

IN THE COURT OF MANIPUR

AT IMPHAL

WP (C) No.264 of 2022

Z. Michael Zimik aged about 60 years, S/o (L) Z. Philip Siluiwung a permanent resident of Saharkazeng, Luiyainaotang, Ukhrul presently residing at Nagaramn, Block-C, Imphal East.

.....Petitioner

-Versus-

1. The State of Manipur represented by the Commissioner, CAF & PD, Government of Manipur, Manipur Secretariat, Babupara, P.O. & P.S. Imphal, District: Imphal West, Manipur-795001.

2. The Director, CAF & PD, Manipur, Sangaipurou, Imphal West, Manipur.

3. Ms. Premila, aged about 62 years, D/o (L) Chinaongai of Talui Village, Ukhrul District, Manipur.

4. Smt. Athokpam Nibedita Devi aged about 42 years W/o W. Kenedy Singh a resident of Thoubal Mayai Leikai, P.O. & P.S. Thoubal, District: Thoubal, Manipur-795138.

5. Shri N. Banikumar Singh aged about 60 years S/o (L) N. Nabakishwor Singh a resident of Keisampat Leimajam Leikai, Imphal West, Manipur.

.....Respondents

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6. Shri K. Rabei Singh aged about 59 years S/o (L) K. Kullachand Singh of Thiyam Leishangkhong Yumnam Huidrom, Imphal West, Manipur.

7. Smt. R.K. Sumitra Devi, aged about 60 years D/o R.K. Khellendro Singh of Singjamei Mathak Chongtham Leikai, Imphal West, Manipur.

8. Shri Yumnam Lokendro Singh aged about 52 years S/o Y. Babu Singh of Samurou Bazar, Imphal West, Manipur.

....Proforma Respondents

WP (C) No. 686 of 2022

With

MC(WP(C) No. 402 of 2023

Miss Rita Nongmaithem, aged about 52 years, d/o., N. Biramani Singh a resident of Keishamthong Hodam Leirak, P.O. & P.S. Imphal, Imphal West District, Manipur, PIN-795001.

... Petitioner

-Versus-

1. The State of Manipur represented by the Commissioner, CAF & PD, Government of Manipur, Manipur Secretariat, Babupara, P.O. & P.S. Imphal, Imphal West District, Manipur, PIN-795001.

2. Selection Committee represented by its Convener. The Commissioner/Secretary, CAF & PD, Government of Manipur, Manipur Secretariat, Babupara, P.O. & P.S. Imphal, Imphal West District, Manipur, PIN-795001.

3. The Director, CAF & PD, Manipur, Sangaiprou, P.O. & P.S. Imphal, Imphal West District, Manipur, PIN-795001.
4. Ms. Premila, aged about 62 years, d/o. (L) Chinaongai of Talui Village, P.O. & P.S. Somdal Ukhrul District, Manipur, Pin-795142;
5. Smt.. Athokpam Nibedita Devi,. aged about 42 years, w/o Waikhom Kennedy Singh of Thoubal Mayai Leirak, P.O., P.S. and District: Thoubal, Manipur, PIN-795138;
6. N. Banikumar- Singh, aged abvut 60 years, s/o. (L) N. Nabakishwor Singh, of Keishampat Leimajam Leikai, P.O. & P.S. Imphal, Imphal West District, Manipur, PIN-795001;
7. K. Rabei Singh, aged about 59 years, S/o. (L) K. Kullachand Singh,, of Thiyam Leishangkhong Yumnam Huidrom, P.O. & P.S. Wangoi, Imphal West District, Manipur, PIN-795132;
8. Smt. R.K. Sumitra Devi, aged about 60 years, d/o R. K. Khellendro Singh of Singjamei Mathak Chongtham Leikai, P.O. & P.S. Imphal, Imphal West District, Manipur, PIN-795001;
9. Yumnam Lokendro Singh, aged about 52 years, s/o. Y. Babu Singh, of Samurou Bazar, P.O. Samurou, P.S. Wangoi, Imphal West District, Manipur, PIN-795009;
10. Integrated Rural Developrment and Educational Organisation (IRDEO), a registered Society having Regd. No. 137 of 1988, represented by its Secretary, namely, Kh. Kumar Singh, Wangbai, P.O., P.S. and Distrit: Thoubal, Manipur, PIN-795138.

