

276

CWP-20554-2023

Tricity Consumer Court Bar Association
V/S
U.T. Chandigarh and another

Present: Mr. Nitin Thatai, Advocate
Mr. I.P. Singh, Advocate and
Mr. Sandeep Khunger, Advocate
for the petitioner.

Mr. Abhinav Sood, Advocate and
Mr. Nitesh Jhahria, Advocate
for the respondents.

The present Writ Petition has been filed by petitioner-Tricity Consumer Court Bar Association (Regd.) under Articles 226/227 of the Constitution of India, *inter-alia* seeking a direction to the respondents for filling up the vacancies of Members of State/District Consumer Disputes Redressal Commission, U.T. Chandigarh, in terms of the direction given by the Hon'ble Supreme Court of India in *Civil Appeal No.831 of 2023* dated **03.03.2023** (Annexure P-2) titled as "***The Secretary Ministry of Consumer Affairs Vs. Dr. Mahindra Bhaskar Limaye and others***".

2. Learned counsel for the petitioner, *inter alia*, contends that for the Union Territory, Chandigarh, there is a State Consumer Disputes Redressal Commission, consisting of two Benches i.e. Principal Bench and Additional Bench and apart from this, there are two District Consumer Disputes Redressal Commission called District Commission-I and District Commission-II. It is stated that presently, there are certain vacancies in the State Commission and few vacancies are likely to occur in both State Commission as well as the District Commission, U.T. Chandigarh.

CWP-20554-2023

-2-

Learned counsel for the petitioner, while referring to the judgment rendered in *Dr. Mahindra Bhaskar Limaye's* case (supra), submits that the Hon'ble Supreme Court of India had issued directions to the Central Government and the concerned State Governments to amend the Consumer Protection (Qualification for appointment, method of recruitment, procedure for appointment, term of office, resignation and removal of President and Members of State Commission and District Commission) Rules, 2020 and till the suitable amendments are made, the appointment of President and Members of the State Commission and District Commission be made on the basis of performance in written test consisting of two papers as well as viva voce (as detailed in para 8.1 of the judgment in *Dr. Mahindra Bhaskar Limaye's* case).

3. Learned counsel for the petitioner would submit that after the passing of the judgment *ibid*, the State Commission/U.T. Chandigarh had addressed a letter dated 14.03.2023 (Annexure P-4) to respondent No.2 herein i.e. Secretary, Department of Food and Supplies and Consumer Affairs and Legal Metrology, Chandigarh Administration, thereby, informing regarding the vacancies and also to fill up the same. Learned counsel for the petitioner has further referred to letter dated 22.08.2023 (Annexure P-6), written by Secretary/President, State Consumer Disputes Redressal Commission, U.T. Chandigarh to the Secretary of Government of India, Ministry of Consumer Affairs, New Delhi, requesting to make stop-gap-arrangement due to completion of tenure of Members of the State Commission and District Commission-I and II, U.T. Chandigarh; which

CWP-20554-2023**-3-**

reads as under:-

“It is brought to your kind notice that the following members of the State Commission and District Commission I & II are going to complete their tenure shortly:-

S. No.	State Commission, U.T., Chandigarh	
1.	Sh. Rajesh K. Arya, Member	Retirement on 20.09.2023
2.	Mrs. Padma Pandey, Presiding Member	Retirement on 12.01.2024
3.	Judicial Member	Vacant

S. No.	District Commission-I, U.T, Chandigarh	
1.	Mrs. Surjeet Kaur, Member	Retirement on 22.10.2023
2.	Sh. S.K. Sardana, Member	Retirement on 15.12.2023

S. No.	District Commission-II, U.T, Chandigarh	
1.	Sh. B.M. Sharma, Member	Retirement on 24.09.2023
2.	Member (Female)	Vacant since 16.03.2023

2. In this regard, we have already apprised the Secretary, Food & Supplies and Consumer affairs, Chandigarh Administration vide D.O. No.SC-CP-2023/2222 dated 04.08.2023 (Copy enclosed) for filing up the vacancies to be occurred.

3. Now at this stage it is required that stop-gap-arrangement needs to be made for the smooth functioning of State Commission and District Commission I/II, U.T., Chandigarh as procedure for conducting written test for the selection of the Members in pursuance of Hon'ble Supreme

CWP-20554-2023

-4-

Court order dated 03.03.2023 passed in the case titled, The Secretary Ministry of Consumer Affairs Versus Dr. Mahindra Bhaskar Limaye & Ors. Civil Appeal No. 831 of 2023 @ SLP(C) No. 19492 of 2021, is a time taking process.

4. This information is forwarded to your office in pursuance to Rule 18 of Consumer Protection (Consumer Disputes Redressal Commissions) Rules, 2020 and Quarterly Performance Report (April to June 2023) already sent to the Joint Secretary, to Government of India, Ministry of Consumer Affairs, New Delhi, vide Endorsement bearing No.No.SC/CP/2023/2073 dated 19.07.2023 for avoiding de-functioning of the State Commission and District Commission I & II on completion of tenure of the members as above.”

4. Learned counsel for the petitioner also refers to Annexure P-7, which is a Reminder dated 28.08.2023/29.08.2023. It is submitted that despite various communications being made, the authorities have failed to initiate any action/process for filling up the vacancies which have already arisen or which are due to arise.

5. On the other hand, Mr. Abhinav Sood, Advocate has appeared on behalf of the respondents-U.T. Chandigarh, who on instructions from Mr. Sanyam Garg, Joint Secretary Food and Supplies Department, U.T. Chandigarh, submits that in terms of the directions issued by the Hon'ble Supreme Court of India in the judgment *ibid*, the process has indeed been initiated for filling up the vacancies; however, he seeks two weeks' time to get necessary instructions and to submit reply to the instant Writ Petition.

6. At this stage, learned counsel for the petitioner submits that

CWP-20554-2023

-5-

even going by the statement made by Mr. Abhinav Sood, Advocate for the respondents-U.T. Chandigarh that the process for filling up the vacancies has been initiated; it is likely that the same would take some time, accordingly, it is stated that some stop-gap-arrangement be made so that the Consumer Disputes Redressal Mechanism does not come to a standstill.

7. I have considered the aforesaid submissions and am of the view that in a welfare state, it is expected that the Central Government/State Government/Union Territories should take prompt action in making appointments of the President/Members in the State Commissions as well as in the District Commissions for the Redressal of the grievances of the consumers. It is observed that the respondents are bound to fill up the vacancies for the proper functioning of the State Consumer Disputes Redressal Commission as well as the District Consumer Disputes Redressal Commission so as to give effect to the Consumer Protection Act, 2019. Accordingly, in order to ensure that the Consumer Disputes Redressal mechanism does not come to a standstill and purely by way of an interim measure, it is directed that the tenure of Mr. Rajesh K. Arya, Member (non-judicial), State Consumer Disputes Redressal Commission, U.T. Chandigarh as well as Mr. Brij Mohan Sharma, Member (non-judicial) District Commission-II, U.T. Chandigarh be extended for the time being till the next date of hearing.

8. In the meantime, the respondents are directed to submit the Status Report regarding the steps being taken/initiated for filling up the already accrued vacancies and also the vacancies likely to arise in the State



CWP-20554-2023

-6-

Consumer Disputes Redressal Commission, U.T. Chandigarh as well as the District Consumer Disputes Redressal Commission, U.T. Chandigarh, by way of an affidavit of Secretary, Department of Food and Supplies and Consumer Affairs and Legal Metrology, Chandigarh Administration.

9. List for further consideration on 11.10.2023.

(HARSH BUNGER)
JUDGE

19.09.2023

Himani

