

**BEFORE THE CHAIRPERSON H.P. PRIVATE EDUCATIONAL INSTITUTIONS  
REGULATORY COMMISSION AT SHIMLA**

**Case No. 3 of 2014**  
**Filed on: 13.01.2014**  
**Decided on: 30.03.2016**

Shri Rajinder Kumar son of Shri Sukh Pal Sharma resident of Village Kohari, P.O. and Tehsil Kandaghat, District Solan (HP) ... Complainant

Versus

APG University, Village Pujarli, Mehli-Shoghi Bye-Pass Road, Shimla (HP) through its Registrar. ... Respondent

**Refund of Fee and Security amount**

For the complainant: Rajinder Kumar in person

For the respondent : Shri Rajan Sehgal, Registrar

**PRELIMINARY ORDER**

Complainant Shri Rajinder Kumar filed a complaint and stated that his son Sh. Shubham Sharma had taken admission in B. Tech (Mech) in APG University Shimla. He deposited Rs. 81,500/- with the APG University. But due to much travelling and for the health reasons of his son, his son could not continue the course. The complainant requested the University to discontinue his son's admission and to refund fee and security deposits. However, the University denied therefore, the complainant approached the H.P. Private Educational Institutions Regulatory Commission for redressal of his grievance.

On receipt of his complaint the H.P. Private Educational Institutions Regulatory Commission (hereinafter referred to as "Commission" for brevity sake) issued notice to the Registrar APG Shimla University on 27.10.2014 and directed to intimate reasons for non-refund of the amount to the complainant. The University did not care to reply to the said notice. The Commission issued reminder on 8.12.2014 and sought reply to the notice by 10.12.2014. This time also the respondent University miserably failed to submit reply to the notice dated 27.10.2014. Thereafter the Commission issued notice on 19.10.2014 and directed the respondent University to submit its reply latest by 29.12.2014 and also to appear personally before the Commission on 5.1.2015. Complainant was also called for personal hearing on the said date.

On 5.1.2015 Shri Rajan Sehgal, Registrar APG Shimla University appeared in person. Shri Rajinder Kumar, complainant also appeared in person. Shri Rajinder Kumar stated that he had got admission for his son in B. Tech (Mech) in APG Shimla University and paid Rs. 81,500/- in cash on 28.7.2014. His son attended classes w.e.f. 6.8.2014 to 16.8.2014 whereafter he had to discontinue his studies for health reasons. For refund of money he had visited office of Dr. Ajit Nedungadi Director (Admission & Marketing) APG University in the month of September, 2014. However Dr. Ajit flatly refused to refund any money. Seeing the attitude of Dr. Ajit he could not file any refund case in writing with the APG University

and approached the Commission for getting refund of his money from the APG University. He requested that the money to which he is held entitled may be got refunded to him. In support of his submission he submitted written statement which was taken on record.

Shri Rajan Sehgal Registrar did not submit any reply to the notice issued on 27.10.2014 even on the date of hearing i.e. 5.1.2015. He, however, stated that Shri Rajinder Kumar has not filed any written request for refund with the University. With regard to non-reply to the notices dated 27.10.2014 and 8.12.2014, Shri Rajan Sehgal could neither give any satisfactory reply nor submitted any documentary proof.

After hearing both the parties, Shri Rajinder Kumar was directed to submit his refund case with the APG University immediately. Shri Rajan Sehgal was also directed to furnish his action taken report within two days.

On 16.01.2015. Office report called for. Shri Amit Katoch, Sr. Assistant stated that APG University has submitted its report which was received in the Commission on 9.1.2015. The same was taken on record. On examination of report/ documents submitted, it was observed that the University has not sent Information Brochure which was stated to be enclosed with the report. Registrar APG University was directed to submit Original Information Brochure applicable for admission of students in B. Tech (Mech) for the session 2014-15 and the same to reach Commission by 20<sup>th</sup> January,2015. The University submitted the printed "Information Brochure" on 22.01.2015.

Respondent University in its reply/report stated that Mr. Shubham Sharma was registered for admission in B. Tech. (ME) after paying Rs. 10,000 on 26.06.2014. Thereafter he deposited Rs. 71,500 on 28.07.2014 and got admitted in B. Tech. (ME) degree course. Shri Sehgal contended that he never applied for refund. His claim is also not justified as the Child Master Shubham attended the University for a few days and thereafter dropped out. The seat which fell vacant after his leaving the course could not be filled. He further contended that as per UGC guidelines, no refund is admissible, however in this case, security of Rs. 10,000/- can be refunded.

