



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 3680/2023

Dr.Mahendra Bhaskar Limaye, Age: 57 years, Occupation –
Advocate, R/o Soni Galli, Sitabuldi, Nagpur – 440 012.

PETITIONER

.....VERSUS.....

1. Union of India, Through its Secretary,
Ministry of Consumer Affairs, Food and Public
Distribution, Department of Consumer Affairs,
Krushi Bhavan, New Delhi.
2. State of Maharashtra, Through its Secretary,
Food and Civil Supplies and Consumer Affairs,
Department/Ministry, Mantralaya, Mumbai-32.

RESPONDENTS

Dr. T.D. Mandlekar with Ms T.V. Fadnavis, counsel for the petitioner.
Shri N.S. Deshpande, Deputy Solicitor General of India for the respondent no.1.
Shri A.M. Deshpande, In-Charge Government Pleader for the respondent no.2.
Shri P.S. Gawai, counsel for the applicant in C.A.W. No. 1832 of 2023.
Shri Shaunak Kothekar, counsel for the applicant in C.A.W. No. 2449 of 2023.
Ms Kritika Bhusari with Shri Ram Aurangabadkar, counsel for the applicants in
C.A.W. No. 2497 of 2023.

WITH

WRIT PETITION NO. 2107/2023

1. Pradeep S/o Ramchandra Patil, Age 61 years, Occ: Service
as a Member, District Consumer Commission,
R/o Plot No.09, Samarth Layout, Behind FSI Godown,
Ajni, Nagpur, Maharashtra – 440 010.
2. Nitin S/o Manikrao Gharde, Age: 45 years,
Occ: Service as a Member, District Consumer
Commission, R/o Plot No.42, Vishwakarma
Nagar, Nagpur, Maharashtra-440 027.
3. Manjushri W/o Ravindra Khanke, Age 54 years,
Occ: Service as a Member, District Consumer
Commission, R/o Sindhu Apartment, Hanuman
Nagar, Chandrapur, Maharashtra-442401.
4. Bharti Prakash Ketkar, Age 54 years, Occ: Service as
a Member, District Consumer Commission,
C/o Dhananjay Gogte, Sharda Nagar, Nandurbar,
Maharashtra – 425 412.
5. Sanjay Suresh Joshi, Age 51 years, Occ. Service as a
Member, District Consumer Commission,
R/o Nishigandha, Opposite Kamdeo Mandir,
Dhule, Maharashtra.

PETITIONERS

.....VERSUS.....

1. Union of India, Ministry of Law and Justice,
Through its Secretary, New Delhi.
2. Union of India, through its Secretary,
Ministry of Consumer Affairs Food and Public
Distribution, Department of Consumer Affairs,
Krushi Bhavan, New Delhi.
3. State of Maharashtra, through its Secretary,
Food and Civil Supplies and Consumer Affairs
Department, Mantralaya, Mumbai-32.

RESPONDENTS

Dr. T.D.Mandlekar with Ms T.V. Fadnavis, counsel for petitioners.
Shri N.S. Deshpande, Deputy Solicitor General of India for the respondent nos.1
and 2.
Shri A.M. Deshpande, In-Charge Government Pleader for the respondent no.3.

WITH**WRIT PETITION NO. 2496/2023**

1. Avinash S/o Vinayak Prabhune, Age 60 years,
Occ: Service as Member, Additional District
Consumer Disputes Redressal Commission,
R/o Plot No.113, Pandurang Gawande Layout,
Ranaprata Nagar, Nagpur, Maharashtra – 440 022.
2. Bhaskar Budhkar Yogi, Age: 48 years,
Occ: Service as President, District Consumer Disputes
Redressal Commission, Gondia, R/o C/o Arun Gaharwar,
Near Madhur Courier Service, Butter Gali, Hanuman
Mandir, Civil Lines, Gondia, Maharashtra-441 601.
3. Sarita B. Raipure, Age 45 years, Occ: Service as a
Member, District Consumer Disputes Redressal
Commission, Gondia, R/o Behind Matoshree School,
Wankhede wadi, Raut Layout, Tukum, Chandrapur,
Maharashtra – 442 402.
4. Shubhangi Nilkanth Konde, Age 47 years,
Occ: Service as a Member, District Consumer Disputes
Redressal Commission, Amravati, R/o C/o Purushottam
Kirakte, Shankuntal Colony, Tower Line, Amravati,
Maharashtra – 444 604.
5. Subhash Rajaram Ajane, Age 63 years, Occ. Service
as a Member, District Consumer Disputes Redressal
Commission, Nagpur, R/o Flat No.105, Surendra
Nagar, Nagpur, Maharashtra – 440 015.
6. Vrushali Jagirdar, Age 45 years, Occ: Service as a
Member, District Consumer Disputes Redressal
Commission, Bhandara, R/o Flat No.101,
Ghruhashree Apartment, Opp. Ameya Hospital,
Dharampeth, Nagpur, Maharashtra – 440 010.

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| 7. | Ravindra Pandurang Nagre. | (DELETED) | |
| 8. | Vijaykumar Appaso Jadhav. | (DELETED) | |
| 9. | Sachin Yashwant Shimpi. | (DELETED) | |
| 10. | Aparna Ashok Dixit. | (DELETED) | |
| 11. | Kiran Parasmal Mandot. | (DELETED) | |
| 12. | Shilpa Sudhakar Rao Dolharkar, Age 48 years,
Occ: Service as a Member, District Consumer
Disputes Redressal Commission, Washim,
R/o 1123, Sai Nagar, N6 CIDCO, Aurangabad,
Maharashtra – 431 001. | | |
| 13. | Kavita K. Deshmukh. | (DELETED) | <u>PETITIONERS</u> |

.....VERSUS.....