... Respondents.

BEFORE

HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

For the Petitioners : Mr. Debdutta, Advocate in WP(C) No. 264 of 2022

Mr. N. Mahendra, Advocate in WP(C) No. 868 of 2022

For the Respondents : Mr. Th. Sukumar, G.A for State

Mr. Kh. Tarunkumar, Sr. Adv. with Ms. K. Mercy, Advocate for R-5&10 in WP(C) No. 868 of 2022 & R-3&4 in WP(C) No. 264 of 2022; Mr. Sh. Athoi, Advocate for R-6 in WP(C) No. 868 of 2022

Date of Hearing : 18-10-2024

Date of Order : 20-12-2024

JUDGEMENT& ORDER [CAV]

[1] The instant writ petitions are filed praying for setting aside the impugned order dated 21-3-2022 passed by the Department CAF & PD, Govt. of Manipur for appointment of respondents as Members of the Consumer Disputes Redressal Commissions (District & State) as violative of the provisions of the Consumer Protection Act, 2019 and Rules of 2020. Since these two writ petitions concern with the same notification and order, they are being considered and disposed of by this common order.

[2] Brief facts in **WP(C) No. 264 of 2022** are that the present petitioner joined as Asst. Public Prosecutor cum Asst. Govt. Advocate (District) under the Government of Manipur in the year 2008 on contract basis. Thereafter his service was regularized by the authority in the year 2016. The petitioner after

completing his term of appointment as APP cum AGA (District) got retired from service on attaining superannuation in the year 2021.

[3] Government of Manipur through department CAF & PD issued a Notification dated 8-11-2021 inviting applications from the intending candidates for appointment of President and Members of Consumer Disputes Redressal Commission (State Commission) and District Consumer Disputes Redressal Commission (District Commission) of Manipur respectively. The aforesaid Notification was issued in terms of the relevant provisions of the Consumer Protection Act, 2019 (hereinafter referred to as the Act in short) enforced wef 20-7-2020. The eligibility and qualification for appointment to the post of President and Members of the State Commission are enumerated in Section 43 of the Act and Rule No. 3 of the Consumer Protection (Qualification for appointment, method of recruitment, procedure of appointment, term of office, resignation and removal of the President and Member of the State Commission and District Commission) Rules, 2020 (hereinafter referred to as the Rules in short).

[4] The relevant portion of the above mentioned Rules are reproduced below for kind perusal:

"3. Qualifications for appointment of President and members of the State Commission--- (1) A person shall not be qualified for appointment as President, unless he is, or has been, a Judge of the High Court:

(2) A person shall not be qualified for appointment as a member unless he is of not less than forty years of age and possesses—

(a) an experience of at least ten years as presiding officer of a district court or of any tribunal at equivalent level or combined service as such in the district court and tribunal;

(b) a bachelor's degree from a recognized university and is a person of ability, integrity and standing, and has special knowledge and professional experience of not less than twenty years in consumer affairs, law, public affairs, administration, economics, Commerce,

industry, finance, management, engineering, technology, public health or medicine:

(3) At least one member or the President of the State Commission shall be a Woman.

[5] It is stated that from the reading of the above provisions of Rules and wordings incorporated, the number of post earmarked for candidate in respect of the President or Member in the State Commission is 1(one). This condition is made absolutely clear in both Rules as well as in the notice/advertisement dated 8-11-2021 for appointment of President and Members in the State Commission. In the said Notification so far as the female member is concerned, only one post of member has been prescribed in the Notification, however, while issuing the appointment orders altogether 2 (two) female candidates have been appointed as Members of the State Commission which is not in conformity with the Scheme of the appointment of deserving candidates for the posts of Members in the State Commission.

