

Fakhar Abbas Vs Limit College of Law etc.

Date of institution:-07-09-2011 Dated of Decision :- 25-10-2011

25-10-11

Present: Claimant alongwith his counsel.
Defendant No. 3 is present in person and on behalf of other defendants.

Order.

The file is taken up today because of holiday due to sad demise of Begham Nusrat Bhutto. Written statement on behalf of defendants filed. Arguments on behalf of both the parties regarding maintainability of the claim on legal and factual side were heard. The material likely to be produced by the parties, was already part of record.

Fakhar Abbas, the claimant took admission in LLB- part 1 in Limit College of Law, Sahiwal. It was settled that he would pay Rs. 15,000/- (Fifteen thousand rupees) for one year. Anyhow, the claimant paid Rs. 5000/- (Five thousand rupees) and attained the status of regular student. On 16-07-11, the class fellows of the claimant informed him to pay remaining fee of Rs. 10,000/- (ten thousand rupees) so that his registration could be made for LLB- part-1 examination. The claimant approached the defendants but he was apprised that his registration had been got cancelled from university. Allegedly, he was extended threats. The claimant submitted that due to overt act and fraud of the defendants, he had to suffer mental torture and agony. He claimed Rs. Five lac as damages besides counsel fee Rs. 15,000/- (Fifteen thousand rupees) from the defendants.

The defendants, in the written statement, submitted that the claimant had filed the instant claim just to blackmail the institution. The claimant paid Rs. 5,000/- (Five thousand rupees) in total and avoided to pay remaining Rs. 10,000/- (ten thousand rupees) till last. Despite all that, in order to save the future of the claimant, the College Administration collected donations from its own sources and got the claimant registered with university and ultimately, his name was registered enabling him to appear in LLB- part 1 examination.

During arguments, it was admitted on behalf of both the parties that total package of fee for LLB was Rs. 45,000/- however, with mutual consent and understanding of both of them, the claimant admitted to pay Rs. 15,000/- (Fifteen thousand rupees) in total but in installments. The educational year of LLB- part 1 started in the month of August/ September 2010 to end in May/June 2011. Admittedly, during the said period, the claimant paid Rs. 5,000/- (Five thousand rupees) only.

He was under a legal obligation to pay remaining fee of Rs. 10,000/- (ten thousand rupees) in installments. It was apparent from the record that claimant was reluctant to pay it. As per claimant's own admission, he approached the College Authorities to pay Rs. 10,000/- in the Month of July. Significantly, he kept mum on the point of payment of installments in time during the whole year. It therefore can be said that the claimant remained failed to perform his part of contract. He paid Rs. 5,000/- only but he was expecting his registration for appearance in LLB- part 1 examination without payment of remaining dues of Rs. 10,000/-. He got education for full academic year without payment of settled fee. Patently, the claimant was at fault.

The written statement filed by defendants supported by registration card issued by B.Z University (Pakistan) Multan indicates that the claimant was registered vide No. 2009-ZM-2342 for appearance in LLB- part 1 examination. As asserted by the defendants, donations were collected by the College Administration from its own sources to save the future of the claimant. The Principal of the college appearing on behalf of all the defendants expressed sorry and grief over the sentiments of the claimant if hurt due to any omission but still, the claimant was insisting to pursue his claim. What I feel is that claimant wants to bring the college administration under some pressure and also he wants to humiliate it in order to achieve some ulterior motives.

A dispute between a student and Allama Iqbal Open University had arisen in past which was decided by the learned Consumer Court, Faisalabad. The claim filed by the student was accepted by the Court. Allama Iqbal Open University filed an appeal before the Honourable Lahore High Court which was heard and decided by Honourable Mr. Justice Nasir Saeed Shaikh. The Honourable High Court was pleased to hold that university was an educational institution and cannot be described to have undertaken commercial activity. Definition of term consumer in clause C of Section 2 of the PCPA 2005 contemplating hiring of services for a consideration and definition was not applicable to the matter wherein student had submitted application for appearing in any examination to be conducted by a educational institutional. Neither the student appearing in the examination held by the university could be described as a consumer as defined in Section 2 (c) of the PCPA 2005 nor the university was a service provider as envisaged in the provision of section 2 (k) of PCPA 2005. The complaint lodged by the student was

held to be not maintainable before the consumer court. Thus, the appeal was accepted and order accepting the claim of the student by the learned Consumer Court, Faisalabad was set aside (Allama Iqbal Open University through Vice chancellor and 4 others versus Irfan Bota and another PLD 2011 Lahore 239).

In view all the observations recorded above and salutary guidelines provided in the above mentioned judgment of Honourable Lahore High Court, the claim of the claimant is held to be misconceived, baseless and frivolous and therefore, the same is hereby dismissed with fine of Rs. 5000/- (Five thousand rupees) out of which Rs. 3,000/- shall be paid to the defendants within 30 days from this order and remaining 2,000/- will be deposited under relevant government head.

Since the claimant had been registered with concerned University for appearance in LLB-part 1 examination with appreciable efforts of the defendants and registration card is lying with the institution, therefore, in order to save the future of the claimant, it would be appropriate if College Authorities / defendants handover the registration card to the claimant but subject to payment of entire outstanding dues.

File be consigned after its due completion.

Announced.

25-10-11

District & Sessions Judge/District Judge
Consumer Court Sahiwal