

ITEM NO.31

COURT NO.2

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

SUO MOTO WRIT PETITION (CIVIL) No(s). 2/2021

IN RE: INACTION OF THE GOVERNMENTS IN APPOINTING  
PRESIDENT AND MEMBERS/STAFF OF DISTRICTS AND STATE  
CONSUMER DISPUTES REDRESSAL COMMISSION AND INADEQUATE  
INFRASTRUCTURE ACROSS INDIA PETITIONER(S)

VERSUS

UNION OF INDIA &amp; ORS.

RESPONDENT(S)

(MR. GOPAL SANKARANARAYANAN, LEARNED SENIOR ADVOCATE ALONGWITH MR.  
ADITYA NARAIN, LEARNED ADVOCATE ARE AMICI.[FOR DIRECTIONS][TO BE  
TAKEN UP IMMEDIATELY AFTER FRESH MATTERS] )

IA NOS. 102106, 157081, 103193/2022-EXEMPTION FROM FILING O.T.  
IA NOS. 192079 & 192755/2022-INTERVENTION  
IA NO. 158893/2022- EXEMPTION FROM COMPLYING WITH CERTAIN  
DIRECTIONS

Date : 14-03-2023 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL  
HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH  
HON'BLE MR. JUSTICE ARAVIND KUMAR

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Mr. Narendra pal Sharma, Adv.

Mr. Ravish Kumar Goyal, Adv.

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Mr. Rajiv Kumar Choudhary, AOR.

UPON hearing the counsel the Court made the following  
O R D E R

Applications for exemption from filing O.T. are  
allowed.

Learned Amicus Curiae has referred to the status  
report filed on 13.03.2023 regarding the different  
subject matters dealt with by this Court on  
06.12.2022.

**MEDIATION CELLS**

(i) & (ii)- It is pointed out that 23 States have notified and set up the mediation cells for which one month's time was granted while 7 States have notified/set up mediation cells but empanelment of mediators is under process. We expect this part also to be completed on urgent basis. It appears that establishment of mediation cells is yet under process in Union Territories of Jammu & Kashmir, Ladakh and the State of Arunachal Pradesh.

We expect the States/Union Territories which have not yet complied with, to also do so within one month's from today.

Learned counsel for the NCT of Delhi submits that in the year 2009, Delhi Dispute Resolution Society (DDRS) was established which caters to the need of mediation through 11 centres. The aspect whether consumer disputes can also be something which is taken care of by DDRS is receiving the attention of the Delhi High Court in WP(C) No. 12490/2021, titled *Mohan Prasad (Since deceased through his Lr. Sh. Yogesh vs. Employees State Insurance Corporation & Anr.*

**UTILISATION CERTIFICATES**

The updated status of Utilisation

Certificates provided by the Nodal Officer shows that the pending UCs as on 28.12.2021 were worth Rs. 5,355.11 lakhs which stands reduced as on 06.03.2023 to 3605.64 lakhs. Thus there has been progress in this area. However, the caveat put to this is that more than 49% of the unutilized funds as on 06.03.2023 is from three States i.e. West Bengal, Rajasthan and Bihar.

As usual when updates are not given in time, it cannot be reflected in the record! Learned counsel for the State of Rajasthan submits that something was filed yesterday which shows a decline in the unutilized certificates by 2/3rd. Insofar as the State of West Bengal is concerned, there appears to be some communication gap as according to the learned counsel for the State they have sent by e-mail, the data stating that from the original there is only 10% balance pending.

The aforesaid may be looked into for verification.

PRESIDENTS OF STATE COMMISSIONS AS HEADS OF DEPARTMENT

It is pointed out that out of 36 States/Union Territories, responses have been received from 33 States/Union Territories and 22 have complied with while 11 are yet to comply with

making the total non compliance to 14, States of Mizoram, U.P. and Gujarat have since complied with making total non-compliance to 11.

As a last opportunity, four weeks' further time is granted to do the needful, failing which the concerned Secretary will remain present in Court.

**PRESIDENTS OF STATE COMMISSIONS AS DISCIPLINARY AUTHORITY FOR STAFF**

Out of 36 States/Union Territories, responses are received from 33 and 17 States have appointed Presidents as Disciplinary Authority while 16 have not done so. However, post the status report another 4 States have notified, which are States of UP, Gujarat, Mizoram & Tamil Nadu. Thus the total number of States not having notified comes to 15. Once again we grant four weeks' time as a last opportunity, failing which the concerned Secretary will remain personally present.