[6] The petitioner having fulfilled the requisite qualifications for the candidature of the same and also having high expectation of being appointed to the post of Member, has applied by submitting his qualification and eligibility certificates formally to the authority. The personal interview and viva voce test was conducted on 30-12-2021 by a selection committee before which the humble petitioner also appeared. The result of the aforesaid interview conducted by the duly constituted Selection Committee was notified on 21-3-2022 and appointments were accorded to incumbents (respondent Nos. 3,4, 5, 6, 7 and 8) in the manner as under:

(A) Members of State Commission:-

1. Smt. M. Premila
2. Smt. A. Nibedita Devi
3. Shri N. Banikumar Singh

(B) Presidents of District Commissions:-

1. Shri K. Rabei Singh
2. Smt. R.K. Sunitra Devi
3. Shri Y. Lokendro Singh

[7] To the utter shock and surprise of the humble petitioner, two females were appointed as Members of the State Commission against the mandate of the Act and also not in conformity with the condition prescribed in the advertisement, wherein it has been clearly and categorically mentioned for 1 (one) post of Member (Female).

[8] It is submitted that the established principle of law that in the public employment a standard yardstick of selection procedure is always expected to be followed in a fair manner which is free from any arbitrariness and favouritism. In the instant case, the procedure adopted by the Selection Committee appears to be quite irregular and hence subjected to the deprivation of the legitimate right of the humble petitioner to be considered in terms of the quota (vacancy) earmarked for the male candidate. The 1 (one) number of post of Member of State Commission meant for male candidate have been usurped by appointing two numbers of female candidates by exceeding the advertised number of post in the Notice. The petitioner came to know about the said appointment order dated 21-3-2022 and soon thereafter he submitted a representation dated 28-3-2022 to the Hon'ble Chief Minister of Manipur with copies being circulated to the competent authorities for redressing the irregularity and also to ventilate his grievance. However, the same is still pending.

[9] The recommendation of the Selection Committee is tainted with non action of mind and suffers from unreasonableness so far as the selection of female candidate and male candidates are concerned. Being aggrieved by the inaction, illegality, arbitrariness and unjustifiable actions on the part of the respondents, the present petition is being filed bonafide before the Hon'ble High Court for setting aside the impugned order dated 21-3-2022 in respect of appointment of the Members of the State Commission as illegal and void ab-initio and to direct the respondents to hold the fresh selection process.

[10] The State respondents filed counter affidavit stating that the mistake in the Notification dated 08-11-2021 was later on rectified in terms of Rule 3(3) of the Rules of 2020 by issuing a Corrigendum dated 11-11-2021, whereby the number of vacancies of the Members of the State Commission be read as "Members- 3 (three) vacancies and at least one Member or the President shall be a woman" in place of "Member (Male)- 2(two) and Member Female- 1 (one)" as occurred at Sl. No. 2 & 3 of Notification dated 08-11-2021. It is pointed out that the only ground taken in the writ petition is appointing excess number of female Members as advertised in the Notification dated 08-11-2021. It is stated that after the issuance of the Corrigendum dated 11-11-2021, the cause of the writ petition does not exist from the very inception and the petitioner has concealed this vital document from this Court. It is submitted that appointment of more than one female Member is not barred by Rule. The petitioner has also failed to challenge the Corrigendum dated 11-11-2021. It is urged that the writ petition be dismissed being devoid of merit and for concealment of vital document.

[11] Respondent Nos. 3, 4 & 5 have also adopted the stand of the State respondents to the point that the initial defect has already been rectified and the Rules permit appointment of more than one female Member in the State Commission.

[12] The petitioner did not file any rejoinder affidavit specifically to counter the issuance of Corrigendum dated 11-11-2021.

[13] Mr. Th. Sukumar, learned GA as well Mr. Kh. Tarunkumar, learned senior counsel for the respondent Nos. 3&4 urge that with the issuance the Corrigendum dated 11-11-2021, the cause in the writ petition does not exist from the very beginning. The petitioner has also concealed this vital fact from this Court with malafide intention of harassing the respondents. It is also highlighted that the petitioner despite having a clear knowledge of the corrigendum, he appeared before the Selection Board without any protest and only as and when he was not selected, he filed the aforesaid writ petition by challenging the legality of the appointment order dated 21-03-2022. Such action of the petitioner is barred by the principle of estoppel as well as doctrine of approbate and reprobate. Reliance is placed on the decision of the Hon'ble

Supreme Court of India in the case of **Anupal Singh and Ors. Versus the State of Uttar Pradesh & Ors. reported in (2020) 2 SCC 173** where it has been held that a person having consciously participated in the interview cannot turn around and challenge the selection process (relevant para 55). Similar view was taken by the Hon'ble Apex Court in the case of **Madan Lal Versus State of J&K reported in (1995) 3 SCC 486 (relevant para 9)**.

