

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

Case No. 26 of 2016
Instituted on: 26.08.2016
Decided on: 01.10.2016

1. Smt. Nisha Devi wife of Shri Nand Lal (mother of Shri Mukesh), resident of Thakur Niwas, Lower Cemetery, Sanjauli, Shimla-171006 (HP).
2. Shri Ram Dass (father of Shri Susheel Kumar) resident of Village and PO Basal, District Una (HP).
3. Shri Ashok Kumar Satapathy father of Shri Arpan Satapathy, NHPC Limited, Rew Office, Adulpa Guest House, Adul Ground, Balti Bazar, Kargil (J&K)-194103.
4. Shri Chetan Guleria, HPU Student and Social Worker, HPU Shimla-171005 (HP).

... Complainants

Versus

AP Goyal Shimla University, Mehli-Shoghi Bye-pass Road, near Panthaghati, Shimla-171013 (HP).

... Respondent

Refund of Rs. 81,000/- in favour of complainant No.1; Rs.90,000/- in favour of complainant No.2 and Rs. 5,000/- in favour of complainant No.3; appointment of eligible faculty in respondent University, as suggested by complainant No.4.

Present: Shri Rajan Sehgal, Registrar AP Goyal Shimla University
Smt. Nisha Devi (mother of Shri Mukesh)
Shri Ram Dass (father of Shri Susheel Kumar)

ORDER

1. Smt. Nisha Devi wife of Shri Nand Lal (mother of ex student Shri Mukesh) vide her letter dated 17.09.2013 stated that her son Shri Mukesh son of Shri Nand Lal resident of Thakur Niwas, Lower Cemetery Sanjauli Shimla had deposited fee of Rs. 91,000/- for taking admission in respondent University in MBA course. After attending the University for one month, suddenly her son

suffered mental disorder who was being treated medically. She further stated that she had written to the University thrice for refund of fee, but no reply had been received despite of the fact that she also met Vice Chancellor of the University personally. She prayed that she belongs to a poor family and lot of money is being spent on the medical treatment of her son, as such prayed for refund of the money. She alongwith her application submitted copies of two receipts i.e. receipt No.266 dated 10.8.2012 amounting to Rs. 10,000/- and receipt No. 299 dated 17.8.2012 amounting to Rs. 81,000/-

2. The HPPERC vide its letter dated 06.05.2016 took up the matter with respondent University.

3. Shri Ram Dass father of Shri Susheel Kumar ex-student of B. Tech (Civil) First Semester APG University resident of Village and PO Basal, District Una (HP) vide his letter dated 06.05.2015 stated that his son Shri Sushil Kumar in order to take admission in B. Tech (Civil) First Semester had deposited fee of Rs. 1,05,000/- in the respondent University's Bank Account No. 18642000567 on 17.07.2013 in terms of respondent University admission letter No. APG/BETCH/2013 dated 10.07.2013 details of which are as under:

Fee	Rs. 25,000
Hostel charges	Rs. 45,000
Security refundable	Rs. 10,000
Development funds	Rs. 10,000
Registration Fee	Rs. 5,000

Total: Rs. 1,05,000

4. He further stated that after attending classes for 4-5 days his son felt uneasy and could not adjust himself with the atmosphere of respondent University because of his illness. His son was totally disturbed/ confused and fell ill in the University campus. His son had given intimation to the University authority showing his intention to discontinue his study on medical ground in the month of August, 2013. Shri Sushil Kumar was got medically checked up at PGI Chandigarh from where he is continuing his treatment. On the request of Shri Ram Dass made vide his letter dated 16.04.2015, the respondent University refunded only Rs. 15,000/- (Rs. 10,000 as security amount and another Rs.

5000/-). He requested that respondent University be directed to refund remaining amount to him.

5. HP PERC forwarded copy of the complaint to respondent University vide its letter dated 16.05.2016

6. Shri Ashok Kumar Satapathy father of Shri Arpan Satapathy, NHPC Limited, REW Office, Adulpa Guest House, Adul Ground, Balti Bazar, Kargil (J&K)-194103 vide his letter dated 19.11.2013 stated that while he was serving in Himachal Pradesh he got admission to his son Shri Arpan Satapathy in B.E.(Civil) in respondent University for the session 2013-14. He deposited Rs. 5,000/- towards refundable registration fees vide Receipt No.1004 dated 12.06.2013 (copy enclosed). But due to his transfer to Kargil on 04.07.2013 he had to change his plan and his son was got admitted in Belgaum, Karnataka. He, on receipt of his transfer order, had immediately informed the respondent University. He further stated that he had made several requests and phone calls and emails to the respondent University for refund of the amount but no refund had been made by the respondent University. He requested to get the amount of Rs. 5,000/- refunded to him.

