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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 18th February, 2021

+ **W.P.(C) 2207/2021 & CM APPL. 6437/2021**

SANDHYA SRIVASTAVA Petitioner

Through: Mr. Raghuvendra M. Bajaj, Ms.
Garima Bajaj, Mr. Agaish Aditya &
Mr. Nikhil Bamal, Advocates (M-
9711241241)

versus

DR NEELAM MISHRA & ORS. Respondents

Through: Mr. Ajay Saroya, Advocate for R-3.

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J.(Oral)

1. This hearing has been done through hybrid mode (physical and virtual hearing).
2. This is an unfortunate case where the Petitioner has been forced to come to Court due to non-pronouncement of orders/judgment by the National Consumer Dispute Redressal Commission (*hereinafter* 'NCDRC').
3. The Petitioner has filed a complaint before the NCDRC alleging negligence by the doctors and hospital - Kanpur Medical Centre Private Ltd., Kanpur, UP (*hereinafter*, 'Hospital'), due to which severe burns were caused to her as a newly born infant. The complaint was filed before the NCDRC in April, 2006. It has been more than 15 years since the complaint is pending.
4. The matter was first argued before the NCDRC on 13th August, 2018 and was reserved for orders. The said order reads:

"Arguments heard. Order reserved."

After a lapse of about seven months, i.e., on 26th March, 2019, the matter was reopened and listed for final hearing once again. The said order reads:

“This matter needs further consideration with the presence and arguments of learned counsels from both sides.

List for final hearing on 17.07.2019.

Meanwhile, all the parties are directed to file their extant briefs of written arguments, if they so wish, in terms of Regulation 13 of the Consumer Protection Regulations, 2005 at least four weeks before the next date of hearing with copies in advance to each other.

All parties be informed by the Registry within ten days.”

Thereafter however, the matter was repeatedly adjourned. Arguments were finally heard on 15th January, 2020 and the matter was reserved once again. The said order reads:

*“Heard arguments of the learned counsels for the parties present except OP-1- Dr. Neelam Mishra, Gynecologist.
Order reserved.”*

Even after a lapse of more than one year, orders are yet to be pronounced in this matter.

5. Mr. Bajaj, Id. Counsel for the Petitioner submits that repeated enquiries have been made with the NCDRC but to no avail. On 2nd December, 2020, an application was moved by the Petitioner seeking re-hearing and pronouncement of judgment, despite which, the matter has not been listed before any Bench. Repeatedly following up with the Registry has also not borne any result. Id. Counsel fairly submits that he has now received intimation that the application is now listed on 23rd February, 2021.

6. The Supreme Court has, repeatedly, in *Anil Rai v. State of Bihar, (2001) 7 SCC 318 and Balaji Baliram Mupade & Anr. v. State of Maharashtra & Ors. [Civil Appeal No. 3564/2020, decided on 29th October, 2020]* emphasised the importance of timely pronouncement of judgments and orders once submissions are heard. The said judgements were also considered by this Court in *Deepti Khera v. Siddharth Khera [CM (M) 1637/2019, decided on 18th November, 2019]*, The observations in *Deepti Khera (supra)* where *Anil Rai (supra)* is also extracted are set out below:

“6. It is the settled position in law, as per the judgment of the Hon’ble Supreme Court in *Anil Rai v. State of Bihar, (2001) 7 SCC 318* that once matters are reserved for orders, usually, the same should be pronounced within a time schedule. In *Anil Rai (supra)* it has been observed as under:

“8. The intention of the legislature regarding pronouncement of judgments can be inferred from the provisions of the Code of Criminal Procedure. Sub-section (1) of Section 353 of the Code provides that the judgment in every trial in any criminal court of original jurisdiction, shall be pronounced in open court immediately after the conclusion of the trial or on some subsequent time for which due notice shall be given to the parties or their pleaders. The words “some subsequent time” mentioned in Section 353 contemplate the passing of the judgment without undue delay, as delay in the pronouncement of judgment is opposed to the principle of law. Such subsequent time can at the most be stretched to a period of six weeks and not beyond that time in any case. The pronouncement of judgments in the civil case should not be permitted to go

beyond two months.”

7. *The Hon’ble Supreme Court in Anil Rai (supra) has also passed certain guidelines regarding pronouncement of judgments. The same are reproduced below:*

(i) The Chief Justices of the High Courts may issue appropriate directions to the Registry that in a case where the judgment is reserved and is pronounced later, a column be added in the judgment where, on the first page, after the cause-title, date of reserving the judgment and date of pronouncing it be separately mentioned by the Court Officer concerned.