[14] It is submitted that as the petitioner has failed at the interview after participating without any protest, he cannot turn around and challenge the appointment order of the private respondents dated 21-03-2022, Moreover, the appointment of the private respondents as Member (Female) is also permissible in view of the aforesaid Rule 3 sub rule 3 of the **Consumer Protection (Qualification for Appointment, Method of Recruitment, Procedure of Appointment, Term of Office, Resignation and Removal of the President and Members of the State Commission and District Commission) Rules, 2020**. The writ petition filed by the petitioner is not maintainable as the same is barred by the principles of estoppel and devoid of merit and liable to be dismissed.

[15] Brief facts in **WP(C) No. 686 of 2022** are that Respondent No.1 issued a Govt. Notice dated 08-11-2021 inviting applications from the intending candidates for appointment of President and Members of Consumer Disputes Redressal Commission (State Commission) and District Consumer Disputes Redressal Commission (District Commission) of Manipur. The petitioner, respondents no. 4 to 9, among other candidates, applied for the notified vacant posts. Petitioner applied for the post of President of District Consumer Disputes Redressal Commission (District Commission) in response to the said Govt. Notice dated 08-11-2021 by submitting application dated 17-11-2021 with necessary enclosures. The respondent nos. 7 to 9 applied for the post of Members of Consumer Disputes Redressal Commission (State Commission) and as well as for the posts of President of District Consumer Disputes Redressal Commission (District Commission) of Manipur.

[16] Hon'ble Mr. Justice A. Bimol Singh, Judge High Court of Manipur was nominated in relation to the constitution of Selection Committee for appointment of President and Members of the State Commission and District

Commission under Rule 6(1) of the Consumer Protection Rules, 2020 vide Letter dated, the 28 October 2021 of Registrar General, High Court of Manipur, Imphal. The Selection Committee Meeting/interview was held on 28.12.2021 at Judges' Lounge, High Court of Manipur as per schedule and the petitioner, respondents nos. 4 to 9, among other candidates, took part in the said interview. On the recommendation of the Selection Committee Meeting held on 28.12.2021 the Govt. of Manipur issued the appointment Orders By The Governor: Manipur No. CDRC-101/3/2021- CAFANDPD-CAF&PD(Pt-I) Imphal, the 21st March, 2022 thereby appointing the respondent Nos. 4 to 9 for the respective posts mentioned therein. The respondent Nos. 4 to 9 have joined and started functioning in their respective posts.

[17] It is stated that a person shall not be qualified for appointment as member of State Commission unless he is not less than forty years of age and possesses - (a).....(b) a bachelor's degree from a recognized university and is a person of ability, integrity and standing, and has special knowledge and professional experience of not less than twenty years in consumer affairs, law, public affairs, administration, economics, commerce, industry, finance, management, engineering, technology, public health or medicine vide Rule 3(2)(b) of the Consumer Protection (Qualification for appointment, Method of Recruitment, Procedure of Appointment, Terms of Office, Resignation and Removal of the President and Members of the State Commission and District Commission) Rules, 2020. Prior to framing of Consumer Protection (Qualification for appointment, Method of Recruitment, Procedure of Appointment, Terms of Office, Resignation and Removal of the President and Members of the State Commission and District Commission) Rules, 2020, S.16(1)(b) of the Consumer Protection Act, 1986 provided for the Composition of the State Commission, wherein it is provided that member of the State Commission shall have the following qualifications, namely: (i).....(ii) possess a bachelor's degree from a recognized university; (iii) be persons of ability, integrity and standing, and have adequate knowledge and experience of at least ten years in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration: Provided that not more than fifty per cent of the members shall be from amongst persons having a judicial background.

