

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

CWP No.5962 of 2017(O&M)

Date of Decision:-19.12.2018

Baljinder Singh Dhaliwal & Ors.

.....Petitioners.

Versus

State of Punjab & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. H.C. Arora, Advocate for the Petitioners.

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

JASWANT SINGH, J.(ORAL)

The Four (4) Petitioners are aspirants for the post of Member, District Consumer Disputes Redressal Forum (in short '**District Forum**') in the State of Punjab.

1. An advertisement dated 12.1.2016 was issued by the State Government for the vacancies which had arisen against the posts of Members/Lady Members of the District Forums located at TaranTaran, Mansa, Hoshiarpur, Bathinda, Faridkot, Jalandhar and SAS Nagar.

2. The Petitioners applied for the said post of Member and undertook the interview test conducted by the Selection Committee constituted under Section 10(1A) of The Consumer Protection Act, 1986 on 6.6.2016/7.6.2016. The selection was based only upon

interview subject to the fulfilment of eligibility conditions. The Petitioners were recommended by the Selection Committee for appointment as Members to the following District Forums vide individual memos dated 26.7.2016:

- a. Baljinder Singh Dhaliwal, Member, District Forum, Mansa.
- b. Manisha, Member, District Forum, Bathinda.
- c. Jyotsna, Member, District Forum, Jalandhar.
- d. Raj Singh, Member, District Forum, Hoshiarpur.

3. It then transpires from the record that the State Government sought various legal opinions as to the legality of the recommendations made by the Selection Committee in view of the lapse of time and the intervening judgment of the Hon'ble Supreme Court dated 21.11.2016 passed in Civil Writ Petition No.2740 of 2017.

4. The State Government then rejected the recommendations of the Selection Committee which was communicated vide the impugned Memo No.01/25/2016-1C.P.A./230 dated 9.10.2017 inter alia stating that the Competent Authority has passed the following order:-

“ With reference to your letter No.SCDR/Pb/SA1/2016/6987, 6988, 6990, 6991, 6993, 6994, 6996, 6997, 6999, 7000, 7002, 7003, 7005 and 7006 dated 26.07.2016 on the subject cited above.

In order to make appointments of Members in District Consumer Fora in the State of Punjab as per Proceeding of Selection Committee (06.06.2016 and 07.06.2016) received vide letter under reference from your office and guidelines issued by the Hon'ble Supreme Court vide order dated 21.11.2016 in Civil Writ Petition No.2740 of 2007, file was sent for approval to Hon'ble Chief Minister and he has passed

order that as considerable time has elapsed since the applications were invited and some other posts are also lying vacant, the selection procedure may be commenced afresh soon. ”

5. The Petitioners preferred the present petition impugning the said Memo dated 05.10.2017 seeking appointment in terms of the recommendations made by the Selection Committee in their favour.

Vide order dated 27.4.2017 notice of motion was issued on this petition and vide order dated 12.1.2018 was ordered to be heard alongwith the lead case being CWP No.21722 of 2017 in ‘Charanjit Singh Vs. State of Punjab’ in which the following interim order dated 29.09.2017 had already been 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. ”

6. 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. ”

7. The matter has since been reconsidered by the Government and without entering into any of the issues raised, 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 the appointment letters to the Petitioners vide order dated 17.12.2018 as under:

- a. Baljinder Singh Dhaliwal, Member, District Forum, Mansa.
- b. Manisha, Member, District Forum, Bathinda.
- c. Jyotsna, Member, District Forum, Jalandhar.
- d. Raj Singh, Member, District Forum, Hoshiarpur.

A copy of such common appointment order has been placed on record of this Court as Annexure **Mark-A**. The Petitioners have accepted such appointment in terms thereof.

by the State Counsel is deeply appreciated.

8. 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
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>