7. HP PERC vide its letter dated 31.05.2016 forwarded the complaint to respondent University for taking further necessary action in the matter.

8. Shri Chetan Guleria, HPU Student and Social Worker vide his email dated 21.07.2016 stated that respondent University had recruited faculty i.e. Shri Neeraj Roodkee as Associate professor who is not fulfilling the qualification as per UGC norms as Shri Neeraj Roodkee is pursuing M. Tech degree only which is not sufficient in terms of the UGC norms. In view of such a position quality education cannot be achieved and he requested that strict action be taken against respondent University.

9. HP PERC vide its letter dated 25.07.2016 forwarded complaint to respondent University with the directions to submit detailed comments on the issues within a week's time.

10. The respondent University did not care to take action on the references made by HP PERC, whereafter the matter was brought to my notice on

16.08.2016 about the slack attitude of the University when I had given telephonic instructions to Shri Rajan Sehgal Registrar of respondent University to submit reply on 16.08.2016 itself.

11. Respondent University submitted replies to each issue as under:

A. Complaint of Smt. Nisha Devi (mother of Shri Mukesh):

Respondent University vide its letter dated 16.08.2016 stated that as per policy of the University and as per the UGC Guidelines, once the course commences, the tuition fee is not refundable. Shri Mukesh paid fees in the month of August, 2012 in two instalments. The course commences from 1st August of every year and refunds are only entertained, if applied, by 31st of July every year, therefore, Mr. Mukesh is not eligible for refund of Tuition Fees.

B. Complaint of Shri Ram Dass (father of Shri Susheel Kumar):

Respondent University vide its letter dated 16.08.2016 stated that according to UGC Guidelines, the University had already refunded Rs. 15,000/- to Shri Sushil Kumar.

C. Complaint of Shri Ashok Kumar Satapathy (father of Shri Arpan Satapathy):

Respondent University vide its letter dated 17.08.2016 stated that refund of Rs. 5000/- could not be made for want of confirmation regarding bank account details.

D. Complaint of Shri Chetan Guleria:

Respondent University vide its letter dated 30.07.2016 stated that Mr. Neeraj Roodkee is eligible to be designed as Associate Professor as per UGC Guidelines. It further stated that AICTE norms also encourage resource person from Industry to teach the Under Graduate Engineering students (Relevant extracts of guidelines enclosed).

12. Feeling dissatisfied with the replies submitted by respondent University, the HP PERC called Registrar of respondent University and complainants No.1 and 2 for personal hearing on 14.09.2016 when Shri Rajan Sehgal Registrar respondent University; Smt. Nisha Devi complainant No.1 alongwith her son Shri Mukesh and Shri Ram Dass complainant No.2 alongwith his relative Shri Lekh Raj appeared in person.

13. Shri Mukesh stated that he had taken admission in respondent University for doing MBA in the year 2012. He deposited a sum of Rs. 91,000/- as fee. He further stated that he was already a patient of chronic Hepatitis and his lever had been abnormal since 18-10-2011. He was under treatment from Shriram Medical Centre Shimla. He also produced medical certificate issued by Dr. S.K. Sharma wherein it has been mentioned that Shri Mukesh remained under treatment with the said centre upto 4.3.2013. He also produced medical prescription slip of IGMC & Hospital Shimla dated 24.05.2016 wherein he has been shown to be suffering from migraine. Smt. Nisha Devi stated that the family is very poor and lot of money has been spent on the treatment of Shri Mukesh. Shri Mukesh had to discontinue his studies due to his illness, as such the remaining amount of Rs. 81,000/- be got refunded to her, so that proper treatment could be done to Shri Mukesh.