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| 1. | Union of India, through its Secretary, Ministry of
Consumer Affairs Food and Public Distribution,
Department of Consumer Affairs, Krushi Bhavan,
New Delhi. | |
| 2. | State of Maharashtra, through its Secretary,
Food and Civil Supplies and Consumer Affairs
Department, Mantralaya, Mumbai – 32. | |

RESPONDENTS

Shri S.P. Dharmadhikari, Senior Advocate with Shri Rohan Malviya, counsel for the petitioners.

Shri N.S. Deshpande, Deputy Solicitor General of India for the respondent no.1.

Shri A.M. Deshpande, In-Charge Government Pleader for the respondent no.2.

CORAM : A. S. CHANDURKAR AND MRS VRUSHALI V. JOSHI, JJ.**DATE ON WHICH ARGUMENTS WERE HEARD : SEPTEMBER 01, 2023****DATE ON WHICH JUDGMENT IS PRONOUNCED : OCTOBER 20, 2023****JUDGMENT (PER : A.S. CHANDURKAR, J.)**

RULE. Rule made returnable forthwith and the learned counsel for the parties have been heard at length.

2. These writ petitions filed under Article 226 of the Constitution of India seek to raise a challenge to Rule 6(1) and Rule 10(2) of the Consumer Protection (Qualification for Appointment, method of recruitment,

procedure for appointment, term of office, resignation and removal of the President and members of the State Commission and District Commission) Rules, 2020 (for short, 'the Rules of 2020'). A declaration has also been sought that the petitioners who were the members at various District Commissions are eligible for re-appointment to the post of member of the District Commission under Rule 10(2) of the Rules of 2020.

3. Writ Petition No. 3680 of 2023 has been preferred by Dr. Mahendra Bhaskar Limaye, a practising Advocate, who had earlier filed Writ Petition No. 1096 of 2021 wherein challenge was raised to Rule 3(2)(d), Rule 4(2)(c) and Rule 6(9) of the Rules of 2020 that came to be quashed by the judgment dated 14.09.2021 in *Vijaykumar Bhima Dighe Versus Union of India & Others* [**Public Interest Litigation No. 11 of 2021 along with Writ Petition No. 1096 of 2021**]. The application for review filed by the State of Maharashtra was withdrawn on 24.03.2023 and a direction to complete the process of appointment within three months was issued. In addition to aforesaid challenge, the advertisement dated 23.05.2023 issued by the Food, Civil Supplies and Consumer Protection Department (for short, 'the Department') of the State of Maharashtra is also under challenge. Notifications dated 10.04.2023 and 13.06.2023 constituting a Selection Committee for selection of President and members at the State Commission and the District Commissions in the State of Maharashtra are also under challenge.

Writ Petition No. 2107 of 2023 has been preferred by the petitioners who are functioning as Members at District Commissions in the State of Maharashtra. Besides raising challenge to Rule 6(1) of the Rules of 2020, the provisions of Rule 10(2) of the said Rules are challenged to the extent the tenure of the District Commission is restricted to a period of four years. The petitioners seek a declaration that they are eligible for being considered for re-appointment to the post of member in the light of the fact that they had earlier successfully completed the process of selection which included written examination and interview as per the Rules prevailing then.

Writ Petition No. 2496 of 2023 has been preferred by the petitioners who were functioning as President/members of District Commissions in the State of Maharashtra. They also seek a declaration that they are eligible for being considered for re-appointment to the post of President/Members of the District Commission having completed the process of selection including written examination and interview as per the prevailing rules.

4. In Writ Petition No. 3680 of 2023, Civil Application (W) No. 2497 of 2023 has been filed by four applicants seeking leave to intervene in the present proceedings. The applicants have stated that they are advocates by profession practising in various Courts in the State. They have submitted their applications in response to the advertisement dated 23.05.2023 in the matter of appointment on the post of Chairman/members of the District Commission and State Commission. The applicants seek to support the case as sought to be

made out by the petitioner in Writ Petition No. 3680 of 2023. Relying upon the decision in *St.Mary's Orthodox Church & Others Versus State Police Chief & Others* [(2020) 18 SCC 329] it is urged that the directions issued by the Hon'ble Supreme Court in *The Secretary, Ministry of Consumer Affairs* (supra) in exercise of powers under Article 142 of the Constitution of India could not have been violated by the Department while issuing the advertisement. The said advertisement not being in consonance with the directions issued under Article 142 of the Constitution of India the same was liable to be set aside. It is also their case that the District and State Commission is a Court and its members discharge judicial functions. Reliance in that regard is placed on the decision in *Re: Versus Anil Kumar Jindal & Others* [2013 (2) All.L.J. 766]. It is their further case that by prescribing for deduction of 1/4th mark for each wrong answer the concept of negative marking which was not provided for in the Rules of 2020 amounts to changing the rules of the game after it has commenced. Support in this regard is sought to be taken from the decisions in *Secretary, A.P. Public Service Commission Versus B.Swapna & Others* [(2005) 4 SCC 154], *K. Manjusree v. State of Andhra Pradesh & Another* [(2008) 3 SCC 512] and *Maharashtra State Road Transport Corporation & Others Versus Rajendra Bhimrao Mandve & Others* [(2001) 10 SCC 51]. Thus according to the applicants the entire exercise conducted in the matter of recruitment pursuant to the advertisement dated 23.05.2023 is liable to be set aside as prayed by the petitioners.

Civil Application (W) No. 1832 of 2023 has been filed by a practising Advocate who has responded to the advertisement dated 23.05.2023. Civil Application (W) No. 2449 of 2023 has been filed by another candidate who has received a call letter from the Department and has been selected for being interviewed. Both the applicants oppose the challenge as raised by the petitioners and support the Department in defending the writ petitions. The applicant in Civil Application (W) No. 2449 of 2023 challenges the locus of the petitioner in Writ Petition No. 3680 of 2023 and urges that all the candidates who have qualified in the written examination are necessary parties to the present proceedings. Reliance is placed on the decision in *State of Kerala & Another Versus Rafia Rahim* [AIR 1978 Kerala 176 (FB)] in that regard.

