refund of security deposit, the complainant was told that demand draft towards security deposit of Rs. 1,50,000/- would be sent to him. However, inspite of several requests by the complainant, the security deposit was not refunded by the School. A registered notice was sent by the complainant through his counsel to the School, but inspite of due service of notice, the security deposit was not refunded to the complainant. Thus, alleging unfair trade practice and deficiency in service on the part of the School, consumer complaint was submitted by the complainant before the District Commission.

3. The appellant / opposite party filed written statement before the District Commission and pleaded that an agreement dated 03.04.2018 was executed between the complainant and the School. Clause No. 4 of the agreement provides that “any arrears in the account of the student

will be adjusted from the security deposit”. Clause No. 15 of the agreement states that in the event of any dispute, difference or question arising out of or in respect of this agreement, the same shall be referred to arbitration, hence the Consumer Fora has no jurisdiction in the matter. A sum of Rs. 1,29,949.33/- was payable by the complainant towards the imprest account of the student on the day of his leaving the School and after adjusting the said sum, an amount of Rs. 20,050.67/- only was payable by the School, which was duly intimated vide notice dated 11.07.2021 sent by counsel for the School to the counsel of the complainant. The School was well within its right to recover Rs. 1,29,949.33/- out of the security amount of Rs. 1,50,000/- and the School has always volunteered to pay the amount of Rs. 20,050.67/-. The Commission has no jurisdiction to hear and decide the case, hence the consumer complaint is liable to be dismissed.

4. The District Commission, after hearing learned counsel for the parties and after taking into consideration the material available on record, allowed the consumer complaint vide impugned judgment and order dated 26.11.2022 in the above terms. Feeling aggrieved by the impugned judgment and order, the School has preferred the instant appeal before this Commission.

5. We have heard learned counsel for the parties and perused the record.

6. Learned counsel for respondent / complainant submitted that the amount of Rs. 1,29,949.33/-, as claimed by the School to be due against the ward of the complainant, has already been paid by the complainant to the School, but the School has wrongly adjusted / deducted the said

amount from the security amount deposited by the complainant with the School at the time of admission of his ward. We do not find any force in the aforesaid submission for the reason that there is neither any such pleading in the consumer complaint that the complainant has already paid the amount adjusted by the School from the security deposit, nor any documentary evidence has been produced by the complainant to show that he has deposited the amount of Rs. 1,29,949.33/- with the School, hence such plea is baseless.

7. So far as the plea of the School that the dispute was required to be referred to arbitration, in terms of clause No. 15 of the agreement, is concerned, Hon'ble National Commission in the case of **Sandeep Grover and another Vs. Sai Siddhi Developers and another** reported in **2023 (3) CPR (NC) 464**, has held that Arbitration and Conciliation Act, 1996 does not exclude jurisdiction of Consumer Fora. Hon'ble National Commission in the case of **National Seeds Corpn. Ltd. Vs. PV Krishna Reddy** reported in **I (2009) CPJ 99 (NC)**, has held that the Consumer Protection Act confers additional jurisdiction and does not exclude other remedies provided under different Acts.

8. So far as the jurisdiction of the District Commission to entertain the consumer complaint concerned, learned counsel for the appellant submitted that the School being an educational institution, is not "service provider" and there is no relationship of "consumer" and "service provider" between the son of respondent and the appellant. Thus, the matter in question could not be brought before the Consumer Fora for adjudication. In the case of **Bihar School Examination Board Vs. Suresh Prasad Sinha** reported in **IV (2009) CPJ 34 (SC)**, Hon'ble Apex Court has laid down that Bihar School Examination

Board does not offer “service” to any candidate, nor does any student hires or avails of any “service” from the Board for a consideration.

Paragraph No. 10 of the said decision is reproduced below:

“10. The Board is a statutory authority established under the Bihar School Examination Board Act, 1952. The function of the Board is to conduct school examinations. This statutory function involves holding periodical examinations, evaluating the answer scripts, declaring the results and issuing certificates. The process of holding examinations, evaluating answer scripts, declaring results and issuing certificates are different stages of a single statutory non-commercial function. It is not possible to divide this function as partly statutory and partly administrative. When the Examination Board conducts an examination in discharge of its statutory function, it does not offer its “services” to any candidate. Nor does a student who participates in the examination conducted by the Board, hires or avails of any service from the Board for a consideration. On the other hand, a candidate who participates in the examination conducted by the Board, is a person who has undergone a course of study and who requests the Board to test him as to whether he has imbibed sufficient knowledge to be fit to be declared as having competence vis-vis other examinees. The process is not therefore availment of a service by a student, but participation in a general examination conducted by the Board to ascertain whether he is eligible and

fit to be considered as having successfully completed the secondary education course. The examination fee paid by the student is not the consideration for avilment of any service, but the charge paid for the privilege of participation in the examination.”

