

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.21722 of 2017(O&M)

Date of Decision:-19.12.2018

Charanjit Singh.

.....Petitioner.

Versus

State of Punjab & Anr.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. K.S. Khehar, Advocate for the Petitioner.

Ms. Rameeza Hakeem, Additional Advocate General, Punjab &
Ms. Sudeepti Sharma, Additional Advocate General, Punjab.

JASWANT SINGH, J.(ORAL)

The Petitioner is an aspirant for the post of President, District Consumer Disputes Redressal Forum (in short '**District Forum**') in the State of Punjab.

1. An advertisement dated 17.06.2015 was first issued by the State Government for the vacancies which had arisen against 03 (three) posts of Presidents of the District Forums located at Jalandhar, Patiala and Mansa. This advertisement was further supplemented by advertisement dated 29.03.2016 which advertised similar vacancies which had arisen as regards 05 (five) posts of Presidents of the District Forum located at SAS Nagar (Mohali), Moga, Tarantaran, Ferozepur and Nawanshehar.

2. The petitioner applied for the said post of President

and undertook the interview test conducted by the Selection Committee constituted under Section 10(1A) of The Consumer Protection Act, 1986 on 17/18.08.2016. The selection was based only upon interview subject to the fulfilment of eligibility conditions. The Petitioner [along with 7 other candidates] was recommended by the Selection Committee for appointment as President of various District Forum with petitioner for Taran Taran vide memo dated 19.08.2016.

3. It transpires that one of the applicants namely Sh. Shiv Pal Bansal filed a writ petition bearing CWP No.21128 of 2016 being aggrieved by the stand of the Respondents that he was ineligible for consideration on account of the fact that on the last date of submission of the application form, he was holding the post of Member of a Consumer forum and therefore ineligible. Holding that Sh. Shiv Pal Bansal was eligible for consideration in view of the judgment rendered by the Hon'ble Supreme Court on 9.8.2016 in **Vijay Kumar Mishra and another Vs. High Court of Judicature of Patna and others**, reported as **AIR 2016 SC 3698**, this Court vide interim order dated 7.11.2016 passed in C.W.P. No.21128 of 2016 directed consideration of Sh. Shiv Pal Bansal and all other similarly placed applicants. The operative portion of interim order dated 7.11.2016 is reproduced below:-

“ The stand of the State denying the aforesaid consideration to the petitioner, as also to the other similarly situated applicants on the ground that they being Members of the Consumer Forums were ineligible, is absolutely unjustified and not sustainable.

Since the result although has been compiled and not yet declared therefore, it is deemed appropriate to direct the respondent authorities to provide an

opportunity to all the similarly placed applicants, including petitioner, who have been considered ineligible contrary to the decision of the aforesaid judgment, to face the interview by the same Selection Committee based on the same criteria.

Ordered accordingly.

Adjourned to 31.01.2017.

To be heard along with CWP No.16660 of 2016.”

The interviews were thus required to be re-conducted, in terms of the above order dated 07.11.2016. However, such interviews scheduled were postponed from 23.11.2016 to 7.12.2016 to 22.12.2016 due to non-availability of one or the other Members of the three member Selection Committee.

4. The Selection Committee finally in its proceedings dated 22.12.2016 noted that the Chairman of the Selection Committee i.e. the President of the State Consumer Disputes Redressal Commission was going to complete his tenure on 31.12.2016 and as such it would not be possible to defer the interview to another date and also applying the law laid down by the Hon'ble Supreme Court in the judgment reported as **Ishwar Chandra Vs. Satyanarain Sinha** AIR 1972 SC 1812 proceeded to treat the quorum two out of three Members of the Selection Committee as a complete quorum. In the said proceedings dated 22.12.2016, a two Member Selection Committee reiterated its recommendation of the Petitioner to the Post of President, District Forum, TaranTaran along with 7 other candidates also for similar posts as President. These recommendations were forwarded to the State Government under Letter No.SCDRC/PB/2016/11586 dated 23.12.2016.

5. It then transpires from the record of the State Government and

documents annexed by the Petitioner that the State Government sought various legal opinions as to the legality of the recommendations made by the second Selection Committee which only comprised of two Members as opposed to the three- member constitution set out in Section 10(1A) of the Consumer Protection Act, 1986.