[18] It is pertinent to mention that the respondent no.5 was appointed as Member of Consumer Disputes Redressal Commission (State Commission) vide appointment Orders By The Governor: Manipur No. 5/5/2015-CAF&PD/112 Imphal, the 26th August, 2015. The term of appointment of the respondent no.5 as Member of Consumer Disputes Redressal Commission (State Commission) was extended for Six months w.e.f. 26.11.2020 or till regular appointment vide appointment Orders By The Governor: Manipur No. 1/3/2020-CAF&PD Imphal, the 12th November, 2020. The respondent no.5 was only of the age of 40/42 years and how she was able to possess special knowledge and professional experience of not less than twenty years in consumer affairs, law, public affairs, administration, economics, commerce, industry, finance, management, engineering, technology, public health or medicine was required under Rule 3(2)(b) of the Consumer Protection (Qualification for appointment, Method of Recruitment, Procedure of Appointment, Terms of Office, Resignation and Removal of the President and Members of the State Commission and District Commission) Rules, 2020. The petitioner got suspicious about the experience certificates produced by the respondent no.5 and therefore, applied for furnishing the 'Experience Certificate and Certificate of High School Leaving Certificate Examination' of respondent no.5 under Right to Information, 2005 to the SPIO (State Public Information Officer) of the Directorate of CAF & PD by submitting an application dated 25.04.2022 which was received vide RR No.3702 dated 09.05.2022.

[19] The State Assistant Public Information Officer, CAF & PD had written a letter dated 12.05.2022 to the respondent no.5 to make a submission whether to disclose the information or not. As a follow-up, the petitioner was served with a letter dated 23.05.2022 enclosing therewith the written objection of the respondent no.5 by the State Assistant Public Information Officer (SAPIO), CAF & PD declining to provide the information sought.

[20] Being aggrieved by the decision of the SAPIO, the petitioner made a complaint u/s 18(1)(b) of the RTI Act, 2005, being Complaint Case No.3 of 2022 dated 26.05.2022 before the Manipur State Information Commission requesting for taking suitable action against SPIO and also to provide the information sought. The complaint was entertained and hotly contested by the

O.P. but during the pendency and proceedings of the said complaint before the Manipur State Information Commission, the petitioner was delivered with a letter dated 15.07.2022 by the SPIO (State Public Information Officer) of the Directorate of CAF & PD, enclosing therewith Experience Certificates dated 02.08.2003 and 08.04.2015 (two in numbers, purportedly issued by the respondent no.10) and High School Leaving Certificate of the respondent no.6 through registered post. The said complaint u/s 18(1)(b) of the RTI Act, 2005, being Complaint Case No.3 of 2022 dated 26.05.2022 before the Manipur State Information Commission was closed vide its Decision dated 08.08.2022.

[21] On perusal and analysis of the two Experience Certificates dated 02.08.2003 and 08.04.2015 concerning the respondent no.5 who passed HSLC Examination, 1995 and not even a graduate by the year 1999-2000 and having managed by respondent no.5 to obtain Experience Certificate dated 02.08.2003 wherein it is mentioned that the respondent no.5 had served as a Project Manager for all projects run under respondent no. 10 since 12.01.1998 to 22.07.2003 and also the other Experience Certificate dated 08.04.2015 wherein it is mentioned that the respondent no.5 had served as a Project Coordinator for the project of Regional Resource Training Centre(RRTC) North East under the Ministry of Social Justice And Empowerment, Government of India run by respondent no.10 since 03.06.2005 to 06.04.2015. Being suspicion about the authenticity/genuineness of the experience certificates, the petitioner approached the State Public Information Officer, Office of the Registrar of Societies, Manipur to provide information relating to the respondent no.10 vide application dated 25.07.2022 of the petitioner. On receiving the said application dated 25.07.2022 of the petitioner, the State Public Information Officer, Office of the Registrar of Societies, Manipur, was pleased to furnish the information sought concerning respondent no.10 vide its letter dated 26.07.2022 .

[22] On the perusal of the relevant documents furnished to the petitioner by the State Public information Officer, Office of the Registrar of Societies, Manipur, it is revealed that name of Project Manager of respondent no. 10 is not available and also the name of Project Coordinator as per the list of staff furnished is one, Minthang Suanthak. It is also learnt that there is no any project of Regional Resource Training Centre(RRTC) North East under the