After going through the record submitted by both the parties and hearing submissions made by them, the following issues emerged for consideration and findings against each are recorded:

**1. Whether Shri Shubham ward of the complainant was admitted in the APG Shimla University within the admission schedule?**

Before proceeding further in this case it is essential to know the last date of admission. The Principal Secretary (Hr. Education) to the Government of Himachal Pradesh vide its letter No. EDN-A-Ka(9)-2/2012-Loose dated 30.08.2014 decided as under:

**"It is made clear that admissions in UG course in Engineering and Technology have to be made as per guidelines already prescribed by the Hon'ble Supreme Court of India in Civil Appeal No. 9048 of 2012 and 9047 of 2012 and hence no further extension in date of admission is possible."**

It is pertinent to mention here that the Hon'ble Supreme Court of India in Civil Appeal No. 9048 of 2012 titled Parshavanath Charitable Trust and others Vs. All India Council for Technical Education and others and Civil Appeal No. 9047 of 2012 titled

ChetanPathare&Anr. Vs. All India Council for Technical Education and others has approved the schedule of admission/examination as under:

<b>Event</b>	<b>Schedule</b>
<b>Conduct of Entrance Examination (AIEEE/State CET/Mgt. quota exams etc.)</b>	<b>In the month of May</b>
<b>Declaration of Result of Qualifying Examination (12<sup>th</sup> Exam or similar) and Entrance Examination</b>	<b>On or before 5<sup>th</sup> June</b>
<b>1<sup>st</sup> round of counselling/ admission for allotment of seats</b>	<b>To be completed on or before 30<sup>th</sup> June</b>
<b>2<sup>nd</sup> round counselling for allotment of seats</b>	<b>To be completed on or before 10<sup>th</sup> July</b>
<b>Last round of counselling for allotment of seats</b>	<b>To be completed on or before 20<sup>th</sup> July</b>
<b>Last date for admitting candidates in seats other than allotted above</b>	<b>30<sup>th</sup> July.</b> <b>However, any number of rounds for counselling could be conducted depending on local requirements, but all the rounds shall be completed before 30<sup>th</sup> July.</b>
<b>Commencement of academic session</b>	<b>1<sup>st</sup> August</b>
<b>Last date upto which students can be admitted against vacancies arising due to any reason (no student should be admitted in any institution after the last date under any quota)</b>	<b>15<sup>th</sup> August</b>
<b>Last date of granting or refusing approval by AICTE</b>	<b>10<sup>th</sup> April</b>
<b>Last date of granting or refusing approval by University/ State Govt.</b>	<b>15<sup>th</sup> May</b>

**Para 44 of the judgment reads, “The admission to academic courses should start by 1<sup>st</sup> August of the relevant year. The seats remaining vacant should again be duly notified and advertised. All seats should be filled positively by 15<sup>th</sup> August after which there shall be no admission, whatever be the reason or ground.”**

In any case the last date for admission in UG course in Engineering and Technology was 15<sup>th</sup> August, 2015 for the students against vacancies arising due to any reason. As per statement given by Shri Rajinder Kumar the admission was taken on 28.7.2014 which is duly corroborated by the cash receipt issued by the APG Shimla University against a sum of Rs. 71,500/- (Tuition Fee Rs. 37,500/-, Development Fee Rs. 10,000/-, Security Rs. 10,000/-, Transportation Fee Rs. 13,000 and Prospectus Rs. 1,000/-). However, the complainant has paid Rs. 10,000/- as registration in cash to the respondent University against its receipt dated 26.6.2014.

It can, therefore, be held that the ward of the complainant had taken admission within the admission schedule. He attended classes between 6/8/2014 and 16/8/2014.