5. We have heard Dr. T.D. Mandlekar, learned counsel for the petitioners in Writ Petition No.3680 of 2023 and Writ Petition No.2107 of 2023, Shri S.P. Dharmadhikari, learned Senior Advocate for the petitioners in Writ Petition No. 2496 of 2023, Shri N.S. Deshpande, learned Deputy Solicitor General of India for the Union of India and Shri A.M. Deshpande, learned In-Charge Government Pleader for the State of Maharashtra, Shri P.S. Gawai, learned counsel for the applicant in C.A.W. No. 1832 of 2023, Shri Shaunak Kothekar, learned counsel for the applicant in C.A.W. No.2449 of 2023 and Ms Kritika Bhusari, learned counsel for the applicant in C.A.W. No.2497 of 2023.

Challenge to Rule 6(1) of the Rules of 2020 :

6. Rule 6(1) of the Rules of 2020 reads as under :-

“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.”

According to the said provision, the President and the members of the State Commission and the District Commission can be appointed by the State Government on the recommendation of the Selection Committee. The persons constituting the Selection Committee have been indicated in the said Rule. According to the petitioners, the provisions of Rule 6(1) of the Rules of 2020 which provide for a presence of the Secretary in-charge of the Consumer Affairs of the State Government and nominee of the Chief Secretary of the State Government as members alongwith the Chief Justice of the High Court or any Judge of the High Court nominated by him as Chairperson falls foul of the law as laid down by the Hon’ble Supreme Court in *Roger Mathew Versus South Indian Bank Limited & Others* [(2020) 6 SCC 1], *Madras Bar Association (M.B.A. III) Versus Union of India & Another* [(2021) 7 SCC 369] and *Madras Bar Association (M.B.A. IV) Versus Union of India & Another* [2021 SCC OnLine SC 463]. It is urged that by prescribing constitution of the Selection Committee consisting of two

members from the Executive as the Secretary in-charge of the Consumer Affairs and a nominee of the Chief Secretary of the State, the doctrine of separation of powers is violated. The Committee in its present form gives primacy to the Executive and the Chairperson of the Committee is placed in a minority in the Selection Committee. The opinion of the Chairperson alone therefore would not be binding on the State Government. The law in this regard being well settled it was obvious that the constitution of the Selection Committee as prescribed by Rule 6(1) of the Rules of 2020 was liable to be set aside.

According to the Union of India, Rule 6(1) of the Rules of 2020 could not be read in the manner as urged by the petitioners. Referring to Rule 6(3) of the Rules of 2020 it is contended that the presence of the Chairperson of the Selection Committee is mandated while recommending the names for appointment as President and members of the State Commission and the District Commission. This would indicate that without the presence of the Chairperson, it would not be possible to appoint either President or member of the State Commission or the District Commission. There was no question of dilution of judicial dominance in the Selection Committee. It is further urged that the decisions relied upon by the petitioners in this regard would not be applicable since the validity of the Tribunal, Appellate Tribunal and other Authorities (Qualifications, Experience and other Conditions of Service of Members) Rules, 2020 were under challenge. In the Eighth Schedule of the Finance Act, 2017 there was

reference only to the National Consumer Disputes Redressal Commission and there was no reference to the State Commission or the District Commission therein.

Reliance was placed on the decisions in *State of T.N. & Another Versus P. Krishnamurthy & Others* [(2006) 4 SCC 517], *Aparna Abhitabh Chatterjee & Others Versus Union of India & Others* [2022(5) Mh.L.J. 447], *Vishal N. Kalsaria Versus Bank of India & Others* [2016(1) SCALE 472], *Joint Secretary Versus High Court of Meghalaya, through its Registrar* [(2016) 11 SCC 245], *Dental Council of India Versus Biyani Shikshan Samiti & Another* [(2022) 6 SCC 65] and *Sanjay R. Kothari Versus South Mumbai Consumer Disputes Redressal Forum & Another* [2003(1) Mh.L.J. 244] to oppose the writ petitions.

Consideration :

7. The Rules of 2020 have come into force on 20.07.2020. In the earlier round of litigation Rules 3(2)(b), 4(2)(c) and 6(9) of the Rules of 2020 were under challenge. The same have been quashed by the Division Bench of this Court in *Vijay Bhima Dighe* (supra). This judgment of the Division Bench has been upheld in *The Secretary Ministry of Consumer Affairs Versus Dr. Mahindra Bhaskar Limaye & Others* [2023 LiveLaw (SC) 161]. The provisions of Rule 6(1) of the Rules of 2020 were not the subject matter of challenge in the earlier round of litigation. It may be noted that the decision in *Roger Mathew* (supra) was rendered by the Hon'ble Supreme

Court on 13.11.2019, the decision in *M.B.A. III* (supra) was rendered on 27.11.2020 while the judgment in *M.B.A. IV* (supra) was rendered on 14.07.2021. In the light of the law laid down in these decisions it is the contention of the petitioners that Rule 6(1) of the Rules of 2020 compromises the aspect of primacy to the judiciary in the Selection Committee. For considering the challenge based on the aforesaid decisions, it would be necessary to briefly refer to the same.

8. In *Rojer Mathew* (supra), the constitutional validity of Part-XIV of the Finance Act 2017 and the Rules framed thereunder were under challenge. The validity of Section 184 of the Finance Act 2017 was also challenged on the ground of excessive delegation. Assuming Section 184 to be valid, the question whether the Tribunal, Appellate Tribunal and other Authorities (Qualifications, Experience and other Conditions of Service of Members) Rules, 2017 were in consonance with the principal Act and the decisions of the Hon'ble Supreme Court on the functioning of the Tribunals were also considered. The Constitution Bench while answering the said challenge has held that a test to determine whether a particular body was merely an administrative organ of the Executive or a Tribunal was to examine whether the body is vested with powers of a civil Court or not and any adjudicatory body vested with powers of taking evidence, summoning of witnesses etc. must be categorized as a Tribunal. – Paragraph 43.