9. Hon’ble National Commission in its judgment dated 17.12.2017 rendered in **Revision Petition No. 3144 of 2016; Krishan Mohan Goyal Vs. St. Mary’s Academy and another**, has discussed the law laid down by Hon’ble Apex Court in **Maharshi Dayanand University Vs. Surjeet Kaur** reported in **(2010) 11 SCC 159**, in which it has been laid down by Hon’ble Apex Court that a student is neither a consumer, nor the University is rendering any service, relying on the decision given in the case of **Bihar School Examination Board** (supra). Relevant portion of the said decision is reproduced below:

“The respondent as a student is neither a consumer nor is the appellant rendering any service. The claim of the respondent to award B.Ed. degree was almost in the nature of a relief praying for a direction to the appellant to act contrary to its own rules. The National Commission, in our opinion, with the utmost respect to the reasoning given therein did not take into consideration the aforesaid aspect of the matter and thus, arrived at a wrong conclusion. The case decided by this Court in Bihar School Examination Board (supra) clearly lays down the law in this regard with which we find ourselves in full agreement with. Accordingly, the entire exercise of entertaining the

complaint by the District Forum and the award of relief which has been approved by the National Commission do not conform to law and we, therefore, set aside the same.”

10. Hon’ble Apex Court in **Civil Appeal No. 17802 of 2017; Anupama College of Engineering Vs. Gulshan Kumar and others**, decided on 30.10.2017, has held that in view of the judgment of this Court in **Maharshi Dayanand University** (supra), wherein this Court placing reliance on all earlier judgments, has categorically held that educational institutions are not providing any kind of service, therefore, in matter of admission, fees etc., there can not be a question of deficiency in service and such matter can not be entertained by the Consumer Forum under the Consumer Protection Act, 1986.

11. Hon’ble National Commission in its judgment rendered in the case of **Director of Xavier Institute of Management & Entrepreneurship Kinfra Hi-Tech Park and others Vs. Sujay Ghose** reported in **III (2022) CPJ 6 (NC)**, has specifically held that the Educational Institute does not fall within purview of Consumer Protection Act, 1986, as it is not rendering any services. While coming to the above conclusion, Hon’ble National Commission has relied upon a decision of Larger Bench of three Members of Hon’ble National Commission in the case of **Manu Solanki and others Vs. Vinayak Mission University and other connected cases** reported in **I (2020) CPJ 210 (NC)**, wherein the Larger Bench has held that educational matters do not come within the purview of the Consumer Protection Act, 1986 and, therefore, the complaint is not maintainable.

12. Considering the aforesaid facts and circumstances of this case as well as the law laid down in the case of **Bihar School Examination Board** (supra); **Maharshi Dayanand University** (supra); **Anupama College of Engineering** (supra) and **Director of Xavier Institute of Management & Entrepreneurship Kinfra Hi-Tech Park and others** (supra), it is crystal clear that the son of respondent / complainant being a student was neither a “consumer”, nor the appellant can be termed as “service provider”. Accordingly, we are of the view that the matter in question can not be brought before the Consumer Fora.

13. On the basis of the appreciation of evidence on record as well as law on the subject, we are of the considered opinion that the finding of the District Commission is perfectly unjustified and not in accordance with law on the subject and we find illegality and irregularity in the impugned judgment and order passed by the District Commission and we are inclined to interfere with the finding recorded by the District Commission in our appellate jurisdiction. Thus, the appeal deserves to be allowed and the impugned judgment and order passed by the District Commission is liable to be set aside and consumer complaint warrants dismissal.

14. Appeal is allowed. Impugned judgment and order dated 26.11.2022 passed by the District Commission is set aside and consumer complaint No. 41 of 2022 is hereby dismissed. No order as to costs of the appeal. The amount deposited by the appellant with this Commission, be released in its favour.

15. A copy of this Order be provided to all the parties free of cost as mandated by the Consumer Protection Act, 1986 / 2019. The Order be uploaded forthwith on the website of the Commission for the perusal of the parties. A copy of this Order be sent to the concerned District Commission for record and necessary information.

16. File be consigned to record room along with a copy of this Order.

(Ms. Kumkum Rani)
President

(Mr. B.S. Manral)
Member

Pronounced on: 22.01.2026