

9Sl. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			WPMS No.80 of 2022 With WPMS No.216 of 2022 WPMS No.393 of 2022 WPMS No.2204 of 2023 <u>Hon'ble Sharad Kumar Sharma, J.</u> Mr. Pawan Kumar Nath, Advocate, holding brief of Ms. Garima Thapa, Advocate, for the petitioners. Mr. B.S. Negi, Advocate, for the petitioner in WPMS No.393 of 2022. Mr. G.S. Negi, Brief Holder, for the State of Uttarakhand. Mr. Aayush Gaur, Advocate, holding brief of Mr. C.K. Sharma, Advocate, for the respondent. Mr. Parikshit Saini, Advocate, for the respondent. These are the bunch of four writ petitions. For the purposes of brevity, each of them is factually dealt with independently, though almost the legal questions involved are almost the same. The grievance of the petitioner was that in pursuance to the process of selection as it was resorted to by the State and its agencies, by issuing a Government Order No.666, dated 18th August, 2021, Department of Food, Civil Supplies and Consumer Affairs, Uttarakhand, had published an advertisement dated 19.08.2021, inviting the applications for appointment on the post of President, and the Members of the State Consumer Redressal Commission. Ultimately the selection process concluded, and the petitioners contended that their name was included in the select list thus published, and it was reflected at S.No.01, but the petitioner was not given an appointment, rather the appointment as a Member to the Consumer Forum was given to the respondent no.2. Hence, the present writ petitions.

			The writ petition was preferred with a relief for a writ of mandamus directing the respondent no.1, to appoint the petitioner as the Member of the State Consumer Redressal Commission. In fact, such, nature of writ of “mandamus for granting of an appointment”, is not permissible, but the contention pertaining to the selection of the respondent no.2, being in violation of the Gazette Notification dated 12.07.2020, as of now, and particularly owing to the changed legal circumstances, no interference is required to be made by this Court because of the adjudication made by the Hon’ble Apex Court in a judgment as reported in AIR 2023 Supreme Court 1371, “Secretary Ministry of Consumer Affairs Vs. Dr. Mahindra Bhaskar Limaye and others”, where now the Hon’ble Apex Court has laid down certain guidelines to be strictly followed for the purposes of appointment of the Chairman and Members of the District Consumer Forum. In view of the aforesaid principles, as laid down by the Hon’ble Apex Court, no fruitful purpose would be solved nor the grievance of the present petitioner would now be at all redressed, owing to there being a complete change in the process of selection as made by the Hon’ble Apex Court in the aforesaid judgment. In principle, the writ petition has been rendered infructuous, and the same would be accordingly dismissed as having rendered infructuous. <u>WPMS No.216 of 2022, “Arpana Chauhan Vs. State of Uttarakhand and another”</u>, The petitioner in this writ petition has prayed for that she may be appointed as a female Member of the District Consumer Redressal Commission, Dehradun. As a consequence of she having been selected by the respondent no.1, to be appointed against the said post in pursuance to the process resorted to as per the specified norms laid down by the Gazette Notification, dated
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			15.07.2020. It has been further submitted by the petitioner that the order dated 15.11.2021, appointing the respondent no.2, under the Gazette Notification dated 15.07.2020, was unlawful appointment as a Member of the District Consumer Redressal Commission, Dehradun. The claim of appointment of the petitioner in the writ petition has been modulated by way of a writ of a positive mandamus directing the respondent no.1, to appoint as a female Member of the District Consumer Redressal Commission. The petitioner should visualize, that a writ of mandamus, it cannot be issued by the High Court to appoint a person on a particular post, which may be falling within a public domain. A writ of mandamus at the most could be confined only to be considered for appointment in accordance with the process of selection on the recommendation made by the Selection Committee. Since there cannot be a writ of mandamus to appoint, the relief no.1, as prayed for by the petitioner would not be sustainable. So far as the contention of the petitioner is concerned, that she was selected on 15.11.2021, it needs no reference that merely inclusion of the name in the select list does not grant an indefeasible right to seek a writ of mandamus to be appointed on the post merely because of the fact, that her name has been included in the select list. Apart from that, owing to the subsequent development, which has taken place, as of now owing to the judgment of the Hon'ble Apex Court as reported in AIR 2023 Supreme Court 1371, "Secretary Ministry of Consumer Affairs Vs. Dr. Mahindra Bhaskar Limaye and others", it's altogether a different complexion, which has been given to the process of selection to the post of the Member of the District Consumer Forum. Even as of now, if the writ petition succeeds then too, no crystallize rights of the petitioner would at all be maturing, merely because of the inclusion of her name in