If the Tribunals were established in substitution of Courts they must also possess independence, security and capacity. With transfer of jurisdiction from a traditional Court to Tribunal, it would be imperative to include members of the judiciary as Presiding Officers/Members of the Tribunal. Any inclusion of Technical Members in the absence of any discernable requirement of specialization would amount to dilution and encroachment upon the independence of the Judiciary. – Paragraph 47.

Composition of a Search-cum-Selection Committee in the Rules of 2017 show that save for token representation of the Chief Justice of India or his nominee in some committees, the role of the judiciary is virtually absent. – Paragraph 148.

The lack of judicial dominance in the Search-cum-Selection Committee was in direct contravention of the doctrine of separation of power and an encroachment on the judicial domain. The doctrine of separation of powers is well recognized as an important facet of the basic structure of the Constitution and the exclusion of judiciary from the control and influence of the Executive is not limited to traditional Courts alone but also includes Tribunals since they are formed as an alternative to Courts and perform judicial functions – Paragraph 149.

The composition of the Search-cum-Selection Committees under the Rules amounts to excessive interference of the executive in appointment of members and the Presiding Officers of the statutory Tribunals and would

undoubtedly be detrimental to the independence of judiciary besides being an affront to the doctrine of separation of powers. – Paragraph 150.

There is a need for compulsory exclusion of control of the Executive over quasi-judicial bodies of the Tribunals discharging responsibilities akin to Courts. The Search-cum-Selection Committees as envisaged in the Rules were against the constitutional scheme since they dilute the involvement of judiciary in the process of appointment of Members of Tribunals which is in effect an encroachment by the Executive on the Judiciary. – Paragraph 154.

9. In *M.B.A. III* (supra), the constitutional validity of the Tribunal, Appellate Tribunal and other Authorities (Qualifications, Experience and other Conditions of Service of Members) Rules, 2020 was under challenge. It was urged that the Search-cum-Selection Committees as provided in the said Rules did not conform to the principles of judicial dominance. It was noticed by the Hon'ble Supreme Court that despite the judgment of the Constitution Bench in *Rojer Mathew* (supra) wherein the 2017 Rules were challenged, the 2020 Rules replicated the earlier Rules with regard to the constitution of the Search-cum-Selection Committees. In that context, it was submitted by the learned Attorney General that the 2020 Rules would be amended to reflect that the Search-cum-Selection Committees would have a Retired Judge of the Supreme Court or a Retired Chief Justice of a High Court nominated by the Chief Justice of India in place of the Chairperson of the Tribunal. It was further held

that the Secretaries of the sponsoring departments should not be the members of the Search-cum-Selection Committees. The Secretary of the parent or sponsoring department could not have a say in the process of selection and service conditions of the members of the Tribunals. It was directed that the Secretary to sponsoring department or the parent department should serve as the Member-Secretary/Convenor to the Search-cum-Selection Committee and would function in the said committee without a vote. – Paragraph 33.

In *M.B.A. IV* (supra), a declaration was sought that Sections 12 and 13 of the Tribunal Reforms (Rationalization and Conditions of Service) Ordinance, 2021 and Sections 184 and 186(2) of the Finance Act, 2017 as amended by the 2021 Ordinance were *ultra vires* the Constitution of India being violative of the principles of separation of powers and independence of judiciary. The said challenge was upheld and the first and the second proviso to Section 184(1) of the Finance Act, 2017 were held to be void and inoperative.

The decision in *P. Krishnamurthy* (supra) recognizes various grounds of challenge to a subordinate legislation. This judgment has been referred to in *Dental Council of India* (supra). A challenge as the present one can also be raised on the ground that a piece of subordinate legislation is contrary to the law laid down by the Hon'ble Supreme Court.

10. From the aforesaid decisions it becomes clear that constitution of the Selection Committee for recommending the norms for appointment to the post of President and members of State Commission and District Commission comprises of three members. While the judiciary is represented by Chief Justice of the High Court or any Judge of the High Court nominated by him who is to act as the Chairperson, the other two members represent the Executive. The Secretary in-charge of the Consumer Affairs of the State Government alongwith the nominee of the Chief Secretary of the State thus constitute a majority in the three member Selection Committee. The appointment to be made to the post of President and members of State Commission and District Commission is by the State Government through the Ministry of Food, Civil Supplies and Consumer Affairs. The said Department therefore is the Sponsoring Department which is also interested in the said matter.

11. We find that Rule 6(1) of the Rules of 2020 suffers from two infirmities; firstly with the Chairperson being the sole representative of the Judiciary in the three Member selection committee, there is lack of judicial dominance which has been held to be in direct contravention of the doctrine of separation of powers and also an encroachment on the judicial domain. The observations of the Constitution Bench in paragraphs 148 to 154 of the decision in *Rojer Mathew* (supra) are sufficient to hold that the Selection Committee as envisaged by Rule 6(1) of the Rules of 2020 runs counter to

the spirit of the said decision. Its present composition definitely results in excessive interference of the Executive in the appointment of President and members of the State Commission and the District Commission. It results in diluting the involvement of judiciary in the process of appointment of members of the Tribunals amounting to an encroachment by the executive on the judiciary.

