

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-16604-2018 (O&M)

Date of decision: 22.07.2019

Vandna Sidhu

..Petitioners

Vs.

State of Punjab and Others

..Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. R.K.Malik, Senior Advocate with
Mr. Digvijay Singh, Advocate, for the petitioner.

Ms. Ambika Bedi, AAG, Punjab.

ARUN MONGA, J.(ORAL)

Grievance of the petitioner is that vide impugned transfer order dated 06.07.2018 (Annexure P-5), she has been directed to perform duties as Member of the District Consumer Disputes Redressal Forum at Faridkot by transferring her from Barnala.

2. One of the lead contentions of learned senior counsel appearing for the petitioner is that President of State Consumer Disputes Redressal Commission, Punjab, is not competent to transfer a Member of a District Consumer Forum under Section 24-B of the Consumer Protection Act, 1986. *Prima facie*, the said contention of learned senior counsel does not seem to be correct on a plain reading of Section 24-B, *ibid*.

3. In support of my opinion, learned counsel representing the State points out that the said controversy has been put to rest vide judgment dated 21.11.2016 rendered by Hon'ble the Supreme Court of India in case titled 'State of UP and others vs. All U.P. Consumer Protection Bar Association' The relevant part thereof is reproduced herein below:-

“Administrative control:

One of the principal problems governing the functioning of the district fora on the one hand and the State Commissions on the other hand is the absence of clarity in regard to the exercise of administrative and disciplinary control. Section 24B provides for administrative control, in the following terms :

"24B. Administrative control.- (1) *The National Commission shall have administrative control over all the State Commissions in the following matters, namely :-*

(i) calling for periodical return regarding the institution, disposal, pendency of cases;

(ii) issuance of instructions regarding adoption of uniform procedure in the hearing of matters, prior service of copies of documents produced by one party to the opposite parties, furnishing of English translation of judgments written in any language, speedy grant of copies of documents;

(iii) generally overseeing the functioning of the State Commissions or the District Fora to ensure that the objects and purposes of the Act are best served without in any way interfering with their quasi-judicial freedom.

(2) The State Commission shall have administrative control over all the District Fora within its jurisdiction in all matters referred to in sub-section (1)".

(emphasis supplied)

Clause (iii) of sub-section (1) of Section 24B confers upon the National Commission the power of administrative control over all the State Commissions to generally oversee the functioning of the State Commissions or the district fora to ensure that the objects and purposes of the Act are best served. However, this is to be achieved without interfering with the quasi-judicial freedom of the State Commissions and the district fora. Under sub-section (2) the State

*Commission is conferred with administrative control over all the district fora within its jurisdiction in all matters referred to in sub-section (1), which will necessarily cover clause (iii). The power of administrative control which has been conferred upon the National Commission in relation to the State Commissions and upon the State Commissions in relation to the district fora is an entrustment with a purpose; the object being to oversee the functioning of the forum, which is subject to its administrative control so as to ensure that it is an effective instrument of rendering justice to consumers. **The power of administrative control is couched in wide terms. The power would include overseeing the functioning of the State Commissions and the district fora in all administrative matters. This would include the posting of and control over members, appointment of and control over manpower, provision of adequate infrastructure and the streamlining of all administrative matters** (except the exercise of the judicial power in deciding complaints, appeals and revisions). The difficulties which have been encountered in the proper functioning of the district fora and the State Commissions can be obviated in a large measure once the true ambit of Section 24B is construed, by vesting full powers of an administrative nature in the National Commission (in relation to the State Commissions) and in the State Commissions (in relation to district fora). In the National Commission, the exercise of administrative authority over the State Commissions shall be vested in the President. **Similarly, in the State Commissions the exercise of administrative control over the district fora shall be vested in the President.***

4. After hearing the rival contentions of the respective learned counsels

and having gone through the judgment, *ibid*, I am of the view that there is no ambiguity in the interpretation of Section 24-B sub Clause 2 of the Consumer Protection Act, 1986 and that the President of State Consumer Commission is vested with administrative control over the District Consumer Fora in his State as enunciated by Hon'ble the Supreme Court of India in the judgment above and the same includes power to transfer Members and/or Presidents of the District Fora.

5. In the premise, the argument of learned Senior counsel that the President of the Consumer Commission was not vested with the competency to transfer the petitioner is devoid of any merit.

6. Confronted with the situation, learned senior counsel appearing for the petitioner submits that the petitioner should be allowed to continue at Sangrur where she was allowed to join during the pendency of the writ petition as she is slated to finish her term in February, 2020.

7. Per contra, learned counsel appearing for respondent-State submits that the petitioner is not entitled, as a matter of right, to be posted at Sangrur, given that she has been totally non-cooperative in the past, both at the time of her original transfer and in the inquiry proceedings initiated against her. It is made clear that the posting of the petitioner at Sangrur was only a stop gap arrangement and in case she does not cooperate during inquiry proceedings, the respondents shall be at liberty to pass appropriate orders in accordance with law.

July 22, 2019
smriti

(ARUN MONGA)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether Reportable	: Yes/No