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			the select list as claimed by the petitioner. The adjudication on merits of the writ petition would be nothing but a fruitless exercise. Thus, owing to the subsequent development, and owing to the dictum of the Hon'ble Apex Court, the writ petition had been rendered infructuous. WPMS No.393 of 2022, "Ram Prakash Bhatt Vs. State of Uttarakhand & others" The petitioner has modulated his relief to the affect that the impugned order dated 15.11.2021, passed by respondent no.1, appointing the respondent no.3, as the Member of the District Consumer Redressal Commission, Uttarkashi, the same may be quashed, and the writ of mandamus may be issued directing the respondent no.1, to appoint the petitioner on the post of the Member of the District Consumer Redressal Commission. The foundation of the entire controversy is based upon the fact that the petitioner has contended, that upon the post being notified by the State, by virtue of the advertisement as published by the State, the petitioner was one of the aspirants to be considered for appointment, and he contends that after the completion of the process of selection, as held on 8, 9 and 10 November, 2021, his name has been recommended by the Selection Committee, but despite of the fact that he being placed at S.No.01, the appointment has been given to respondent no.3. Apart from the reasoning already given above, that there cannot be a writ of mandamus for issuance of direction for being appointed against the public post, merely because of the fact that the person has been selected and name has been included in the select list, and that stands substantiated by the Rules as framed in the year 2020, where too it has been provided in its clause (7), that merely a selection doesn't grant a right to be appointed. Besides this, the embargo of clause (7), no
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			right of the petitioner would now be crystallizing to be actually given effect too, because of the restrictions imposed in the process of the selection by the judgment of the Hon'ble Apex Court as referred to hereinabove, in the matters of AIR 2023 Supreme Court 1371, "Secretary Ministry of Consumer Affairs Vs. Dr. Mahindra Bhaskar Limaye and others". Thus, this writ petition too with the efflux of time has been rendered infructuous to be considered and decided on merits, which would be otherwise a fruitless exercise as of now. WPMS No.2204 of 2023, "Bhupendra Singh Rawat Vs. State of Uttarakhand and another" In this writ petition, the petitioner has given a belated challenge to the impugned order dated 15.11.2021, as it was passed by respondent no.1, by virtue of which, by the Gazette Notification dated 15.07.2020, the respondent no.2, has been directed to be appointed as a male Member of the District Consumer Redressal Commission, Udham Singh Nagar. Simultaneously, a writ of mandamus has been sought by way of a direction to be appointed as a male Member of the District Consumer Redressal Commission. In fact, factually, this case too is governed by almost the similar set of facts and circumstances, and the legal implications as already dealt with hereinabove. The same principles as above could too be borrowed for the purposes of adjudication of the present writ petition. This writ petition too would stand dismissed owing to the following principles:- "1. The inclusion of the name in the select list does not give an indefeasible right to be appointed. 2. That the rights for appointment stood reserved under clause 7, of the Rules framed on 15.07.2020. 3. The petitioner cannot claim as a matter of right to get a writ of mandamus issued, which will not be
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			falling within the domain of Article 226 of the Constitution of India, to issue a writ of mandamus for appointing a person on the public post. The High Court can only issue a direction to consider the candidature, but there cannot be any direction to appoint. 4. Owing to the changed circumstances, because of the Hon'ble Apex Court dictum, no right would be, as of now, created in favour of the petitioner to be appointed as against the post against which the petitioner was an aspirant to be appointed. Thus, this writ petition too with the efflux of time has been rendered infructuous. (Sharad Kumar Sharma, J.) 11.12.2023 NR
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