Secondly, with the Secretary in-charge of Consumer Affairs of the State Government being a member, it is clear that the sponsoring Department which is the Ministry of Consumer Affairs, Food and Civil Supplies has a definite role to play in the matter of recommendation for appointment of President and members of the State and District Commission. The observations in paragraphs 33 and 34 of *M.B.A. III* (supra) are clear and the Secretary of the parent or sponsoring department cannot be permitted to have a say in the process of selection under Rule 6(1) of the Rules of 2020. As noted above, the Rules of 2020 have come into force on 20.07.2020. Though the decision of the Constitution Bench in *Rojer Mathew* (supra) was delivered on 13.11.2019 it appears that the law laid down therein has not been kept in perspective while framing Rule 6(1) of the Rules of 2020. In any event, Rule 6(1) of the Rules of 2020 also falls foul of the law as laid down in *M.B.A. III* (supra) inasmuch as the Secretary in-charge of the Department cannot have a role to play in the recommendation of appointment to the post of President and members of State Commission and District Commission. At the highest the Secretary of

parent or sponsoring department can only serve as Member – Secretary/ Convenor to the Selection Committee without a vote.

12. The contention raised on behalf of the Union of India that Rule 6(3) of the Rules of 2020 is sufficient to insulate the functioning of the Selection Committee is not sufficient to repel the challenge to constitution of the Selection Committee as prescribed by Rule 6(1) of the Rules of 2020. While Rule 6(1) of the Rules of 2020 constitutes a Selection Committee that is required to make recommendation to the State Government, Rule 6(3) of the Rules of 2020 merely protects an appointment of President or member of the State/District Commission from being invalid on account of any vacancy or absence of a member in the Selection Committee other than a vacancy or absence of the Chairperson. The appointment of President or member is preceded by the recommendation of the Selection Committee and the challenge pertains to the constitution of the Selection Committee itself. Rule 6(3) of the Rules of 2020 therefore would not save the constitution of the Selection Committee from being declared invalid if the same is not in accordance with the law laid down by the Hon'ble Supreme Court. The ratio of the decisions relied upon by the learned Deputy Solicitor General of India in this regard are not applicable herein.

For aforesaid reasons we find that the challenge raised to the validity of Rule 6(1) of the Rules of 2020 deserves to be upheld.

Challenge to notifications dated 10.04.2023 and 13.06.2023 :

13. Since we find that the provisions of Rule 6(1) of the Rules of 2020 prescribing the manner in which the Selection Committee is to be constituted are not in accordance with the law as laid down in *M.B.A. III* (supra), the notifications dated 10.04.2023 and 13.06.2023 constituting the Selection Committee in view of said Rule 6(1) of the Rules of 2020 are also liable to be set aside. The Selection Committees constituted by these notifications are pursuant to the exercise of power conferred on the Ministry of Food, Civil Supplies and Consumer Protection and as Rule 6(1) of the Rules of 2020 has been struck down, the notifications dated 10.04.2023 and 13.06.2023 would not survive. They are accordingly quashed.

Challenge to Rule 10(2) as regards tenure of four years :

14. Rule 10(2) of the Rules of 2020 has been challenged to the extent the tenure of Office of member of the State Commission as well as President and member of the District Commission has been restricted for a term of four years or up to the age of 65 years whichever is earlier. Rule 10(2) of the Rules of 2020 reads as under :

“10. *Term of Office of President or Member. –*

(1)

(2) *Every member of the State Commission and the President and every member of the District Commission shall hold office for a term of four years or upto 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 shall be made on the basis of the recommendation of the Selection Committee.”*

15. According to the learned counsel for the petitioners, the restriction of the tenure of members and President of the District Commission as well as the members of the State Commission to four years is contrary to the directions issued by the Hon'ble Supreme Court in *M.B.A. III*, *M.B.A. IV* (supra) and *Madras Bar Association Versus Union of India & Another* [(2015) 18 SCC 583]. Referring to the aforesaid decisions, it is submitted that despite clear directions issued by the Hon'ble Supreme Court that the tenure of the Chairperson and members of the Tribunal ought to be five years as held in *M.B.A. III*, Rule 10(2) of the Rules of 2020 restricts such term for a period of four years. Legislative override of such nature was found to be impermissible by the Hon'ble Supreme Court in its decision in *M.B.A. IV*. Reference was also made to the decision in *Rojer Mathew* (supra) to urge that the tenure of such members ought to be five years and not four years as prescribed.

16. According to the Union of India, there was nothing illegal in Rule 10(2) of the Rules of 2020 by which the tenure of the President and members of the District Commission and the members of the State Commission was fixed for a period of four years. It was pointed out that there being difference in the eligibility for appointment as members of the State Commission and the President as well as members of the District Commission in comparison with the eligibility for appointment as President of the State Commission. The tenure of four years was reasonable. While the President of the State Commission could continue to hold Office for a period of four years or up to the

age of 67 years, the President and members of the District Commission as well as the members of the State Commission were entitled to hold Office for a term of four years or up to the age of 65 years. Since the President and the members of the District Commission could not be equated with the President of the State Commission there was no violation of Article 14 of the Constitution of India since discrimination amongst equals was prohibited and not *vice versa*. In any event, it was submitted that the ratio of the decisions in *M.B.A. III* and *M.B.A. IV* was not applicable to the present case. Since prescribing the eligibility and service conditions including the age of retirement was a policy matter, the Court would be slow in interfering in this regard. Reference was also made to the decision in *Union of India & Another Versus International Trading Company & Another* [(2003) 5 SCC 437].

Consideration :

17. Heavy reliance has been placed by the learned counsel for the petitioners on the decision in *M.B.A. III* to urge that the provisions of Section 10(2) of the Act of 2019 restricting the term of office of the members of the State Commission as well as the President and members of the District Commission to four years suffers from legislative override. In *M.B.A. III* the constitutional validity of the Tribunal, Appellate Tribunal and other Authorities (Qualifications, Experience and other Conditions of Service of Members) Rules, 2020 was questioned. The term of office that was three years in the earlier Rules of 2017 was increased to four years in the 2020 Rules. In paragraphs 39 and 40 of *M.B.A. III* it has been held as under :-

“39. While setting aside the 2017 Rules, this Court in *Rojer Mathew* held that a short period of service of three years is anti-merit as it would have the effect of discouraging meritorious candidates to accept the posts of judicial members in the tribunals. In addition, this Court was also convinced that the short tenure of members increases interference by the executive jeopardising the independence of the judiciary.