Ministry of Social Justice And Empowerment, Government of India run by respondent no.10 as on in the year 2005, 2006, 2007 or 2008. The petitioner, as part of fact finding regarding the working of respondent no.5 under respondent no.10, contacted one, Mayengbam Ningthem Singh son of late M. Ibohal Singh of Wangbal Lamboithong, Thoubal District who was working as Accountant of Integrated Rural Development and Educational Organisation (IRDEO), Wangbal, Thoubal District, Manipur during the period 1988 to 2000. He stated that he was the Accountant, he knew all the staff members of the said IRDEO. During his service as an Accountant of the said IRDEO, he had not come across any female staff member by the name of Athokpam Nibedita Devi, d/o. Athokpam Momon Singh of Thoubal Ningombam Mayai Leirak, P.O. & P.S. Thoubal District, Manipur, Pin-795138 serving either as Project Manager of all projects run under IRDEO or as in any other capacity. An affidavit was obtained by the petitioner on this fact from the said Mayengbam Ningthem Singh on 01.08.2022.

[23] The petitioner also contacted one, Naorem Pralhada Singh son of late N. Ibohi Singh of Wangbal Lamboithong Leikai, Thoubal District who was working as Cashier of Integrated Rural Development and Educational Organisation (IRDEO), Wangbal, Thoubal District, Manipur during the period 1995 to 1999. He stated that he was the Cashier, he knew all the staff members of the said IRDEO. During his service as Cashier of the said IRDEO, he had not come across any female staff member by the name of Athokpam Nibedita Devi, d/o. Athokpam Momon Singh of Thoubal Ningombam Mayai Leirak, P.O. & P.S. Thoubal District, Manipur, Pin-795138 serving either as Project Manager of all projects run, under IRDEO or as in any other capacity. An affidavit was obtained by the petitioner on this fact from the said Naorem Pralhada Singh on 01.08.2022.

[24] The-action on the part of the respondent Nos. 1, 2, 3, 5 and 10 is objected to on the following, inter alia, grounds with prayer to quash the Appointment Orders By The Governor: Manipur No. CDRC-101/3/2021-CAFANDPD-CAF&PD(Pt-I) Imphal, the 21th March, 2022 and further to ask the respondent no.5 to return the wrongful monetary benefits, by way of salary, etc., obtained by her during the tenure of illegal appointment.

GROUND

i) Because there is violation of the petitioner's right to be considered fairly and properly for the appointment to the post of President of District Consumer Disputes Redressal Commission (District Commission) of Manipur;

ii) Because a bachelor's degree from a recognized university and then to be a person of ability, integrity and standing, and has special knowledge and professional experience of not less than twenty years in consumer affairs, law, public affairs, administration, economics, Commerce, industry, finance, management, engineering, technology, public health or medicine is mandatory in terms of Rule 3(2)(b) of the Consumer Protection (Qualification for appointment, Method of Recruitment, Procedure of Appointment, Terms of Office, Resignation and Removal of the President and Members of the State Commission and District Commission) Rules, 2020;

iii) Because respondent no. 5 did not have the requisite and mandatory requirement of being a graduate and then having special knowledge and professional experience of not less than twenty years in consumer affairs, law, etc., is lacking and as such ineligible for consideration for appointment as member, State Consumer Disputes Redressal Commission;

iv) Because wrongful decision and recommendation for appointment qua the respondent no.5 has been made by the Selection Committee for the post of member, State Commission despite knowing well that respondent no.5 is ineligible for the post of member of State Commission in as much as respondent no.5 did not have the requisite special knowledge and professional experience of not less than twenty years in consumer affairs, law, public affairs, administration, economics, commerce, industry, finance, management, engineering, technology, public health or medicine;

v) Because this experience of 'not less than twenty years' of the person shall mean experience of 'not less than twenty years' of the person after attainment of the bachelors degree from a recognized university and not the experience prior to obtainment/attainment of the bachelor's degree from a recognized university;

vi) Because respondent no.5 is unqualified person for the post for which she was appointed to as member, State Consumer Disputes Redressal Commission;

vii) Because the two Experience Certificates dated 02.08.2003 and 08.04.2015, concerning the respondent no.5 who passed HSLC Examination, 1995 and not even a graduate by the year 1999-2000 and having managed by respondent no.5 to obtain Experience Certificate dated 02.08.2003 wherein it is mentioned that the respondent no.5 had served as a Project Manager for all projects run under respondent no.10 since 12.01.1998 to 22.07.2003 and also the other Experience Certificate dated 08.04.2015 wherein it is mentioned that the respondent no.5 had served as a Project Coordinator for the project of Regional Resource Training Centre(RRTC) North East under the Ministry of Social Justice And Empowerment, Government of India run by respondent no. 10 since 03.06.2005 to 06.04.2015, have been issued by respondent no. 10 falsely;

viii) Because besides there are other good grounds for filing the present petition.

