

A STATE OF U P THROUGH PRINCIPAL SECRETARY & ORS.

v.

ALL U. P. CONSUMER PROTECTION BAR ASSOCIATION

(Civil Appeal No. 2740 of 2007)

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DECEMBER 15, 2017

**[DIPAK MISRA, CJI, A.M. KHANWILKAR AND  
DR. D.Y. CHANDRACHUD, JJ.]**

C *Consumer Protection Act, 1986 – ss. 10(1)(b), 10(3), 16(1)(b), 16(2), 20(1)(b), 24B(1)(iii), 24B(2), 30 and 30A – Consumer fora – Paucity of infrastructure – Supreme Court had on 14-01-2016 constituted a three member committee to examine the following aspects in the National Commission, State Commissions and the District Fora: (1) the infrastructure requirements; (2) the vacancy position of President/Members/ Presiding officers; (3) Need for additional benches, having regard to the workload and difficulties/inconvenience which consumer dispute litigant has to face; (4) conditions of eligibility, if prescribed, for appointment as non-judicial members; (5) The nature and extent of Administrative Powers, if any, conferred upon the Presidents of the State Commissions and the President of the District Fora; (6) The service conditions currently applicable including pay-scales admissible to President and Members, Judicial/Non-judicial; (7) The minimum staff required; (8) Desirability and feasibility of creating separate cadre for staff; (9) Any other aspect that the Committee may consider relevant to make the Consumer Disputes Fora/Commissions more effective, efficient and their process speedy – Thereafter, Court issued directions on 21-11-16 to the Union Government to frame model rules (i) for ensuring uniformity in the exercise of the rule making power u/s.10(3) and s.16(2) of the Act, for adoption by the State governments; (ii) for prescribing objective norms for implementing the provisions of s.10(1)(b), s.16(1)(b) and s.20(1)(b) in regard to appointment of the members; and (iii) for payment of salary, allowances and for the conditions of service of the members – It was further directed that upon approval of model rules by the Court, the State government shall proceed to adopt the model rules by framing appropriate rules u/s.30 of the Act – NCDRC requested*

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H to formulate regulations u/s. 30A with the previous approval of the

*Central Government in order to effectuate the power of administrative control vested in the National Commission over the State Commissions u/s. 24(B)(1)(iii) and in respect of administrative control of the State Commissions over the District fora in terms of s.24(B)(2) to effectively implement the objects and purposes of the Act – Directions now issued to the Union government to file a comprehensive status report indicating the compliance with the directions issued on 21-11-16 by the Court – Meanwhile, three member Committee appointed by the Court filed its report, hence, completed its task – The Committee stands closed – ASG to assist the Court in formulating appropriate directions to ensure that proper infrastructure is made available at all levels of the consumer fora across the country – Proceedings adjourned.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2740 of 2007.

From the Judgment and Order dated 08.10.1998 of the High Court of Judicature at Allahabad in CMWP No. 968 of 1997

WITH

Writ Petition (Civil) No.164 of 2002.

Ankur Prakash, Ashutosh Kumar Sharma, Ranjan Mukherjee, V. N. Raghupathy, Advs for the Appellants.

Maninder Singh, ASG, Edward Belho, AAG, R. Balasubramanian, Shekhar Vyas, Santosh Kr. Vishwakarma, Prabhas Bajaj, Ms. Aarti Sharma, Ms. Niranjana Singh, Harish Kr. Ikhinchi, Ms. Gargi Khanna, S. Wasim A. Qadri, Raj Bhadur, Mrs. D. Bharathi Reddy, Ms. C. K. Sucharita, S. Srinivasan, M/s. Corporate Law Group, Anil Shrivastav, Gopal Singh, Ms. Hemantika Wahi, Ms. Jesal Wahi, Ms. Puja Singh, Ms. Mamta Singh, Ms. Shodhika Sharma, T.N. Rama Rao, Hitesh Kumar Sharma, T. Veera Reddy, T. V. George, G. Prakash, V. N. Raghupathy, B. S. Banthia, Ranjan Mukherjee, R. Sathish, Ms. Sumita Hazarika, R. Gopalakrishnan, Radha Shyam Jena, Kuldip Singh, Sunil Kumar Jain, Ms. Aruna Mathur, Avneesh Arputham, Ms. Anuradha Arputham, Ms. Simran Jeet, M/s. Arputham Aruna And Co., Tara Chandra Sharma, Jatinder Kumar Bhatia, Ms. Rachana Srivastava, Ms. A. Subhashini, Kamini Jaiswal, Mrs. Anil Katiyar, V. G. Pragasam, S. Prabu Ramasubramanian, S. Manuraj, M/s. V. Maheshwari & Co., B. Balaji,