40. The 2020 Rules are not in compliance with the principles of law laid down in *Union of India V. Madras Bar Assn.* And *Rojer Mathew* in respect of the tenure of the members of the tribunals in spite of this Court repeatedly holding that short tenure of members is detrimental to the efficiency and independence of the tribunals. Rule 9(1) of the 2020 Rules provide for a term of four years or till a Chairman or Chairperson or President attains the age of 70 years whichever is earlier. No rationale except that four years is more than three years prescribed in the 2017 Rules (described as too short, in *Rojer Mathew*) was put forward on behalf of the Union of India. We, therefore, direct the Government to amend Rule 9(1) of the 2020 Rules by making the term of Chairman, Chairperson or President as five years or till they attain 70 years, whichever is earlier and other members dealt with in Rule 9(2) as five years or till they attain 67 years, whichever is earlier.”

These conclusions definitely support the stand of the petitioners.

18. According to the Union of India, it is only the National Consumer Disputes Redressal Commission that finds reference in the Eighth Schedule of the Finance Act, 2017 and hence the observations in *M.B.A. III* cannot be applied to the State Commission and the District Commissions. While it is true that the Eighth Schedule of the Finance Act, 2017 does not mention the State Commission and the District Commissions, we do not find any reason not to rely upon the observations referred to hereinabove so as to apply the rationale behind the same to the State Commission and District Commissions since this would ensure their efficiency and independence as observed. It is to be noted

that under the Consumer Protection (Appointment, Salary, Allowances and Conditions of Service of President and Members of State Commission and District Forum) Rules, 2019 the tenure of members of the State Commission as well as the President and members of the District Commission was five years. Under Rule 10(2) of the Rules of 2020 this term is reduced to four years. In the light of what has been held in *M.B.A. III* (supra) reducing the period of term to four years from five years does not appear to be legally sustainable. Rule 10(2) that prescribes the term of members would have to be brought in tune with the observations in *M.B.A. III* (supra). It will thus have to be held that Rule 10(2) of the Rules of 2020 to the extent the tenure prescribed of members of the State Commission as well as for the President and members of the District Commission is not in consonance with the spirit of the law laid down in *M.B.A. III* (supra) is liable to be struck down. In these facts, ratio of the decision in *International Trading Company & Another* (supra) is not attracted.

Eligibility for re-appointment under Rule 10(2) :

19. In Writ Petition Nos. 2107 of 2023 and 2496 of 2023 a declaration has been sought by the petitioners as regards their eligibility for re-appointment to the post of President/members of the District Consumer Commission. It is urged by Shri S.P. Dharmadhikari, learned Senior Advocate for the petitioners in Writ Petition No. 2496 of 2023 that having undergone the process of selection while being initially appointed as President/members of the District Commission, such appointees seeking re-appointment would not be required to undergo the entire process of selection afresh. As per Rule 10(2) of the Rules

of 2020, re-appointment for another term subject to satisfying the age limit is permissible and such re-appointment is required to be made on the basis of recommendation of the Selection Committee. There being a right to be considered for re-appointment the same was dependent principally on the recommendation of the Selection Committee. It was therefore not necessary for such appointees seeking re-appointment to appear at the written examination as prescribed. Their performance in their earlier tenure could be examined and their candidature could be considered on that basis. Since the issue with regard to re-appointment was not the subject matter of challenge in the earlier round of litigation, the decision in *The Secretary, Ministry of Consumer Affairs* (supra) could not be made applicable to the petitioners requiring them to again appear for the written examination. Attention was invited to the Rules of 2019 and especially Rule 8(18) of the said Rules wherein it was stipulated that the Selection Committee while making recommendation in the matter of re-appointment was required to take into consideration the confidential reports, the disposal of cases, performance during first appointment, the general reputation of a candidate and complaints if any pending against the candidate. It was urged that this modality being fair, the same could be adopted while considering the candidature of the petitioners for re-appointment. Reliance was placed on the decision in *Mukund Bhagwan Saste Versus State of Maharashtra & Others* [Writ Petition No. 4974 of 2018] decided on 18.02.2019 at the Aurangabad Bench.

20. These contentions were opposed by Shri A.M. Deshpande, learned In-Charge Government Pleader by submitting that Rule 10(2) of the Rules of 2020 could not be read in the manner as urged on behalf of the petitioners. The candidature of the petitioners seeking re-appointment was required to be considered in the same manner as the candidature of an applicant seeking initial appointment on the post of President/members of the District Commission.

On behalf of the Secretary, Ministry of Consumer Affairs, Food and Public Distribution of the Union of India, Shri N.S. Deshpande, learned Deputy Solicitor General of India submitted that Rule 10(2) of the Rules of 2020 did not exempt the petitioners from undergoing the fresh process of selection. Reference was made to Section 31 of the Act of 2019 to urge that any rights accrued under the earlier Rules could not be extended after completion of the term for which the petitioners were appointed.

Consideration :

21. On a perusal of Rule 10(2) of the Rules of 2020 as regards the aspect of re-appointment, the same indicates that re-appointment is to be made on the basis of recommendation of the Selection Committee. It is to be noted that Rule 6(9) of the Rules of 2020 empowering the Selection Committee to determine its procedure for making its recommendation has been struck down by this Court in *Vijaykumar Bhima Dighe* (supra) which judgment has been upheld by the Hon'ble Supreme Court. As a result Rule 6(9) of the Rules of

2020 presently does not find place in the statute book. As a result there is no power with the Selection Committee to determine its procedure for making its recommendation in the matter of appointments to the post of members of the State Commission as well as President and members of the District Commission. This aspect would have bearing even on Rule 10(2) in the matter of re-appointment that is to be made on the basis of recommendation of the Selection Committee. In other words, since the Selection Committee presently cannot determine its procedure for making its recommendations in the matter of appointment, this difficulty would be faced also in the matter of re-appointment. It is thus clear that unless a suitably amended Rule is brought in place of Rule 6(9) of the Rules of 2020 that has been struck down, it would not be possible for the Selection Committee to determine the basis of making its recommendation.

