

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 824 of 2012

1. Ashwani Sinha S/o Dr. B.P. Sinha, aged aobut 37 years, occupation Advocate, District Bar Association, Korba, District Korba, R/o MIG 84, Shivaji Nagar, Korba District Korba (C.G.)
2. Smt. Madhubala Rajwade W/o Shri Bhojram Rajwade, aged about 47 years, Occu. Advocate, Distt. Bar Association Korba, Distt. Korba, R/o House Road Korba, Distt. Korba C.G.

---- Petitioners

Versus

1. State Of Chhattisgarh Through : Secretary, Department of Food, Public Distribution and Consumer Protection, D.K.S. Bhawan, Raipur, District Raipur (C.G.)
2. Secretary, Department of Law, State of Chhattisgarh.
3. State Consumer Forum Through : Its Registrar, Raipur, District Raipur (C.G.)
4. District Collector Korba, District Korba, C.G.
5. Smt. Anju Gabel, Member, District Consumer Forum Korba, District Korba (C.G.)
6. Shri Rajendra Prasad Pandey, Member, District Consumer Forum Korba, District Korba (C.G.)

---- Respondents

For Petitioners	:	Shri Ramakant Pandey, Advocate
For Respondent No.1	:	Shri A.S. Kachhawaha, Addl. A.G.
For Respondent No. 5 & 6	:	Shri Anup Majumdar, Advocate

And

WA No. 90 of 2017

- Rajendra Prasad Pandey S/o Shri V. D. Pandey, Aged About 52 Years Member District Consumer Forum Korba, District Korba (Chhattisgarh).

---- Appellant

Versus

1. State Of Chhattisgarh Through Its Secretary, Department Of Food, Public Distribution And Consumer Protection, D. K. S. Bhawan, Raipur, District Raipur (Chhattisgarh).
2. Secretary Department Of Law, State Of Chhattisgarh Mantralaya New Raipur (Chhattisgarh).
3. State Consumer Forum, Through Its Registrar, Raipur, District Raipur (Chhattisgarh).
4. District Collector Korba, District Korba (Chhattisgarh).
5. Smt. Anju Gabel, Member District Consumer Forum Korba, District Korba (Chhattisgarh).
6. Ashwani Sinha, S/o Dr. B. P. Sinha, Aged About 37 Years Occupation Advocate, District Bar Association Korba, District Korba, Chhattisgarh R/o M. I. G. 84, Shivaji Nagar, Korba, District Korba (Chhattisgarh).
7. Smt. Madhubala Rajwade, W/o Shri Bhojram Rajwade, Aged About 47 Years Occupation Advocate, Member District Consumer Forum Korba, District Korba, Chhattisgarh, R/o Pawar House Road Korba, District Korba (Chhattisgarh).

---- Respondents

For Appellant	:	Shri Anup Majumdar, Advocate
For Respondent/State	:	Shri A.S. Kachhawaha, Addl. A.G.
For Respondent No.6 & 7	:	Shri Ramakant Pandey, Advocate

**Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice &
Hon'ble Shri Justice Pritinker Diwaker**

Order On Board by The Chief Justice

24/03/2017

The captioned Writ Appeal is against an interlocutory order dated 27.01.2017 passed in Writ Petition No.824/2012 refusing to vacate the earlier order by which the learned Single Judge had granted stay in relation to a matter touching the appointment of Members to the District Consumer Forum under the Consumer Protection Act, 1986 (hereinafter referred to as 'the Act').

2. When the appeal came up for consideration on 22.03.2017, the following order was minuted :-

“When this writ appeal is taken up today, we have heard learned counsel for the Appellant, learned Additional Advocate General and the learned counsel for the contesting Respondents who is the writ petitioners. The impugned order of the learned Single Judge is one by which the request to vacate an earlier interlocutory order has been refused. The net effect is that the appointment of the Appellant as a member of District Consumer Forum stands stayed or suspended as on now. His present term is only till 31.3.2017.

Having noted the provisions of Section 10 of the Consumer Protection Act, 1986, we requested the learned counsel for the parties and the learned Additional Advocate General to apprise us as to whether there is any statutory rule or regulation relating to the manner in which the applications for appointment to the said post have to be routed. It appears that the learned Advocates require a short time to get ready in the matter.

The aforesaid being the only issue that is to be determined, the writ petition would either succeed or fail depending on the decision in writ appeal. In the peculiar facts and circumstances of the case, it is only appropriate that the writ petition is withdrawn and heard alongwith the writ appeal. We have made this suggestion and the learned counsel for the parties and Additional Advocate General also agreed to this course.

Resultantly Writ Petition (C) No. 824 of 2012 is withdrawn to be listed along with this writ appeal.

Post peremptorily day after tomorrow before admission list for hearing and orders at 10.30 am.”

3. Pursuant to the aforesaid, the writ petition is also tagged along with this Writ Appeal for final disposal today.
4. We have heard learned counsel for the petitioners, learned counsel for the contesting respondents and the learned Additional Advocate General.
5. The only ground on which the appointment of the private respondents as Member of District Consumer Forum under the Act is challenged is that they are not included in the panel prepared by the District Collector and forwarded to the Government. The composition of the District Forum and appointment to the District Forum are governed by the Section 10 of the Act. Sub-section (1) of Section 10 of the Act describes composition of District Forum. Sub-section (1A) of Section 10 of the Act provides that every

appointment under sub-section (1) shall be made by the State Government on the recommendation of a selection committee consisting of President of the State Commission as its Chairman; Secretary, Law Department of the State and Secretary, in-charge of the Department dealing with consumer affairs in the State as Members of that selection committee. That sub-section has a proviso, which is not relevant for the case in hand. Since sub-section (1A) of Section 10 states that every appointment under sub-section (1) shall be made by the State Government on the recommendation of a selection committee. Such appointment can be made only by such procedure and not otherwise. There is no provision in the Act or in any enabling rule authorizing the District Collector to send panel or names to the Government for appointment of Member to District Consumer Forum under the Act. Further, it is also not the requirement of law that the recommendation of the Selection Committee in terms of Section 10 (1A) of the Act should be from amongst the persons who have been included in the panel prepared by the District Collector. There is no role for the District Collector in the selection of Members of the District Consumer Forum under the Act. It is the undisputed fact that the names of the private respondents were recommended to the Government by the Selection Committee consisting of the authorities enumerated in sub-section 1A of Section 10 of the Act. Therefore, their selection is in order.

6. Hence, this writ petition has necessarily to fail. The interlocutory order granted in Writ Petition staying the operation of appointment of the respondents No. 5 and 6 in the writ petition is only to be vacated by allowing the writ appeal.

7. In the result –

(1) The writ appeal is allowed and the order impugned in it is vacated paving way to the final disposal of the writ petition

which has also been heard along with the writ appeal;

(2) The Writ Petition is dismissed holding that there is no ground to interfere with the appointment of the respondents 5 and 6.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Pritinker Diwaker)
Judge

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