

**STATE CONSUMER DISPUTES REDRESSAL COMMISSION**  
**Bihar Patna**  
**Appeal No. 325 of 2023**

Biresw Manjhi, Son of Late Chhatu Manjhi, Resident of Village + P.O.  
Amwa Nakched, P.S. & District- Gopalganj.

..... **Complainant/Appellant**  
**Versus**

1. The Headmaster-cum-Centre Superintendent, Mukhram High School (+2), Thawe, P.O. & P.S.- Thawe, District- Gopalganj.
2. The Principal, V.M. Inter College, Gopalganj, P.O. & P.S.- Gopalganj, District- Gopalganj.
3. The Secretary, Bihar School Examination Board, Patna (Bihar).

..... **Opposite parties/Respondents.**

**Counsel for the Appellant:- Mr. Shiv Sagar Sharma**

**BEFORE:**

**Hon'ble Mr. Justice Sanjay Kumar, President**  
**Mr. Raj Kumar Pandey, Member**  
**Mr. Ram Prawesh Das, Member**  
**Order**

**Dated:-15.07.2024**

**Per; Hon'ble Mr. Justice Sanjay Kumar, President**

1. Present appeal has been filed on behalf of complainant/ Appellant for setting aside the judgment and order dated 07.02.2023 passed by the learned District Consumer Commission, Gopalganj in complaint Case No.118/2019 whereby and where under complaint case has been dismissed as not maintainable.
2. Briefly stated the facts of the case is that Son of complainant Vikash Kumar Manjhi got admitted in the VM Inter College, Gopalganj as regular student in Science faculty in sessions 2016 -18 examination of which was held from 11.01.2018 to 14.02.2018. Admit card was issued and he appeared in the written examination as well as practical examination conducted by Bihar School Examination Board, Patna.

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3. It is further stated that during course of examination son of complainant put his signature on attendance sheet and he never absented in the practical examination of Physics, Chemistry and Biology but in the result published by the Bihar School Examination Board, Patna showed him absent in practical examination of Biology as a result he was declared failed in the examination.
4. Complainant and his son visited office of opposite parties and requested to verify the attendance of complainant's son Vikash Kumar Manjhai from the attendance sheet but no action was taken by the opposite parties on his request. Head Master of Mukhiram High School, Thawe also wrote a letter dated 26.02.2018 to Secretary Bihar School Examination Board, Patna stating therein that in the practical examination of Biology the son of complainant was present. Due to latches on the part of opposite party the career and future of son of complainant was ruined. No steps were taken by the opposite parties to redress the grievances of complainant as such he filed Consumer Complaint case in the District Consumer Commission, Gopalganj upon which notices were issued to opposite parties.
5. Opposite party no.3 in written statement stated that present complaint case was not maintainable and complainant is neither a consumer nor opposite party no.3 is service provider in view of judgment of Hon'ble Supreme Court rendered in Civil Appeal No.3911 of 2003.
6. The District Consumer Commission after hearing the parties and considering materials available on record held that complaint case was not maintainable in view of judgment of Supreme Court, aggrieved by which present appeal has been filed on behalf of complainant/appellant.
7. Heard counsel for the appellant.
8. The issue involved in present appeal is no more resintegra. The Apex Court in case of Bihar *School Examination Board vs. Suresh Prasad Sinha 2009 (8) SCC 483* has already held that the Bihar School Examination Board is not rendering any service under the Consumer Protection Act

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1986. Three Bench of National Commission in case of Monu Solanki vs Vinayaka Mission University has held that the institutions rendering education are not covered under the provisions of Consumer Protection Act 1986. Appeal preferred against the judgment is pending before the Apex Court but no stay has been granted. The Judgment rendered in case of Monu Solanki vs Vinayaka Mission University are being followed by the consumer fora.

9. In recent judgment of National Commission in case of *Bal Vidya Bhawan Public School, Hardoi vs. Asutosh Kumar Choudhary 2022 (0) jx (Con) 321* similar view has been expressed which reads as follows:-

*“Bal Vidya Bhawan Public School Hardoi through its Director and the Principal, the Petitioners, have approached this Commission by filing a Revision Petition under Section 58(1)(b) of the Consumer Protection Act, 2019 against the Order dated 29.10.2015 passed by the Uttar Pradesh State Consumer Disputes Redressal Commission (hereinafter referred to as the 'State Commission) whereby the State Commission has dismissed the Appeal filed before it for want of prosecution. I have heard Mr. Pawan Kumar Ray, learned Counsel for the Petitioners and perused the Impugned Order dated 29.10.2015 passed by the State Commission and also the grounds taken in the memo of Revision Petition and the documents filed along with it. Mr. Paway Kumar Ray, learned Counsel for the Petitioners submitted that the District Forum committed a manifest error of law in allowing the Complaint. A three Member Bench of this Commission in case of Manu Solanki and Ors. Versus Vinayak Mission University reported in 1 (2020) CPJ 210, (NC) has held that the provision of the Consumer Protection Act, 1986 is not applicable to educational institutions. The*

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***Revision Petition is allowed. The Complaint filed before the District Forum is dismissed. Delay in filing the Revision Petition is condoned.”***

10. In said view of the matter present appeal is devoid of any merit and is accordingly dismissed at the admission stage itself.
11. A Copy of this order be supplied to both the parties free of cost as mandated by the Consumer Protection Act. The order be uploaded forthwith on the Confonet of the Commission.
12. Let the file be consigned in the record room along with copy of this order.



(Ram Prawesh Das)  
Member

R.K. Pandey  
15.07.2024  
(Raj Kumar Pandey)  
Member

Sanjay Kumar  
(Sanjay Kumar, J)  
President