22. In the light of this vacuum, we find that until the time Rule 6(9) of the Rules of 2020 is suitably amended, the Selection Committee could be guided by the procedure for re-appointment that was prevailing under the Rules of 2019. Rule 8(18) of the said Rules indicates the aspects to be taken into consideration by the Selection Committee while making recommendation for re-appointment. We find that in this regard the aspects of considering the confidential reports, disposal of cases, performance during the first appointment, general reputation of a candidate and the complaints if any pending against the candidate being relevant, they could be taken into

consideration while undertaking the exercise of re-appointment. The decision in *Mukund Bhagwan Saste* (supra) considers the requirement of a candidate seeking re-appointment to undergo the process of selection and holds that in such cases, it is not necessary for a candidate seeking re-appointment to undergo the same process of selection. In absence of any such provision of requiring a candidate seeking re-appointment to undergo the same process that is required to be undergone by a candidate seeking initial appointment and the matter being dependent on the recommendation of the Selection Committee, the above course could be followed till Rule 6(9) is suitably amended.

Challenge to advertisement dated 23.05.2023 :

23. The advertisement dated 23.05.2023 is under challenge on the ground that the Hon'ble Supreme Court while issuing directions under Article 142 of the Constitution of India in *The Secretary, Ministry of Consumer Affairs* (supra) had directed holding of written test consisting of two papers. Paper-I was to be an objective paper with topics of (a) General Knowledge and Current Affairs, (b) knowledge of Constitution of India and (c) knowledge of various consumer related laws as indicated in the Schedule for 100 marks and Paper-II was to be of descriptive nature consisting of one essay and one case study. The advertisement insofar as Paper-I is concerned provides for deduction of 1/4th mark for every wrong answer and Paper-II requires an examinee to attempt two topics in the essay question. One topic was required to be answered in English and the other

necessarily in Marathi. In the case study section two case studies were to be attempted; one in English and another in Marathi. It is stated that by doing so a candidate could be tested for his proficiency in English as well as Marathi. This according to the petitioners is not in consonance with the directions issued by the Hon'ble Supreme Court. It was not permissible for the Ministry of Consumer Affairs, Food and Civil Supplies to travel beyond the directions issued under Article 142 of the Constitution of India. Similarly there was no direction issued to introduce the concept of negative marking in Paper-I. In absence of any such method of marking being prescribed in the Rules of 2020 and especially when Rule 6(9) of the Rules of 2020 had been struck down, it was not permissible for the Department to provide for a different criterion. This amounted to changing the rules of the game in the midst of the selection process. The process for arriving at scores as indicated in Clause 9 of the notice published by the Department alongwith a note about the cut-off was also not permissible. There being no provision in the Rules of 2020 for rounding off marks, it could not have been directed that a candidate securing more than 49.5 marks would be treated as having secured 50 marks. In this regard, the petitioners seek to rely upon the decisions in *K.Manjusree Versus State of Andhra Pradesh & Another* [(2008) 3 SCC 512], *Durgacharan Misra Versus State of Orissa & Others* [(1987) 4 SCC 646] and *Prashant P. Giri & Others Versus State of Maharashtra & Others* [2010(5) Mh.L.J. 206].

24. According to the State Government a number of complaints are filed in vernacular before District and State Commission. With a view to test the knowledge and proficiency of the candidates seeking appointment on the post of President and members of the District and State Commission, it was necessary to consider the proficiency of a candidate in the language of English and Marathi. As regards deduction of 1/4th mark for each wrong answer it was submitted by the learned in-charge Government Pleader that the said clause with regard to negative marking was not being given effect to in view of such instructions received from the Department. This aspect has been recorded in the interim order dated 23.06.2023. To this extent the apprehension of the petitioners was taken care of. The intention behind requiring a candidate to answer the essay question in English and Marathi as well as the case study section also in English and Marathi did not result in violating the directions issued by the Hon'ble Supreme Court under Article 142 of the Constitution of India. The rounding off of the marks was on the basis of prevailing practice where a candidate securing more than 49.5 marks was to be treated as having secured 50 marks. The notice issued by the Department therefore did not call for any interference.

Consideration :-

25. The issue that requires consideration is whether it was permissible for the Department to have deviated from the directions issued by the Hon'ble Supreme Court in *The Secretary, Ministry of Consumer Affairs* (supra) with

regard to the format of the examination as indicated in the notice issued by it. In this regard, when paragraph 8 of the aforesaid decision is perused it becomes clear that the Hon'ble Supreme Court has held that till suitable amendments were made in the Rules of 2020, directions were being issued under Article 142 of the Constitution of India that the appointment of President and members of the State Commission and District Commission should be made on the basis of performance in the written test consisting of two papers as indicated. The said direction reads as under :-

“8.1 We also direct under Article 142 of the Constitution of India that for appointment of President and Members of the State Commission and District Commission, the appointment shall be made on the basis of performance in written test consisting of two papers as per the following scheme:-

<i>Paper</i>	<i>Topics</i>	<i>Nature of test</i>	<i>Max.marks</i>	<i>Duration</i>
<i>Paper-I (a)</i>	<i>General Knowledge and Objective Type</i>		<i>100</i>	<i>2 Hours</i>
	<i>current affairs</i>			
	<i>(b) Knowledge of Constitution of India</i>			
	<i>(c) Knowledge of various Consumers related Laws as indicated in the Schedule</i>			
<i>Paper-II (a)</i>	<i>One Essay on topics chosen from issues on trade and commerce consumer related issues or Public Affairs.</i>	<i>Descriptive type</i>	<i>100</i>	<i>3 Hours</i>
	<i>(b) One case study of a consumer case for testing the abilities of analysis and cogent drafting of orders</i>			

8.3 The qualifying marks in each paper shall be 50 per cent and there shall be viva voce of 50 marks. Therefore, marks to be allotted out of 250, which shall consist of a written test consisting two papers, each of 100 marks and the 50 marks on the basis of viva voce.”

