

20th December, 2022
(D/L No.34)
(SKB)

W.P.A. 27094 of 2022

Sunil Chandra
Versus
State of West Bengal and others

Mr. Siddhartha Banerjee,
Mr. Rahul Karmakar,
Ms. Gargi Goswami,
Mr. Saunak Mukherjee
... for the petitioner.

Mr. Raja Saha,
Mr. S.P. Lahiri
... for the State.

Ms. Anushree Mondal,
Ms. Aditi Chatterjee
... for the respondent no.7.

The petitioner is aggrieved by his inability to file a revisional application against an order of the Consumer Disputes Redressal Commission before the State Commission. The inability, according to learned counsel appearing for the petitioner, arises from the recalcitrance of a particular person in the department of the State Commission. The writ petition does not have any written order of refusal from the concerned person. The inability is detailed in paragraph 21 of the writ petition and reflected in a mail of 4th December, 2022 from the advocate of the petitioner which states that the appeal/revision cannot be filed as the same is not being

entertained by the State Commission and in view of the fact that there is no such provision under the Act.

Learned counsel appearing for the petitioner relies on The Consumer Protection Regulations, 2005 notified on 31st May, 2005 which provides under Regulation 7 that a complaint may be filed in the District Forum or the State Commission in certain formats. Regulation 9 provides for scrutiny of complaint, appeal, petition and revision petition. Under Regulation 9(1), every complaint, appeal or revision petition shall be numbered by the Registrar. Under Regulation 9(2), any defect in the filing of the complaint, appeal or revision petition shall be informed to the party or his agent including the particulars of the defects so that the defects can be removed within 15 days. Regulation 9(3) mandates that the dispute with regard to the correctness of the defects shall be placed before the Consumer Forum for appropriate orders.

The particulars of the defects, if any, in the revisional petition have not been pointed out by the concerned person in the Department of State Commission. The Regulations provide for giving an opportunity to the party in case the appeal/revision contains defects and in the event of a dispute with regard to the defects, the Consumer Forum shall decide the issue. Under Regulation 2(b), "Consumer Forum"

includes the State Commission. Hence, the concerned respondents should be asked to follow the Regulations as contemplated for ascertaining the defect in the revisional application.

The respondents are represented.

W.P.A.27094 of 2022 is disposed of with a direction on respondent no.3 being the President, State Consumer Redressal Commission to instruct the Department of the State Commission to follow the Regulations as stated above in the matter of filing of the petitioner's revisional application. The exercise should be completed within a period of two weeks from date. Time period provided in the Regulations shall commence from today.

The petitioner does not press the other prayers in the writ petition at this stage.

(Moushumi Bhattacharya, J.)