6. On 6.9.2017, the State Government rejected the recommendations of the second Selection Committee which was communicated vide the impugned Memo No.01/31/2016-1C.P.C./1062261/1 dated 11.09.2017 stating that the Competent Authority has passed the following order:-

“ In view of the fact that the Principal Secretary, Food and Supplies was not present in the meeting of the selection committee and the fact that considerable time has elapsed since the application were invited, the selection procedure may be commenced afresh and completed at the earliest. ”

7. The Petitioner preferred the present petition impugning the said Memo dated 11.09.2017 seeking appointment in terms of the recommendations made by the Selection Committee in his favour. The present petition was taken up for hearing alongwith other similar cases and the following interim order dated 29.09.2017 was passed:-

*“ Learned counsel for the petitioner inter alia contends that the selection list was prepared by majority of the Members of the Committee including the Chairman but the same has been cancelled only on the ground that one Member was not present. There is no Provision under the Rule/Act regarding quorum of the Committee. In support of his contentions, learned counsel has relied upon judgment of Hon’ble the Apex court in case **Ishwar Chandra Vs. Satyanarian Sinha***

1972(2) SCC 383.

Notice of Motion for 13.12.2017.

Meanwhile respondents are directed not to issue any advertisement with regard to appointment of President and Members of the Forum. ”

8. This petition and other similar/connected petitions came to be listed from time to time. When the said petitions were listed on 13.11.2018, Ms. Rameeza Hakeem, Additional Advocate General, Punjab, in view of what had transpired on the previous dates of hearing, sought time for Government to reconsider the issue of appointment of the petitioners. On such date, an application for modification of interim order dated 29.09.2017 was also pressed on the ground that the said interim order had prevented the State Government from making any further appointments to any posts of President or Member in the District Forum and such posts have been lying vacant since a long time on account of pendency of present litigation as well as the interim order dated 29.09.2017 passed by this Court thereby hampering the administration of justice. In view of this, this Court on 13.11.2018 passed the following order:-

“ In compliance of order dated 25.10.2018, affidavit of K.A.P. Sinha, Principal Secretary to Government of Punjab and Consumer Affairs, Punjab, has been filed in Court today and the same is taken on record.

Copy furnished.

Ms. Rameeza Hakeem, learned Additional Advocate General, Punjab, in view of what has transpired on the previous dates of hearing, seeks time for Government to reconsider the issue of appointment of the petitioner(s). She assures that reconsideration would be based on correct appreciation of the law and facts as narrated in the petition(s). She, however,

presses for modification of the interim order dated 29.09.2017, as prayed for in the civil miscellaneous application i.e. CM-6226-CWP-2018, in the light of the factual position that around 15 posts of Presidents and 21 posts of Members of the District Consumer Forum(s) have remained vacant for a long time, thereby, hampering due administration of justice. After hearing learned counsel for the State, it is deemed expedient to grant three weeks' effective time to the Government to reconsider the issue of offering appointment letters to the petitioner(s), who comprise aspirants for the 04 posts of Presidents and 06 Members to the District Consumer Forums concerned; as also modifying the order dated 29.09.2017, whereby process for issuing any advertisement with regard to appointment of President and Member of the Forum(s) has been stayed.

Adjourned to 10.12.2018, for further consideration.

The aforesaid interim order dated 29.09.2017 is modified to the extent that 04 posts of President and 07 posts of Members of the District Consumer Forum(s) concerned shall be kept in abeyance for adjustment of the petitioner(s). The State Government is permitted to undertake the process of filling up the remaining vacant posts of Presidents and Members subject to the decision of the instant writ petitions. However, the appointment letters shall not be issued without prior permission of this Court. ”

9. The matter has since been reconsidered by the Government and without entering into the issue of the mandatory quorum required under Section 10(1A) with a view to complete the process of filling up of vacancies, in the interests of administration of justice and to achieve a quietus to this litigation, the State Government has decided to issue an

appointment letter to the Petitioner as President, District Consumer Forum,TaranTaran vide order dated 17.12.2018.A copy of such appointment order has been placed on record of this Court as Annexure **Mark-A**. The Petitioner has accepted such appointment in terms thereof.

The gracious stand of the State and the able assistance provided by the State Counsel is deeply appreciated.

10. As a result, the present petition has been rendered infructuous and is disposed of as such without entering into the merits of the issues which were raised. Interim orders, if any, stand vacated.

(JASWANT SINGH)
JUDGE

December 19, 2018
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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>