

CWP-18678 of 2020 (O&M)

Date of Decision: 09.02.2021.

Ajit Aggarwal

...Petitioner

And

State of Punjab & Ors.

.... Respondents

CORAM: HON'BLE MR JUSTICE ARUN MONGAPresent : Mr. Aakash Singla, Advocate
For the petitioner.Ms. Lavanaya Paul, Assistant AG Punjab.
(Presence marked through video conference).**ARUN MONGA, J. (ORAL)**

1. Grievance of the petitioner, a former President, District Consumer Commission, is that on expiry of his first stint of five years on 11.05.2020, his request for re-appointment vide application/ representation dated 13.05.2020(Annexure P-3), submitted through proper channel has not been considered in accordance with new Rules i.e. Consumer Protection (Qualification for Appointment, Method of Recruitment, Procedure of Appointment, Term of Office, Resignation and Removal of the President and Members of the State Commission and District Commission) Rules, 2020.

2. Relevant extract of Rules 6 and 10, *ibid* is reproduced herein below:-

“6. Procedure of appointment.—(1) The President and members of the State Commission and the District Commission shall be appointed by the State Government on the

recommendation of a Selection Committee, consisting of the following persons, namely: –

- (a) Chief Justice of the High Court or any Judge of the High Court nominated by him-Chairperson;*
- (b) Secretary in charge of Consumer Affairs of the State Government –Member;*
- (c) Nominee of the Chief Secretary of the State—Member.*

x-x-x-x-x

(6) The advertisement of a vacancy inviting applications for the posts from eligible candidates shall be published in leading newspapers and circulated in such other manner as the State Government may deem appropriate.

x-x-x-x-x

(8) The Selection Committee shall consider all the applications of eligible applicants referred to it and if it considers necessary, it may shortlist the applicants in accordance with such criteria as it may decide.

x-x-x-x-x-x

10. Term of office of President or Member.—*The President and every member of the State Commission and the District Commission shall hold office for a term of four years or up to the age of sixty-five years, whichever is earlier and shall be eligible for reappointment for another term of four years subject to the age limit of sixty-five years, and such reappointment is made on the basis of the recommendation of the Selection Committee.”*

3. This is the second foray of petitioner before this Court. He had earlier approached vide CWP No. 9640 of 2020, *inter alia*, seeking *mandamus* for reappointment for another term. The said writ petition was disposed of by my Learned Brother Fatehdeep Singh, J. vide his order dated 13.07.2020 in following terms:-

“Upon hearing counsel for two sides and on perusing the records, present petition stands disposed of with directions to respondents to duly consider within legal framework the representation dated 13.05.2020(Annexure P-2) within a period of one month from the date of receipt of certified copy of this order by passing a speaking order.”

4. Pursuant to the above directions order dated 14.10.2020, *impugned* herein, has been passed by respondent No.1.

5. Grievance of the petitioner is that instead of Selection Committee considering his request/ representation, *“within legal framework,”* the same has been summarily rejected by respondent No.1 without placing his application before the Selection Committee.

6. Per *contra* stand taken by the State, as argued by Ms. Lavanaya Paul, Assistant Advocate General Punjab is, that petitioner is indulging in unnecessary litigation. His fear is completely unfounded as is borne out from closing lines of the impugned order dated 14.10.2020 which merely state in innocuous terms that *“As such, he is free to apply against the vacant positions whenever they would be advertised. It can’t be considered on his individual application. As such, it being devoid of any merits, it is hereby ordered to be filed.”*

7. On a query of Court, learned counsel for petitioner submits that petitioner intends to apply for the second term, as during interregnum of passing of the impugned order and filing of the instant petition, an advertisement has been published in the newspaper inviting applications for the post of Presidents/ Members of various District Consumers Commissions in the State of Punjab. The last date of the same is 10.02.2021 and in terms

thereof the petitioner intends to apply for the second term on the post of President.

8. That being the position, it is irrelevant to go into the controversy as to whether respondent No.1 exceeded its jurisdiction while passing the impugned order being a *coram non judice*, as argued by learned counsel for the petitioner and/ or the counter argument that respondent No.1 was fully competent to pass the impugned order as it merely states that petitioner is free to apply as and when vacancy arises and the same does not amount to rejection of his request for second term.

9. Having heard the rival contentions of both the counsel, what emerges therefrom is, that learned counsels are *ad idem* that any application for re-appointment for second term on the post of President is indeed to be considered by the Selection Committee as per the new Rules. Of course, subject to the availability of post/s. It is not in dispute that posts have since been advertised and the applications qua the same are being invited. In terms thereof, in case the petitioner also applies, there is thus no doubt, that the same would be considered by the respondents in accordance with new Rules *ibid*.

10. With these observations, the present writ petition is accordingly disposed of with liberty to the petitioner to apply in accordance with advertisement.

11. Copy of this order be supplied to learned counsel for the parties under the signatures of Bench Secretary of this Court.

February 09, 2021

Jiten

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

(ARUN MONGA)

JUDGE