- A Tushar Bakshi, Ms. K. Enatoli Sema, Amit Kumar Singh, K. Luikang Michael, Ms. Hoineithiam, Z.H. Isaac Haiding, Ashok K. Srivastava, Ashok Mathur, Rajeev Sharma, K. R. Sasiprabhu, Mrs. Revathy Raghavan, Krishnanand Pandeya, Sibho Sankar Mishra, Ms. Kaveeta Wadia, T. Mahipal, Milind Kumar, T. V. Ratnam, B. Vinodh Kanna, A. Sriram, Ashutosh Kumar Sharma, Ankur Nagar, Nishe Rajen Shonker, B Anu K. Joy, Reegan S. Bel, Bhupesh Narula, K.V. Jagdishvaran, Mrs. G. Indira, Shuvodeep Roy, Gopal Singh, Manish Kumar, Shreyas Jain, Atul Jha, Sandeep Jha, Rajesh Srivastava, Advs for the Respondents.

The following Order of the Court was delivered :

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**ORDER**

1. By an order dated 14 January 2016, this Court while dealing with the paucity of infrastructure in the consumer fora, constituted a three Member Committee consisting of :

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1. Dr Justice Arijit Pasayat,  
Former Judge, Supreme Court of India.

2. Ms Justice Rekha Sharma,  
Former Judge, High Court of Delhi.

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3. The Secretary to Government of India,  
Department of Consumer Affairs  
or his nominee.

2. The Committee was requested to examine the following aspects :

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(1) The infrastructural requirements of the respective State Commissions in terms of office space for the Presiding Officer, members and supporting staff and whether the same has been provided for. In case the requirement is not satisfied, what is the extent of deficiency and possible ways and means of removing the same.

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(2) The vacancy position of President/Members/Presiding Officers in the National Commission, State Commissions and the District Fora and the steps that need to be taken for ensuring that vacancies are filled-up on a timely basis.

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(3) Need for additional benches of the National Commission, State Commissions and the District Fora in the States or in any one of them having regard to 11 the workload and the difficulties/inconvenience which a consumer dispute litigant has to face to access the National Commission, State Commissions and/or District Fora.

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(4) The conditions of eligibility, if any prescribed, for appointment as non-judicial members of National Commission, State Commissions and the District Fora. In case no such conditions of eligibility are prescribed whether there is a need for doing so and what could be the conditions of eligibility for such appointments having regard to the nature of work and the relevant provisions of the Consumer Protection Act, 1986.

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(5) The nature and extent of Administrative Powers, if any, conferred upon the Presidents of the State Commissions and the President of the District Fora. In case no such powers have been conferred whether the same need to be conferred and if so to what extent and effect.

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(6) The service conditions currently applicable including pay-scales admissible to President and Members, Judicial/Non-Judicial of the National Commission, State 12 Commissions and the District Fora and in case no service conditions are stipulated what could be reasonable conditions of service applicable to such appointees.

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(7) The minimum staff required for the National Commission and respective State Commissions/District Fora and in case no such standard is recognized or the staff provided is inadequate having regard to the nature and extent of work to be done by the concerned Commissions and Fora what could be the norms for providing the same.