(ii) That Chief Justices of the High Courts, on their administrative side, should direct the Court Officers/Readers of the various Benches in the High Courts to furnish every month the list of cases in the matters where the judgments reserved are not pronounced within the period of that month.

(iii) On noticing that after conclusion of the arguments the judgment is not pronounced within a period of two months, the Chief Justice concerned shall draw the attention of the Bench concerned to the pending matter. The Chief Justice may also see the desirability of circulating the statement of such cases in which the judgments have not been pronounced within a period of six weeks from the date of conclusion of the arguments amongst the Judges of the High Court for their information. Such communication be conveyed as confidential and in a sealed cover.

(iv) Where a judgment is not pronounced within three months from the date of reserving it, any of the parties in the case is

permitted to file an application in the High Court with a prayer for early judgment.

Such application, as and when filed, shall be listed before the Bench concerned within two days excluding the intervening holidays.

(v) If the judgment, for any reason, is not pronounced within a period of six months, any of the parties of the said lis shall be entitled to move an application before the Chief Justice of the High Court with a prayer to withdraw the said case and to make it over to any other Bench for fresh arguments. It is open to the Chief Justice to grant the said prayer or to pass any other order as he deems fit in the circumstances.

8. *The Civil Procedure Code, 1908, prescribes thirty days as the time in which a judgment should be pronounced. Order XX Rule 1 of the CPC reads as under:*

“1. Judgment when pronounced. — [(1) The Court, after the case has been heard, shall pronounce judgment in an open Court, either at once, or as soon thereafter as may be practicable and when the judgment is to be pronounced on some future day, the Court shall fix a day for that purpose, of which due notice shall be given to the parties or their pleaders:

Provided that where the judgment is not pronounced at once, every endeavour shall be made by the Court to pronounce the judgment within thirty days from the date on which the hearing of the case was concluded but, where it is not practicable so to do on the ground of the exceptional and extraordinary circumstances of the case, the Court shall fix a future day for the pronouncement of the judgment, and such

day shall not ordinarily be a day beyond sixty days from the date on which the hearing of the case was concluded, and due notice of the day so fixed shall be given to the parties or their pleaders.]”

9. *While this Court is conscious of the fact that there are pressures on the Trial Courts, non-pronouncement of orders for more than a year cannot be held to be justified. It has been observed in several matters that trial courts keep matters ‘FOR ORDERS’ for months together and sometimes orders are not pronounced for even 2-3 years. Thereafter the judicial officer is transferred or posted in some other jurisdiction and the matter has to be reargued. Such a practice puts enormous burden on the system and on litigants/lawyers. The usual practice ought to be to pronounce orders within the time schedule laid down in the CPC as also the various judgements of the Supreme Court. In civil cases maximum period of two months can be taken for pronouncing orders, unless there are exceptional cases or there are very complex issues that are involved.*

10. *Accordingly, in respect of pronouncement of orders, the following directions are issued:*

- i. When arguments are heard, the order sheet ought to reflect that the matter is part-heard;*
- ii. Upon conclusion of arguments, the order sheet ought to clearly reflect that the arguments have been heard and the matter is reserved for orders. If the court is comfortable in giving a specific date for pronouncing orders, specific date ought to be given;*
- iii. Orders ought to be pronounced in terms of the judgment of the Supreme Court in **Anil Rai (supra)**;*
- iv. The order ought to specify the date when orders were reserved and the date of*

pronouncement of the order.”

7. Most recently, the Supreme Court in ***SJVNL v. M/s CCM HIM JV & Anr. [Civil Appeal No. 494/2021, decided on 12th February, 2021]*** has reiterated its pronouncement in ***Anil Rai (supra)*** while clarifying that the same would not apply to High Courts.

8. Thus, the above pronouncements would apply to Subordinate Courts and Tribunals equally, inasmuch as there can be no justification even for tribunals to repeatedly adjourn matters after hearing arguments and reserving orders.

9. Specifically, in the context of delay in pronouncement of orders by the NCDRC, the Supreme Court has, in ***Sudipta Chakrobarty & Anr. v. Ranaghat S.D. Hospital & Ors., [Civil Appeal No. 9404/2019, decided on 15th February, 2021]***, observed as under:

“1. In the present case, the reasoned order was passed on 20.12.2019 by the National Consumer Disputes Redressal Commission (“National Commission” for short) in C.A. No. 9404 of 2019. A fresh civil appeal was filed before this Court being C.A. No. 6476 of 2020, which has been dismissed vide Order dated 06.3.2020.