14. Shri Ram Dass father of Shri Sushil Kumar stated that his son had taken admission in respondent University in B. Tech course for the session 2013-14 and had deposited a sum of Rs. 1,05,000/-. After getting admission for his son, Shri Sushil Kumar was told that classes shall start from 1.8.2013 and he joined the University on the said date. The University authorities asked him to come to the University on 18.8.2013 and he left for home. On 18.8.2013 he came back and stayed there on 19th and 20th August, 2013. He took leave from 21 to 24th August, 2013 and came back to University on 25th August, 2013. In the Hostel additional bed was to be provided to him, however, he felt uneasy and could not adjust himself with the atmosphere of respondent University. His son intended to leave the respondent University and expressed his intention in writing on 27.8.2013 (copy produced). Thereafter his son suffered mental depression and was got examined in PGI Chandigarh on 16.10.2013 in Psychiatric department where he remained under treatment upto 23.6.2015. He stated that still his son has not recovered and stated that lot of money has been spent on his medical treatment. He further stated that his son left the respondent University at the

time when admission was still going on as per advertisement issued by respondent University in the Newspaper “Amar Ujala” on 7.7.2013, 8.8.2013 and 13.8.2013. He prayed that balance amount of Rs. 90,000/- be got refunded to him as out of Rs. 1,05,000/- the respondent University has already refunded a sum of Rs. 15,000/-.

15. Shri Rajan Sehgal, Registrar of respondent University stated that he intended to consult his record so that factual position could be brought to the notice of HP PERC. However, in the case of Shri Ashok Kumar Satapathy (complainant No.3), the entire amount of Rs. 5,000/- has been refunded to him.

In the Public Notice issued by UGC on 23rd April, 2007 it has been spelt out, “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/- (One thousand only) shall be refunded and returned by the Institute/ 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 Institution must return the fee collected with proportionate deductions of monthly fee and proportionate hostel rent, where applicable”. Not only the UGC notification but also AICTE notification issued vide Advt. No. AICTE/DPG/06(02)/2009 carries similar refund norms. The provisions, of course, were suitable at the relevant time when number of aspiring students was in abundance but now shortage of students in professional courses is a nationwide phenomenon and maintaining a waitlist is a distant dream in most of the Universities. Hence the provisions of UGC/AICTE notification need modification suitably which is also need of the hour in view of different situation as on date. The refund of admission fee deserves to be considered on merits on case to case basis and not as a general clause applicable to all uniformly. Hence, keeping in view the extreme adverse circumstances as in both the cases as one student was suffering from psychiatric (mental tension) and another was suffering from Hepatitis chronically and migraine also, Registrar of the University was directed to adjust amount proportionate to attendance in both the cases and refund the balance amount in both the cases and report compliance within a week’s time.

16. Registrar of the University appeared in person on 21.09.2016 and stated that after retaining 20% amount in both the cases, he tendered cheque No. 637929 dated 21.09.2016 amounting to Rs. 73,000/- in favour of Shri Mukesh and further a cheque No. 637928 dated 21.09.2016 amounting to Rs. 84,000/- in favour of Shri Susheel Kumar. The cheques in both the cases have been handed over to the parents on 26.09.2016 who were present in the office of HP PERC and they accepted the same to be satisfactory and full and final settlement with respondent University. In the case of complainant No. 3, he vide his email has confirmed receipt of Rs. 5,000/- on 8.9.2016 as such grievances of all the three complainants No.1 to 3 have been resolved.

17. With regard to complaint No.4 the respondent University cited *AICTE Faculty Norms (Appendix 7 page 99 of the hand book)* which read as, “Of which, a minimum of 80% should be regular/full time faculty and the remaining may be Adjunct Faculty/Resource persons from industry.” Extract of UGC Guidelines has been appended with the reply which reads, “**Para 4.4.6.1 MINIMUM QUALIFICATION FOR APPOINTMENT OF TEACHING FACULTY IN UNIVERSITIES AND COLLEGES-ENGINEERS AND TECHNOLOGY DISCIPLINE:**

2. Associate Professor

i. Essential:

A Ph.D. Degree with First Class at Bachelor’s or Master’s Degree in the appropriate branch of Engg., & Tech. And experience of eight years in teaching, research and/or industry at the level of Lecturer or equivalent grade, excluding period spent on obtaining the research degree.

OR

ii. In the event the candidate is from industry and the profession, the following shall constitute as essential;

1. First Class master’s Degree in the appropriate branch of Engg. & Tech.;

- 2. Significant professional work which can be recognized as equivalent to a Ph.D Degree in appropriate branch of Engg. & Tech., and industrial/professional experience of eight years in a positing equivalent to the level of Lecturer.***

Provided that the recognition for significant professional shall be valid only if the same is recommended unanimously by a 3 Member Committee of Experts appointed by the Vice-Chancellor of the University.

