

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

46 WRIT PETITION NO.7883 OF 2023

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| 1) Nagesh s/o Kashinath Kalyankar | |
| 2) Shalaka w/o Parag Dhamdhere | |
| 3) Deepali d/o Dattatraya Dongaonkar | |
| 4) Rekha d/o Vaijnath Tornekar | ... Petitioners |

VERSUS

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| 1) The Union of India,
Through its Secretary,
Ministry of Consumer Affairs Food and
Public Distribution, New Delhi Company Ltd. | |
| 2) The State of Maharashtra,
Through its Secretary,
Food and Civil Supplies and Consumer
Protection Department Mantralaya
Mumbai-32. | |

...

Advocate for the Petitioners : Mr. A.M. Gaikwad h/f Mr. Dhage Vaibhav B.
Advocate for Respondent No. 1 : Mr. Dipali Jape

CORAM	: MANGESH S. PATIL & SHAILESH P. BRAHME, JJ.
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DATE	: 10.07.2023
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PER COURT :

Heard learned advocate for the petitioner.

2. The petitioners are coming with following prayers :

“(A) Call record and proceeding of the case.

(B) Issue writ of mandamus, or any other writ, order or direction in the nature of writ of mandamus, hold and declare that, the advertisement dated 25.05.2023 and examination held on dated 25.06.2023 for the post of Member of State

Consumer Disputes Redressal Commission and President and Members of District Consumer Disputes Redressal Commission under the Consumer Protection Act, 2019, is not conducted as per the guideline of the Hon'ble Apex Court dated 03.03.2023 and re-examination is scheduled as per strict adherence with the guideline of the Hon'ble Apex Court as early as possible and for that purpose issue necessary orders.

(C) Pending hearing and final disposal of the present writ petition result of the examination held on dated 25.06.2023 for the post of Member of State Consumer Disputes Redressal Commission and President and Members of District Consumer Disputes Redressal Commission under the Consumer Protection Act, 2019, may kindly be kept in abeyance and for that purpose issue necessary orders.

(D) Grant ad-interim relief in terms of prayer clause (C).

(E) Pass such further and other order as this Hon'ble High Court deems fit and proper ”

3. Since it is a matter of recruitment to the posts of Member of State Consumer Disputes Redressal Commission and President and Members of District Consumer Disputes Redressal Commission under the Consumer Protection Act, 2019, irrespective of the reasons for the challenge to the recruitment, this Court cannot exercise the jurisdiction having been expressly barred by Section 28 of the Act.

4. The learned advocate for the petitioners demonstrates by referring to the provisions of Consumer Protection Act and particularly Section 28 to 32, the Central Government has to prescribe for the qualification, method of recruitment, procedure for appointment, term of office, resignation and removal of the President and Members of the District Commission. He would, therefore, submit that though it is an establishment of the State under Section 28 of the Consumer Protection Act, qualification is to be prescribed by the Central Government and only the salaries would be paid by the State Government. His attempt at pointing out that since the

challenge in the present petition is to the current recruitment process which is not being conducted as per the guidelines of the Supreme Court dated 03.03.2023, in our considered view, does not take the matter further. Even by virtue of Section 28 of the Consumer Protection Act, 2019, the recruitment being undertaken by the State Government is for an employment under the State within the meaning of Section 28 of the Administrative Tribunals Act. In view of the express bar, this Court cannot grant the relief.

5. The Writ Petition is dismissed with liberty to the petitioner to avail of the alternate remedy of approaching the tribunal under Section 19 of the Administrative Tribunal Act.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-