[25] In the counter affidavit of the State respondents, it is stated that the Petitioner has admitted that she applied for the post of President of District Consumer Disputes Redressal Commission (District Commission). On the other hand the Private Respondent No. 5 namely, Smt. Athokpam Nibedita Devi, applied for the post of Member of the State Commission and was selected for the said post by the Selection Committee. As such, the Petitioner has no locus standi to challenge the appointment of the Private Respondent No. 5 since she is not an aggrieved person and that no fundamental or other legal rights have been infringed by appointing the Private Respondent No. 5. On this ground alone, the present Writ Petition deserves outright dismissal.

[26] It is the submission of the learned GA that the Constitution Bench of the Hon'ble Supreme Court in **Calcutta Gas Company (Proprietary) Ltd. -versus- The State of West Bengal and others [1962 AIR (SC) 1044]** has held as follows:-

"..5. The legal right that can be enforced under Art. 32 must ordinarily be the right of the petitioner himself who complains of infraction of Such right and approaches the Court for relief. We do not see any reason why a different principle should apply in the case of a petitioner under Art. 226 of the Constitution. The right that can be enforced under Art. 226 also shall ordinarily be the personal or individual right of the petitioner himself, though in the case of some of the writs like habeas corpus or quo warrant this rule may have to be relaxed or modified. The question, therefore, is whether in the present case the petitioner has a legal right and whether it has been infringed by the contesting respondents."

[27] It is also humbly submitted that the law laid down by the Constitution Bench of the Hon'ble Supreme Court in the above referred case has been consistently followed in subsequent judgments. That, the Hon'ble Supreme Court in **N. Kannadasan -versus- Ajoy Khose & others [(2009) 7 SCC 1]** has also held that in Writ of Certiorari, a third party has no locus to canvass the legality or correctness of the action. It is also further humbly submitted that the Hon'ble Supreme Court in **K. Kumar Gupta -versus- Sri Marken da ya & Sri Omkareswara Swamy Temple & others [2022 5 SCC 710]** has again reaffirmed that in order to have locus standi to invoke the extraordinary jurisdiction under Article 226, an applicant should ordinarily be one who has a personal or individual right in the subject-matter of the application.

[28] In view of the law laid down by the Hon'ble Supreme Court in the above referred cases, the Petitioner in the present Writ Petition has no locus to pray for issuance of a Writ in the nature of Certiorari since the authority has not infringed any fundamental or other legal rights of the petitioner by appointing the private respondent no. 5.

[29] It is stated in the preliminary objection vide MC(WP(C) 402 of 2023 of the respondent Nos. 5 & 10 that the petitioner has filed the above said writ

petition before this Hon'ble Court praying for issuance of the a writ of certiorari to quash/set aside the appointment order dated 21-03-2022 for appointment of 3 Members of Manipur State Consumer Redressal Commission (State Commission) and Presidents of District Consumer Disputes Redressal Commission (District Commission) Imphal, Thoubal and Bishnupur. The main ground taken by the petitioner against the respondent No. 5 who was appointed as a Member of the Manipur State Consumer Redressal Commission was that she did not possess the requisite experience for appointment as a Member of the Manipur State Consumer Redressal Commission. The State respondents have filed their affidavit-in-opposition to the said writ petition wherein it was clearly stated that the experience certificate and documents of the respondent No. 5 were duly verified and found to be correct and genuine and prayed for dismissal of the said writ petition. The respondent Nos. 5 & 10 have filed their preliminary objection to the abovesaid writ petition by raising the question of maintainability of the said writ petition and also sought a leave to file an exhaustive affidavit-in-opposition if the said writ petition is found to be maintainable.