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(8) Desirability and feasibility of creating a separate cadre for staff in the National and State Commissions and the District Fora.

(9) Any other aspect that the Committee may consider relevant and helpful with a view to making the Consumer Disputes Fora/ Commissions more effective, efficient and their process speedy.

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3. The Committee was requested to forward its deliberations to the state governments, on the completion of their deliberations qua each state to facilitate appropriate steps in a time bound manner.

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- A           4. Thereafter, by an order dated 21 November 2016, this Court issued the following directions :
- B           (i) The Union Government shall for the purpose of ensuring uniformity in the exercise of the rule making power under Section 10(3) and Section 16(2) of the Consumer Protection Act, 1986 frame model rules for adoption by the state governments. The model rules shall be framed within four months and shall be submitted to this Court for its approval;
- C           (ii) The Union Government shall also frame within four months model rules prescribing objective norms for implementing the provisions 24 of Section 10(1)(b), Section 16(1)(b) and Section 20(1)(b) in regard to the appointment of members respectively of the District fora, State Commissions and National Commission;
- D           (iii) The Union Government shall while framing the model rules have due regard to the formulation of objective norms for the assessment of the ability, knowledge and experience required to be possessed by the members of the respective fora in the domain areas referred to in the statutory provisions mentioned above. The model rules shall provide for the payment of salary, allowances and for the conditions of service of the members of the consumer fora commensurate with the nature of adjudicatory duties and the need to attract suitable talent to the adjudicating bodies. These rules shall be finalized upon due consultation with the President of the National Consumer Disputes Redressal Commission, within the period stipulated above;
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- F           (iv) Upon the approval of the model rules by this Court, the state governments shall proceed to adopt the model rules by framing appropriate rules in the exercise of the rule making powers under Section 30 of the Consumer Protection Act, 1986;
- G           (v) The National Consumer Disputes Redressal Commission is requested to formulate regulations under Section 30A with the previous approval of the Central Government within a period of three months from today in order to effectuate the
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power of administrative control vested in the National Commission over the State Commissions under Section 24(B)(1)(iii) and in respect of the administrative control of the State Commissions over the District fora in terms of Section 24(B)(2) as explained in this Judgment to 25 effectively implement the objects and purposes of the Consumer Protection Act, 1986.

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5. On 7 March 2017, the following directions were issued :

“During the course of hearing today, the proposed rules and regulations were brought to our notice. It also emerges during the course of hearing, that there is a need for certain modifications, in the Rules and Regulations. Learned counsel for the rival parties accordingly sought a short adjournment, so as to enable them to iron out the issues, which require further debate and deliberation. 3 One of the pressing issues, which needs to be dealt with forthwith, is the vacancy of the post of Registrar, of the National consumer Disputes Redressal Commission. It seems, that there is an agreement on this issue as well, inasmuch as, learned Additional Solicitor General leaves the issue of recommendation to the Chairman of the above Commission, who will be at liberty to suggest the name of an appropriate individual, for the post of Registrar of the above Commission. As and an when such a recommendation is made, the selected individual will be appointed as Registrar, without delay, by way of deputation, till such time a regular incumbent is selected and appointed.”

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6. In pursuance of the previous orders, Mr. Maninder Singh, learned Additional Solicitor General has filed a status report. We consider it appropriate to direct that a comprehensive status report indicating compliance with the directions issued on 21 November 2016 by this Court shall be filed on affidavit within a period of six weeks from today by the Union government.

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7. The Committee appointed by this Court has filed its report on 4 March 2017. The Committee has completed its task. The work of the three member Committee appointed by this Court stands concluded with its report dated 4 March 2017, a copy of which has been placed on the record. The Committee stands closed.

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- A           8. We request Mr Maninder Singh, learned ASG to assist this Court in formulating appropriate directions to ensure that proper infrastructure is made available at all levels of the consumer fora across the country. We direct that the proceedings shall now stand over to 30 January 2018, to consider implementation of our decisions dated 21 November 2016.
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Ankit Gyan

Directions issued.