**VACANCY OF REGISTRAR IN NCDRC**

It is stated that the Central Government has notified the Rules only on 06.03.2023. The circular for the vacant post of Nodal officer will be issued shortly and it is expected that the

process will be completed within three months.

We may flag another issue here as it is now pointed out that there is a prospect of four more vacancies arising in the NCDRC as members and one as Chairman. In this behalf learned ASG states that the process is on by referring to para 7.2 of the report at page 16 for five posts and one Chairman.

On consideration of the aspects arising from the last order, certain other subsequent developments have been flagged: the judgment of this Court in *Secretary, Ministry of Consumer Affairs vs. Dr. Mahindra Bhaskar Limaye*, 2023 SCC OnLine SC 231.

The aforesaid judgment has an impact on the constitutional validity of certain Rules of the appointment process. Some Rules have been struck down earlier by the High Court of Bombay and that judgment has now been sustained by this Court. This would in turn require the future appointments to be done as per modified procedure and the concerned authorities dealing with the recruitment may have to start the process well in advance in view of more elaborate procedures. The Central Government and the State Governments have also been directed to amend the Rules for appointment process and we expect the needful to be done on an urgent basis, preferably within three months.

Learned Amicus Curiae on the basis of the communication received from the President of the State Commission has flagged certain issues. These are as under :

**“9.1 Organisation:** The Consumer Commissions function as a part of the Department of the Civil Supplies & have no administrative control over the staff of the department. Besides, it is also contrary to the Consumer Protection Act 2019 which requires the President of the State Commission to be appointed as the administrative head of the institution.

**9.2 Administration & Staff:** There is no approved staff or staffing pattern of the Consumer Commissions. No stenographer and court officer is available in the State Commission. The Commission is functioning only on temporary working arrangements.

**9.3 Funds:** There is a lack of sufficient funds to deal with (even) minor repairs and a problem in sanctioning of grant of funds as all decision making is by the Ministry and not the Commission.

**9.4 Infrastructure:** There is a lack of adequate infrastructure in the District as well as State Commissions. Most of the District Commissions are functioning from small portions of Collectorate Buildings. Additional space is required for the execution section of the commissions, mediation cells and for the premises of the State Commission.

**9.5 Paper & Stationary:** The Commissions are functioning without any basic Stationary & Paper. The

Corpus Fund Committee which includes Director of Civil Supplies, Representative of the Department Consumer Affairs. District Supply Officer & Chief Accounts Officer has not sanctioned the required amounts to the State & District Commissions.

9.6 Confidential Assistants/ Administrative Staff: The State Commission is provided with only 3 assistants & the District Commissions are provided with only 2 assistants in each district. This has delayed dictation and therefore timely pronouncement of judgments."

What is suggested is that the President of the State Commission may in turn interact with the Nodal Officer to improve the functioning of the State Commission, more so, in respect of aforesaid aspects.

We may note that the suggestions which have come from the Chairman of the State Commission for interaction with the Amicus Curiae have been enumerated as under:

"10.1 The Consumer Redressal Commissions must be separated from the Civil Supplies Department and made a part of the Consumer Affairs Department.

10.2 Special rules ought to be framed to stipulate the staff pattern and strength, qualifications and method of recruitment of staff of the Consumer Commissions.

10.3 The supervisory staff like Senior Superintendents, Asst.

Registrar & Registrar must be persons deputed from the Judicial Service, like a District Judge or Sub Judge or persons from the High Court Judicial Service.

10.4 The appointing authority of such personnel must be the President of the State Commission or District Commission who will also be designated as Disciplinary Authority for the purposes of the relevant Rules.

10.5 The President of the State Commission must be authorised to make all expenditure relevant for the functioning of the State Commission, including stationary, administrative and office expenses etc.

10.6 The Government is requested to grant the sanction for appointing sufficient number of confidential assistants on daily wages for the State and District Commissions."

The Nodal officer would look into all the aforesaid aspects also as the suggestions from the stakeholders.

We once again commend the role played by the Nodal Officer and the Amicus Curiae which helps us in carrying the agenda forward.

List for further proceedings on 11.07.2023.

IA NOS. 192079 & 192755/2022

We are not inclined to entertain these applications and if there are any suggestions the same should be made to the Amicus Curiae for examination.

The applications stand disposed of in terms  
aforesaid.

[CHARANJEET KAUR]  
ASTT. REGISTRAR-cum-PS

[POONAM VAID]  
COURT MASTER (NSH)