[30] It is stated that the writ petition filed by the petitioner is not maintainable for the reason that she is not a candidate for the post of Members of the Manipur State Consumer Redressal Commission (State Commission) and she did not apply for the said post. This factual position is admitted by the petitioner herself in her writ petition. Therefore, in view of the judgment and order of this Hon'ble Court dated 20-03-2014 passed in **W.P(C) No. 695 of 2016 (L. Jayananda Singh Versus The Secretary, Manipur Legislative Assembly & 2 Ors.) (para No. 13 & 16)**, holding that the writ petitioner does not have locus standi to challenge the appointment of the respondent No. 5. In Para 16 of the said judgment, this Court has clearly held that as the petitioner of the said writ petition has not applied for the post in pursuance to the related notification, he has no locus to challenge the appointment of the respondent. The same ratio laid down in the said case by this Hon'ble Court is applicable in the present case also. This Court has also relied the judgment of the Hon'ble Supreme Court of India in the case of **B. Srinivasa Reddy V. Karnataka Urban Water Supply & Drainage Board Employees Association: (2006) 11 SCC 731** wherein the Hon'ble Apex Court has clearly held that certiorari

jurisdiction can be exercised only at the instance of a person who is qualified to the post and who is a candidate for the post.

[31] It is the contention of Mr. Kh. Tarunkumar, learned senior counsel for the respondent No.5 that as the petitioner is not qualified for the post of Member of the Manipur State Consumer Redressal Commission and also she is not a candidate for the said post, she cannot seek for a relief under the writ of certiorari to quash and set aside the appointment of the respondent No. 5. The writ petition filed by the petitioner is not maintainable in view of the aforesaid judgments of the Hon'ble Supreme Court of India and the order of this Court and as such, the same is liable to be dismissed without entering into the merit of the case.

[32] Further, it is pointed out that if the issue of maintainability is raised in a writ petition, the same must be decided first before entering into the merit of the case. This settled position of law has been laid down by the Hon'ble Supreme Court of India in the case of **Security Exchange Board of India versus Mangalore Stock Exchange reported in (2005)10 SCC 274**. In the said case, the Hon'ble Apex Court has clearly held that once a case has been challenged as not maintainable, it should dispose of the issue of maintainability first before passing any further order. A similar view was also taken by the Hon'ble Supreme Court of India in the case of **Union of India Versus Ranbir Singh Rathaur & Ors. reported in (2006) 11 SCC 696** relevant para 42. In the said case also, the Hon'ble Apex Court held that if the issue of maintainability is raised in the writ petition, the same should be decided first before going into merit.

[33] In view of the aforesaid settled position of law, the maintainability issue raised by the respondent No. 5 & 10 may kindly be decided first. And, the writ petition filed by the petitioner is not at all maintainable as she is not a candidate for the post of Member of the Manipur State Consumer Redressal Commission and she is also not eligible for the said post. Hence, the writ petition filed by the petitioner is liable to be dismissed with exemplary cost for filing a frivolous petition.

[34] In the counter affidavit of the respondent No.6, it is stated that the writ petition is not maintainable as the petitioner has applied for the post of President of District Commission only and she cannot challenge the appointment of the respondents as Members of State Commission. It is pointed out that she lacks locus standi to file the present writ petition, as the petitioner is not an aggrieved person.

[35] This Court considers the materials on record, the submissions made at bar and relevant law in this regard including case law relied by the parties.

[36] In WP(C) No. 264 of 2022, the only ground for challenge is appointment of two female Members in the State Commission in excess of one post advertised in the Notification dated 08-11-2021. However, with the admitted fact of issuance of Corrigendum dated 11-11-2021 of making at least one female Member, the cause in the writ petition does not exist as more than one female Member can be appointed. Accordingly, writ petition is dismissed.

[37] In WP(C) No. 686 of 2022, the petitioner is an applicant for the post of the President in District Commission and she has challenged the appointment of the respondent No.5 as Member of the State Commission. In fact, she is not an aggrieved party, as she is not an applicant and has no locus to challenge the appointment of the respondent No.5 in view of the settled proposition of law as referred herein above. Accordingly, the writ petition is dismissed as not maintainable. Misc. application is disposed of. Since the writ petition is not maintainable, the question of eligibility of the respondent No.5 is not gone into in the present case.

[38] In terms of the discussions in para 36 and 27, the writ petitions are dismissed.

JUDGE

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**KH. JOSHUA
MARING**

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