- iii. Without prejudice to the above, the following conditions may be considered desirable:***

- 1. Teaching, research industrial and/or professional experience in a reputed organization;***
- 2. Published work, such as research papers, patents filed/obtained, books, and/or technical reports;***
- 3. Experience of guiding the project work/dissertation of PG/ Research Students or supervising R&D project in industry.”***

18. The respondent University has taken a plea that it has recruited Mr. Neeraj Roodkee as per UGC Guidelines who is eligible to be designated as Associate Professor. Moreover Faculty Norms of AICTE reflected above also encourage resources person from Industry to teach the Under Graduate Engineering Students.
19. I have gone through both the guidelines and perusal of same indicates that respondent University has misunderstood UGC and AICTE guidelines as neither Mr. Neeraj Roodkee can be considered eligible against adjunct faculty nor Associate Professor under UGC guidelines, as he has not gained any significant professional experience either in teaching or in industry. He is undergoing M. Tech courses. Therefore, it is concluded that respondent University should immediately remove Mr. Neeraj

Roodkee from the list of faculty in order to ensure quality education in terms with the UGC/AICTE norms.

20. Observations which may be considered by UGC/AICTE for the amendment in refund norms:

The HP PERC has been receiving many complaints of non- refunding of fees when the students had to leave the Institute under compelling circumstances and the Universities /Institutions are adamant and sticking to the refund norms of UGC published in Public Notice dated 23rd April, 2007 and AICTE Advt. No. AICTE/DPG/06(02)/2009, hence it is felt necessary that observations of the HP PERC with regard to refund norms be sent to UGC/AICTE in the following manner:

“At the time of issuance of notification dated 23rd April, 2007 by UGC there were 2 Universities (1 State & one Private) in the State of Himachal Pradesh whereas now this number has increased to 20 (2 State, 1 NLU and 17 Private). More or less same is the situation with respect to issuance of notification by AICTE vide Advt. No. AICTE/DPG/06(02)/2009 . Most of the Universities do not have any waitlist. By virtue of judgments delivered by Hon’ble **Supreme Court of India** in ***Bandhu Mukti Morcha Vs. Union of India***, while interpreting the scope of “*right to life*” under Article 21, held that it included “*educational facilities.*” In ***Mohini Jain Vs. State of Karnataka***, the Court referred to ***Bandhu Mukti Morcha*** case and held that “*right to life*” was the compendious expressed for by those rights which the courts must enforce because they are basic to dignified enjoyment of life. The Court further observed that “*right to life*” under Article 21 and the dignity of an individual could not be assured unless it was accompanied by the right to education. The Court thus declared: “*The right to education flows directly from right to life.*” The Hon’ble Supreme Court in ***Unni Krishnan Vs. State of Andhra Pradesh*** held that the right to education was a fundamental right under Article 21 and that “it directly flows from the right to life.” Therefore, the Right to Education is a fundamental right under Article 21 of the Constitution of India, however, the desire of the mandate cannot be fulfilled unless free, fair and healthy educational atmosphere is created. Therefore, it has become imperative that refunding

norms are modified on the basis of merits of each case depending upon the circumstances beyond the control of students/parents such as medical, inadequate faculties/infrastructures/amenities etc. Also in exceptional cases such as subsequent admission in the Institutes of Top Ranking/ National Law University/Central/ State Universities/IITs/NITs/NIFTs the refund norms deserve to be relaxed and not made subject to filling up of seat from amongst the wait listing candidate, rather in such cases fee for running semester maybe forfeited and in case fee is taken on annual basis, the forfeiture be restricted to 6 months/actual date of leaving the University/Institution. This shall not only help in development of personal career of students but also development of the nation as a whole by providing free, fair and healthy educational system in the country.”

21. In view of my findings given above, the following orders are passed:

1. Complaints with regard to refund of admission/registration fee have been resolved and these complaints are closed, as fully settled/satisfied.
2. The respondent University is directed to remove Mr. Neeraj Roodkee from the faculty list of University immediately and to be replaced by qualified faculty in terms of UGC/AICTE guidelines/regulations and compliance be reported within a period of one month from the date of issuance of the order.

Copy of Order be supplied to respondent University for reporting compliance of orders mentioned in para 21(2) above.

Observations/suggestions as given in para 20 above, be sent to UGC and AICTE for consideration.

Orders be hosted on official website of the HP PERC

File after completion be consigned to Record Room.

Announced.

Sd/-
(Sunil Dutt Sharma)
Member