

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.7.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

WRIT PETITION NO.17559 OF 2018

Alex Benziger

...Petitioner

Vs

1. The State of Tamil Nadu,
rep.by its Secretary,
Food and Civil Supplier Department,
Fort St.George, Chennai-600 009

2. The State of Tamil Nadu,
rep.by its Secretary to the Government,
Fort St.George, Law Department,
Chennai-600 009

3. The State Consumer District Redressal Commission,
rep.by its Registrar,
Frazer Bridge Road,
V.O.C.Nagar,
Park Town, Chennai-600 003

...Respondents

PETITION under Article 226 of The Constitution of India
praying for the issuance of Writs of Mandamus to direct the
respondents 1 and 2 to continue terms of President and the
Members of the District Consumer Fora in Tamil Nadu, till fresh
appointment are made by the respondents 1 and 2 as per the
orders passed by the Hon'ble Supreme Court in W.P.(Civil) No.279
of 2017, dated 11.05.2018.

For Petitioner

:Mr.M.Raja Sekhar

For Respondents

:Mr.Vijay Narayan,A.G.
Assisted by
Mr.E.Manoharan,A.G.P.

ORDER

(Order of the Court was made by T.S.SIVAGNANAM,J.)

Heard Mr.M.Raja Sekhar, learned counsel for the
petitioner and Mr.Vijay Narayan, learned Advocate General,

assisted by Mr.E.Manoharan, learned Additional Government Pleader, for the respondents.

2.The petitioner is a practising advocate, having enrolled with the Tamil Nadu Bar Council in the year 1984 and claims that he is a social activist and has filed this writ petition styled as a 'Public Interest Litigation'.

3.The petitioner seeks for a direction upon the respondents 1 and 2 to continue the term of President and the Members of the District Consumer Fora in Tamil Nadu, till fresh appointments are made by the respondents 1 and 2 as per the orders passed by the Hon'ble Supreme Court in W.P.(Civil) No.279 of 2017, dated 11.05.2018.

4.The learned counsel for the petitioner has drawn the attention of this Court to the said order passed by the Hon'ble Supreme Court dated 11.5.2018 and submitted that the Hon'ble Supreme Court has recorded the consent given by the learned Attorney General of Union of India that the President of the National Consumer Disputes Redressal Commission shall be allowed to continue till 30.06.2018 and other Members shall continue till usual appointments are made by the Central Government. By referring to the said order of the Hon'ble Supreme Court, the learned counsel would submit that similar direction be issued to the respondents to continue the term of office of the President and Members of the District Consumer Fora in Tamil Nadu till fresh appointments are made.

5.The learned Advocate General submitted that the order of the Hon'ble Supreme Court referred to by the petitioner in W.P.(Civil) No.279 of 2017 pertains to a different issue, wherein the challenge was to the Amendments, which were brought under the Finance Act, amending the Schedule to the Tribunal, Appellate Tribunal and other authorities (Qualification, experience and other conditions of service of Members) Rules 2017, wherein, the Finance Act amended various Central Statutes, which were contemplated for the purposes of establishing Tribunals. Therefore, it is submitted that the said order passed by the Hon'ble Supreme Court was in a different context and not relatable to appointment of the President and Members of the District Consumer Forum. Further it is submitted that so far as the appointment to the post of President and Members of the District Consumer Forum is concerned, there is another litigation, which is pending before the Hon'ble Supreme Court in Civil Appeal No.2740 of 2007 and Writ Petition (Civil) No.164 of 2002 (State of Uttar Pradesh vs. All Uttra Pradesh Consumer Protection Bar Association) and the Hon'ble Supreme Court on 18.5.2018 has passed an order with regard to the recruitment to the post of President and Members of the District Consumer Fora.

By the said order, all the State Governments were required to adopt the Model Rules, which have been framed for governing such points, which was to ensure uniformity by the State Governments. Therefore, it is the submission of the learned Advocate General that the State has limited role in the manner in which the Rule has to be framed, as the order passed by the Hon'ble Supreme Court is a consent order and a time frame has already been fixed by the Hon'ble Supreme Court to frame the Rules.

6. Referring to the written instructions given by the Principal Secretary to Government, Co-operation, Food and Consumer Protection Department, Chennai, in Letter No.13463/H1/2018-1, dated 12.07.2018, addressed to the learned Government Pleader, it is submitted that prior to the order passed by the Hon'ble Supreme Court, in terms of the earlier directions, the State Government took every steps to fill up the vacancies in the post of President or Members as early as possible, if the Selection Committee convened the meeting on 26.07.2018 for Selection of President and Members in the District Forum and this has been postponed on account of the orders passed by the Hon'ble Supreme Court, dated 18.05.2018. It is further submitted that the State Government is taking steps to frame the Rules in consonance with the orders of the Hon'ble Supreme Court and it would be done in expedition, as the case before the Hon'ble Supreme Court has been directed to be listed on 28.08.2018.

7. The learned Advocate General, on instructions, would submit that the total strength of the Presidents of the District Consumer Fora is 30 and the total sanctioned strength of the Members is 64, of which, 32 are reserved for male candidates and 32 for female candidates. Out of the sanctioned strength, as on date, 10 posts of President of District Consumer Fora are vacant and 24 posts of Members are vacant. Thus, the vacancy is 1/3rd of the sanctioned strength.

8. In the light of the orders passed by the Hon'ble Supreme Court dated 18.05.2018, the State of Tamil Nadu should take immediate steps to notify the draft Rules, which has been directed to be adopted by all the State Governments in the country by the Hon'ble Supreme Court and the State Governments were directed to complete the exercise within a period of three months, which should be calculated from the date of the order of the Hon'ble Supreme Court i.e. 18.5.2018.

9. Since the respondents have stated that already they have taken steps to frame the Rules in consonance with the orders of the Hon'ble Supreme Court, we direct that the State Government should take expeditious steps to frame the Rule as per the Model Rule, in terms of the directions issued by the

Hon'ble Supreme Court and the time frame stipulated thereon. On the Rules being notified, the State Government shall commence the process of recruitment in accordance with the Rules.

With the above observations, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

msk

To

1. The Secretary,
The State of Tamil Nadu,
Food and Civil Supplier Department,
Fort St.George, Chennai-600 009
2. The Secretary to the Government,
The State of Tamil Nadu,
Fort St.George, Law Department,
Chennai-600 009
3. The Registrar,
The State Consumer District
Redressal Commission,
Frazer Bridge Road,
V.O.C.Nagar, Park Town,
Chennai-600 003

+1cc to Mr.M.Raja Sekhar, Advocate in sr.no.46280
+1cc to Government Pleader, in sr.no.46316

WP.No.17559 of 2018

KK(CO)
CS/01/08/18

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