

BEFORE DR. S.P. KATYAL, MEMBER, H.P. PRIVATE EDUCATIONAL INSTITUTIONS
REGULATORY COMMISSION, SHIMLA-171009.

Case No.:12 of 2018
Instituted on: 18.07.2018
Decided on: 27.06.2020

In the matter of:

Miss Ankita Thakur & others through advocate Gurdev Negi.

Petitioners

Versus

1. Modern Education College, Annadale, Shimla-171003 through its Principal
Respondent No.1
2. Himachal Pradesh University, Summer Hill, Shimla-5 through its Registrar
Respondent No.2
3. The Director of Higher Education, Himachal Pradesh Shimla-1
Respondent No.3

ORDERS

A Complaint was received under Section 9 and 11 of HP-PERC Act 2010 and all other enabling provisions of relevant laws on the subject in pursuant to the order dated 18.01.2018

Issues:-

1. The documents submitted and admission made before the Commission establishes that Respondent No. 1 is an institution within the definition of Higher Education Institution authorized to impart B.Ed Education. The record produced shows that the complainants through the laid down procedures were properly admitted to B.Ed. Course Academic Session 2015-17 by the Respondent No. 1 with the recommendation of Respondent No. 2 and no where it has been denied by Respondent No. 1 therefore admittance settles the issue No.1
2. The complainants although admitted by Respondent No. 1 to B.Ed. Course 2015-17 but were being regulated by fee structure notified by respondent no 2 dated 30.05.2013 according to which the revised fee structure would be Rs. 46750/- (Rs. Forty Six Thousand Seven Hundred and Fifty only) i.e. an increase of Rs. 7150/- (Rs. Seven Thousand one Hundred Fifty only) per student. As such all the Principals are directed to collect the levy charges @ 10% on the increased amount i.e. Rs. 715 /-(Rs. Seven Hundred Fifteen only) from each student for the academic session 2012-13 and remit the same in the University account within a period of fifteen days from the issuance of the notification positively under intimation

to the undersigned, otherwise interest @10% will be charged after a period of fifteen days from the defaulted Colleges/ Institutions who failed to deposit the amount. The said amount may be sent in the shape of DD in favors of the Finance Officer, H.P. University and letter addressed to the Chairperson. Department of Education with a copy to the undersigned. At the time of admission of complainants this fee structure was applicable as per the copy of prospectus printed by Respondent No. 1. Meanwhile the duration of B.Ed. Course changed from one year to two years. For two years duration the fee structure was revised by Government vide their letter No.EDN-A-Chha (7)-26/2009 dated 22.05.2017 which was communicated by Respondent No. 3 to respondent No. 2 with direction to be intimated to all concerned including Respondent No. 3 implicitly. The fee structure for 1st year Session 2015-17 is on the basis of structure notified by the Govt. on 30.05.2013 implying that every student that includes complainants as well of B.Ed 2015-17 batch will have to pay Rs. 46,750/- (Rs. Forty Six Thousands Seven Hundred Fifty)) in addition to 10% levy charges on tuition fee. Whereas for 2nd years of 2015-17 session every student and that includes complainants also will pay Rs. 38,335/- (Rs. Thirty Eight Thousand Three Hundred Thirty Five) and excess amount if any taken from the students to be refunded by the management to the students. Subsequently a letter No.EDN-H(8)A91)Pvt.B.Ed(fee Structure)2016 dated 18.11.2019 was sent to respondent No. 2 with a copy to Respondent No. 1 in which it was clearly stated that for 1st year of Session 2015-17 Rs. 45,750/- and for 2nd years of Session 2015-17 Rs. 38,335/- (Rs. Thirty Eight Thousand Three Hundred Thirty Five) will be charged and excess amount if any taken from the students is to be refunded by the management to the students. Thereby clearly directing that a total fee of Rs. 84085/- (Rs. Eighty Four Thousand Eighty Five) will be charged from students and that includes complainants also of B.Ed. for Session 2015-17 excluding University charges. The documents receipts submitted by complainants show that each student was charged a sum of Rs. 96,750/- for complete course Respondent No. 1 this conclusively deviated from the notifications issued by Govt. of HP and communicated from time to time by Respondent No. 2 and Respondent No. 3

