

**BEFORE SHRI SUNIL DUTT SHARMA, HON'BLE MEMBER H.P. PRIVATE
EDUCATIONAL INSTITUTIONS REGULATORY COMMISSION SHIMLA-171002**

Case No. 4 of 2016
Date of Institution: 17.06.2016
Date of Decision: 04.08.2016

Shri Sujan Singh Guleria resident of Village Dehri, P.O. Harsar, Tehsil Jawali,
District Kangra (HP).

... Complainant

Versus

Kamakshi Institute of Nursing, Village Bassa Waziran, Tehsil Nurpur, District
Kangra (HP).

... Respondent

Refund of fee amount of Rs. 1,09,200/-

Present: Shri Rajeev Sharma, representative of respondent Institute.

ORDER

1. Complainant Shri Sujan Singh Guleria submitted his complaint which was received in H.P. Private Educational Institutions Regulatory Commission (HP PERC) on 17.06.2016. In his complaint Shri Guleria stated that his daughter Ms. Minakshi had taken admission in respondent institute for undergoing B. Sc. Nursing course for the session 2014-15. The respondent institute vide its receipts No. 531 and 528 dated 24.12.2014 had collected fee of Rs. 1,09,200/- on account of Tuition fee, security, transport and laboratory charges etc. However, due to health problem of Ms. Minakshi she could not continue her studies and left the Institute in the month of April, 2015. Shri Guleria stated that his daughter had to leave the institute due to health problem and requested that entire fee of Rs. 1,09,200/- be got refunded to him.

2. HPPEREC forwarded the complaint to respondent institute vide its communication dated 21.06.2016 and directed the institute to submit detailed comments on the issue within a week's time. The respondent Institute vide its

communication dated 29.06.2016 stated that Ms. Minakshi was admitted in B. Sc.(N) first year during the session 2014-15 and had left the college during the month of May, 2015 at her own as she remained mentally upset. It has further been stated that her father (complainant) had taken her from the college time and again to get her medically treated. The respondent cited provisions of the HPU Prospectus viz, "In the event of a candidate leaving the course after the cut off date of admission or mid-session, the fee deposited by her will be forfeited. So far as the refund of security is concerned the same will be refunded after completion of the course only." Respondent, however, stated that the institute had refunded security amount to Ms. Minakshi on 16.05.2015. It has further been stated that if any candidate leaves in between the course, such as Ms. Minakshi, the institute shall suffer loss for remaining period i.e. for three years for being the vacant seat against her.

3. In order to hear both the parties personally, HPPEREC called them for 26.07.2016 on which date Shri Sujan Singh, complainant and Shri Rajeev Sharma representative of respondent institute appeared in person. Shri Sujan Singh Guleria stated that he had received a security amount of Rs. 3,000/- on 16.5.2015. The complainant submitted medical record in support of ill health of Miss Minakshi. Shri Rajeev Sharma representing the respondent institute stated that Ms Minakshi had left the college on medical grounds as she was not able to carry on studies although the management and nursing institute staff tried a lot but the student's ill health was in critical condition. It has been admitted that Ms. Minakshi paid Rs. 1,09,200/- on 24.12.2014.

4. Documents submitted were taken on record. I have gone through the entire case file including record of medical treatment of Ms. Minakshi which revealed that Ms. Minakshi had undergone medical checkups on 17.10.2014, 29.01.2015, 8.2.2015, 6.4.2015 (in private clinics) and on 24.6.2015 in Dr. Rajendra Prasad Government Medical College and Hospital Kangra at Tanda. She has been treated in psychiatry department of Dr. Rajendra Prasad

Government Medical College and Hospital, MDCT scan of cervical spine and NCCT Scan of brain have been conducted in private clinics. The medical record submitted shows that Ms. Minakshi was suffering from mental ailments as such the cause for leaving the respondent institute was genuine beyond the control of Ms. Minakshi, which has been admitted by the representative of respondent institute. The rule of refund cited in the HPU Prospects cannot be applied uniformly as a general clause but has to be applied in case to case basis. For the circumstances beyond the control of a student, relaxation deserves to be given, as such I am not satisfied with the refund rules applicable to private Institutes of Higher Education falling under the domain of HP PERC. Non refund of fee to an ailing student who had to leave the institute for the circumstances beyond his/her control; will add to his/her mental pressure, as such it is desirable that entire fee is refunded to such student.

5. In view of aforesaid observations, I find it a fit case to be recommended to Himachal Pradesh University to make necessary amendments in the norms related to the students who left the institutions due to compelling reasons, as the same does not come under the purview of HP PERC; so that the Constitutional provision of imparting education as a social obligation could be taken care of.

6. On the basis of peculiar circumstances of the case, as discussed above, respondent institute was directed to refund entire fee of Rs. 1,06,200/- (Rs. 3,000/- being security already refunded on 16.5.2015) to the complainant/ Ms. Minakshi by or before 4.8.2016 and the case was fixed for compliance of orders on 4.8.2016.

7. On 4.8.2016 Shri Rajeev Sharma appeared in person and handed over a cheque No. 801239 dated 29.07.2016 amounting to Rs. 1,06,200/- payable in favour of Ms Minakshi at SBI Jasur (multi-city cheque payable at par at all branches of SBI). I am satisfied that the orders have been complied with. The cheque be sent to the complainant through registered AD post.

Copy of the order be supplied to the parties.

Recommendations as given in para-5 of the orders be sent to H.P. University.

Orders be hosted on the website of the HPPEREC

After completion the file be consigned to record room.

Announced

Sd/-

(Sunil Dutt Sharma)
Member