2. This Court had vide Order dated 08.1.2020 directed the Registrar of the National Commission to submit a Report stating the number of cases in which reasoned judgments had not been passed, even though the operative order had been pronounced in Court. By the report dated 27.7.2020, we have been informed that as on 20.12.2019, there were 85 such cases in which the operative order had been pronounced, but reasoned judgments were not delivered so far.

3. The fact which has been brought to our notice by the Registrar of the Commission can, in no manner,

be countenanced that between the date of operative portion of the order and the reasons are yet to be provided, or the hiatus period is much more than what has been observed to be the maximum time period for even pronouncement of reserved judgments. In State of Punjab v. Jagdev Singh Talwandi (1984) 1 SCC 596 in para 30, the Constitution Bench of this Court, as far back in 1983, drew the attention of the Courts/Tribunal of the serious difficulties which were caused on account of a practice which was being adopted by the adjudicating authorities including High Courts/Commissions, that of pronouncing the final operative part of the orders without supporting reasons. This was later again discussed by this Court in Anil Rai v. State of Bihar (2001) 7 SCC 318.

4. Undisputedly, the rights of the aggrieved parties are being prejudiced if the reasons are not available to them to avail of the legal remedy of approaching the Court where the reasons can be scrutinized. It indeed amounts to defeating the rights of the party aggrieved to challenge the impugned judgment on merits and even the succeeding party is unable to obtain the fruits of success of the litigation.

5. The afore-mentioned principle has been emphatically restated by this Court on several occasions including in Zahira Habibulla M. Sheikh v. State of Gujarat [(2004) 5 SCC 353 : AIR 2004 SC 3467 paras 80-82]; Mangat Ram v. State of Haryana [(2008) 7 SCC 96 paras 5-10]; Ajay Singh v. State of Chhattisgarh [(2017) 3 SCC 330 : AIR 2017 SC 310] and more recently in Balaji Baliram Mupade v. The State of Maharashtra (Civil Appeal No. 3564 of 2020 pronounced on 29.10.2020) Oriental Insurance Co. Ltd. v. Zaixhu Xie (Civil Appeal No. 4022 of 2020 pronounced on 11.12.2020) and SJVNL v. CCC HIM JV (Civil Appeal No. 494 of 2021 pronounced on 12.02.2021) wherein the delay in delivery of

judgments has been observed to be in violation of Article 21 of the Constitution of India and the problems gets aggravated when the operative portion is made available early, and the reasons follow much later, or are not made available for an indefinite period.

6. In the instant case, the operative order was pronounced on 26.04.2019, and in the reasons disclosed, there is a hiatus period of eight months.

7. Let this Order be placed before the President of the National Consumer Disputes Redressal Commission to look into the matter, and take necessary steps so that this practice is discontinued, and the reasoned Judgment is passed alongwith the operative order. We would like to observe that in all matters where reasons are yet to be delivered, it must be ensured that the same are made available to the litigating parties positively within a period of two months.

8. With these observations, the Appeal stands disposed of.

9. Pending application(s), if any, stand disposed of.”

10. The above judgement dealt with cases where the NCDRC pronounced operative portions of orders with reasons to follow. In the present case, there is no pronouncement of orders despite the long gap of time since arguments were first heard. It needs no emphasis that the entire purpose of the Consumer Protection Act, 1986, which was supposed to provide speedy justice to complainants, stands completely defeated in a case of this nature where the matter has taken more than 15 years to be adjudicated. The matter has still not reached a conclusion despite arguments having concluded in 2018 itself.

11. In the above facts and circumstances, the following directions are issued to the NCDRC:

- i) Whenever judgments are reserved, they ought to be pronounced in accordance with the timelines prescribed in *Anil Rai (supra)*;
- ii) If orders are not pronounced within six months of being reserved and an application is filed by either party, the same ought to be listed before the President, NCDRC by the Registry of the NCDRC within two days, without fail. The NCDRC may issue a practice direction to this effect so that the same is complied with by the Staff of the Registry;

12. In the facts of this case, it is directed that since the matter has now been listed on 23rd February, 2021, the bench of the NCDRC which has last heard arguments, shall now pronounce its judgment within two weeks.

13. The petition is disposed of with the above directions. All pending applications are also disposed of. Copy of this order be communicated by the worthy Registrar General of this Court to the Registrar/Joint Registrar, NCDRC who shall send a report of compliance within four weeks to the Id. Registrar General, in respect of the pronouncement of judgment/order as also in respect of the issuance of Practice Directions.

14. Id. Registrar General to follow up the matter with the Registrar/Joint Registrar, NCDRC to ensure compliance.

**PRATHIBA M. SINGH
JUDGE**

FEBRUARY 18, 2021

Rahul/C

(corrected and released on 22nd February, 2021)