- 2. Whether the condition of filling up vacant seat (vacated by Mr. Shubham) is applicable in this case when he left the University after the last date of admission? If so whether the tuition fee is refundable even proportionately?**

To arrive at some conclusion, it is necessary to go through the copy of letter dated 21.06.2011 issued by UGC to all the Vice Chancellor of State Private Universities, as submitted by the respondent University clearly stated, **“Universities/ Institutions have already been requested by the UGC to maintain a waiting list of students/ candidates. In the event of a student/ candidate withdrawing before the starting of the course, the waitlisted candidates should be given admission against the vacant seat. The entire fee collected from the student, after a deduction of the processing fee of not more than Rs. 1000/- shall be refunded and returned by the State Private University to the student/ candidate withdrawing from the programme. Should a student leave after joining the course and if the seat consequently falling vacant has been filled by another candidate by the last date of admission, the State Private University must return the fee collected with proportionate deductions of monthly fee and proportionate hostel rent, where applicable.”**

As discussed above in this case the last date of admission was 15.08.2014. Shri Shubham left the University after the last date of admission. The question of filling up the seat vacated Shri Shubham before the last date of admission i.e. 15.08.2014 does not arise at all. Therefore, the complainant has lost its right to get refund of tuition fee in this case, as other fee i.e. hostel rent was not paid by the student being non-resident student. He actually attended classes and dropped out after last date of admission. In the circumstances, the complainant is not entitled for refund of tuition fee from the respondent University.

- 3. Whether other fee/amount is refundable fully or proportionately (except security amount of Rs. 10,000/- which has been admitted by the University to be refundable) to the complainant whose ward left the University midstream after the last date of admission i.e. 15.08.2014?**

As per Fee Structure in the case of B. Tech (Mech.) courses approved by Government of Himachal Pradesh vide its letter No. EDN-A-Ka(5)-2/2014-Fee Structure dated 25.06.2014, One Time Caution Money for Hostel is Rs. 10,000/- in the case of University and the same is refundable. It has further been stipulated that the University shall charge the fees under the four heads only and no other fees shall be charged under any other head. The four heads are as under:

Tuition & all other fees (Annual in Two equal instalments)	Rs. 95,000/-
Institutional Development charges (Annual)	Rs. 10,000/-
Caution Money (One Time)	Rs. 10,000/-
Hostel Security (One time)	Rs. 5,000/-

The respondent University charged fee against the following heads:

Registration charges	Rs. 10,000/-
Tuition Fee	Rs. 37,500/-
Development Fee	Rs. 10,000/-
Security	Rs. 10,000/-
Transportation Fee	Rs. 13,000/-
Prospectus	Rs. 1,000/-
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Total:	Rs. 81,500/-

If the heads under which the respondent University has charged fee are compared with the approved fee schedule then it is evident that respondent University has deviated by charging “**Registration Fee**” as Rs. 10,000/- on 26.06.2014. It has clearly been stipulated in the approval of final fee structure in respect of respondent University, “**The University shall charge the fees under the four heads only and no other fees shall be charged under any other head by the University.**” Further the respondent University has not submitted any record with regard to the fact that as to how many days Shri Shubham attended the University and on what date he dropped out. In the case at hand, the father of the student stated that his son attended classes w.e.f. 6.8.2014 to 16.8.2014. The complainant has paid Rs. 13,000/- against transportation charges, which facilities were availed by the ward of the complainant partially i.e. w.e.f. 6.8.2014 to 16.8.2014, as such the respondent University cannot withhold the entire amount against the facilities which were partially/meagrely availed by the ward of the complainant. Though it has not been made clear as to which period the transportation charges were collected by the University, yet it can fairly be assumed that the entire charges were collected for one semester i.e. 6 months, as tuition fee is supposed to be charged for one semester in this case as per directions of the Hon’ble Supreme Court. Keeping the refund of tuition/ institutional development fee aside for the reasons that the ward left midstream after the last date of admission being “non-refundable”; the proportionate transportation charges to the extent of Rs. 12,000/- are refundable to the complainant besides security of Rs. 10,000/- and illegally charged registration fee of Rs. 10,000/-.

I, therefore, hold that the proportionate transportation charges to the extent of Rs. 12,000/- are refundable to the complainant besides security of Rs. 10,000/- and illegally charged “Registration Fee” of Rs. 10,000/-.

The respondent University is, therefore, directed to refund the amount of Rs. 32,000/- (Rs. 10,000/- as security, Rs. 10,000/- as registration charges and Rs. 12,000/- as proportionate Transportation charges) to the complainant within 10 days from the issuance of this Order. Compliance of the same be reported, failing which penal action under Section 11 of the H.P. Private Educational Institutions (Regulatory Commission) Act as amended upto date and the rules framed thereunder shall be taken against the University.

Copy of order be supplied to the parties through registered AD post immediately and the same be hosted on website of the Commission within 3 days hereof.

Sd/-  
(Sarojini G. Thakur)  
Chairperson