3. Notifications issued by the Govt. Clearly directed Respondent No. 1 to refund the excess fee if any to the students that include complainants to which they are entitled as the fee structure is decided by the Govt. and if any addition deletion reduction or enhancement is made the affiliated and recognized institutions are bound to abide by the directions. Thereby it is a settled issue that complainants are entitled for refund from the respondent No. 1 as the excess fee was collected by Respondent No. 1

4. Prospectus published by Respondent No. 1 clearly mentions that respondent No. 1 is affiliated to Respondent No. 2 implying thereby that Respondent No. 1 will be governed by

rules and regulations made by Respondent No. 2 and mentions that 90% of the attendance is compulsory for all the students taking admission in B.Ed. course in the college otherwise they will be debarred from taking their final examination/ Practical. In case of remaining absent for more than 7 days without prior intimation and permission from the higher authority. The name of the student will be struck off from the Institution. The leave will be sanctioned only in some significant cases provided the students fulfilled the condition of 90% attendance. The leave to the student will be sanctioned by the Principal/HOD. Prospectus has a force of law.

Respondent No. 1 could not prove that this has been amended/ altered any time during the course by Respondent No.2. Logically there is no point in attending the classes after the final examinations of student have been conducted to make up the shortage of attendance and the set taking affidavit by Respondent No. 1 was merely to subvert the provisions. Respondent No. 1 has failed to prove that any point of time Respondent No. 2 had directed Respondent No. 1 to deviate from the rules. Hence it is beyond doubt that the act by which Respondent No. 1 issued directions to those complainants who were having short attendance in particular to complete their classes even after appearing in the exams in that subject was arbitrary and illegal.

5. Prospectus published by respondent No. 1 mentions the fee structure to which Respondent No. 1 is authorized/ outlined to charge late fee accordingly and once the no dues certificates have been issued the charging of late fee is not valid and nowhere it has been mentioned by Respondent No. 1 in instructions issued to bonafide students. Fee receipts issued by Respondent No. 1 mentions balance amount as nil.

6. Issue was resolved vide order in case No. 1 of 2018 dated 18.07.2019

7. It has been found that due to various notifications by Respondent No.2 and 3 a state of confusion prevailed for some time as the duration of B.Ed Course was changed from 1 year to 2 years. Therefore Respondent No. 1 did not harass the complainants intentionally.

8. Respondent No.1 violated the rules/guidelines issued by the University regarding lecture condition for appearing in final examination. Respondent No.1 failed to prove that at any point of time Respondent No.2 authorized Respondent No.1 to relax the condition and allow complainants relax to appear in the examinations. This is a serious deviation and a direct compromise with the standards of education being provided by Respondent No.1.

9. Letter No. EDN-H(8) A(1) Pvt. B.Ed. (Fee Structure)/2016 issued by Respondent No.2 authorized Respondent No.1 to charge levy fee @ 7% on the tuition fee and directs the Respondent No.1 to refund any excess fee if charged.

10. Complaint is maintainable as the complainants are bonafide students of Respondent No. 1 College, Section 9 of HP-PERC Act 2010 allows the same.

Order:

Respondent No. 1 is directed to refund an amount of Rs. 12, 665 on account of excess fee charged to complainants within 30 days from the issue of these order. Respondent No. 2 is requested to take prescribed suitable action against Respondent No.1 for violation rules/ guidelines issued by Respondent No.2 thus setting a wrong precedent that is detrimental for maintaining education standards in academic Institutions.

Order be uploaded on the website of the Commission.

Copy of order be supplied to the parties.

Announced

Sd/-
(Dr. S.P. Katyal)
Member

Date: 27th June, 2020.