Insofar as Paper-II is concerned it has been stated that it would consist of one essay on topics chosen from issues on trade and commerce, consumer related issues or Public Affairs. It also states that there should be one case study of consumer case for testing the abilities of analysis and cogent drafting of orders. The notice issued by the Department insofar as Paper-II is concerned states that in the said paper there would be an essay question where a candidate would have to attempt two topics, one topic to be necessarily answered in English language and another necessarily to be in Marathi language. In the case study section two case studies were to be attempted, one in English and another in Marathi. According to the learned counsel for the petitioners it was not permissible for the Department to deviate from the directions issued under Article 142 of the Constitution of India and require an essay to be answered in Marathi alongwith a case study also in Marathi language.

26. At the outset it must be noted that under Section 101(2)(n) of the Act of 2019 the Central Government has been empowered to make rules with regard to qualifications for appointment, method of recruitment, procedure for appointment, term of office, resignation and removal of President and members of the District Commission under Section 29 of the Act of 2019. Similar power has been granted to the Central Government to make such rules insofar as the President and members of the State Commission under Section 43 of the Act of 2019 are concerned. In view of the provisions of Section 101(2)(w) of the Act of 1961, it is clear that it is only the Central Government

that is empowered to make rules especially with regard to the method of recruitment which would include holding of a written examination with regard to President and members of the State Commission. There is no power conferred on the State Government to prescribe the mode of recruitment. Further the Hon'ble Supreme Court having issued directions under Article 142 of the Constitution of India indicating the manner in which written test consisting of two papers was to be conducted and specifically prescribing one essay and one case study with regard to Paper-II, it would be beyond the authority and jurisdiction of the Department to prescribe something more in addition to the directions issued under Article 142 of the Constitution of India. The said directions are clear and do not confer any right whatsoever on the Department to require candidates to also necessarily answer one topic and attempt one case study in Marathi language besides attempting such questions in English. Though the notice states that such requirement of answering a portion of Paper-II in Marathi is to ensure that a candidate is tested for his proficiency in Marathi which object could be stated to be laudable, in absence of any such discretion or power with the Department to do so, its exercise to that extent would be one without jurisdiction. It may also be noted that in the direction issued under Article 142 of the Constitution of India the essay and case study would carry 50 marks each since the maximum marks for these two Units of Paper-II are 100 marks. The notice in question states that insofar as Paper-II is concerned each question would carry 25 marks meaning thereby that the Unit dealing with essay on topics chosen that is to be

answered in English and Marathi would carry 25 marks each, while the case study also to be attempted in English and Marathi would carry 25 marks each. This separation is again in deviation from what has been directed by the Hon'ble Supreme Court.

27. With a view to consider as to whether the earlier Rules of 2019 contain any such stipulation, we have perused the said Rules but we find that the same are silent with regard to the essay and case study being required to be attempted also in Marathi language. It thus becomes clear that prior to issuance of the impugned notice alongwith on the advertisement dated 25.03.2023, the Department did not at any earlier point of time require Paper-II to be answered also in Marathi. After Rules 3(2)(b), 4(2)(c) and 6(9) of the Rules of 2020 were struck down by this Court and that judgment was upheld by the Hon'ble Supreme Court, the only option available with the rule making Authority was to amend the Rules of 2020 in the manner indicated in the said decision. With a view to enable necessary steps to be undertaken in the matter of recruitment of President and members of the District Commission and State Commission till the rules were amended, directions were issued under Article 142 of the Constitution of India. The field was thus occupied by said directions till the necessary amendment was made to the Rules of 2020 in place of Rules 3(2)(b), 4(2)(c) and 6(9) of the Rules of 2020. In this context reference can be made to the decision in *State of Punjab Versus Salil Sabhlok [(2013) 5 SCC 1]* that was relied upon by the learned counsel for the petitioners in Writ

Petition No. 3680 of 2023. It has been held in paragraph 136 that guidelines framed by the Hon'ble Supreme Court under Article 142 of the Constitution of India would be binding on the State till the time it exercised power and framed appropriate guidelines. The said field therefore being occupied by the directions issued under Article 142 of the Constitution of India, there was no authority whatsoever with the Department to deviate from the said directions and provide for matters in addition to the directions issued under Article 142 of the Constitution of India. This illegality has crept in Paper-II and the contentions raised by the petitioners in that regard deserve to be upheld. It is thus clear that the notice issued by the Department as regards Paper-II is without jurisdiction and that exercise cannot be sustained.

28. The issue with regard to applicability and operation of Rule 3(2)(a) of the Rules of 2020 vis-a-vis candidates seeking appointment under said provision has been considered separately in Writ Petition No. 3756 of 2023 [*Suhas Milind Untwale Versus The State of Maharashtra*] that has been decided today. That issue is therefore not dealt with in this judgment.

29. We find that the contention raised by the learned counsel for the petitioners in Writ Petition Nos. 3680 of 2023 and 2107 of 2023 seeking a direction to include 'important consumer related laws' in the examination that was to be held pursuant to the advertisement dated 23.05.2023 such as the Indian Penal Code, 1860; the Code of Criminal Procedure, 1973; and the Code of Civil

Procedure, 1908 etc. cannot be accepted. The vacuum created with the setting aside of Rules 3(2)(b) and 4(2)(c) of the Rules of 2020 has been supplied by the issuance of directions under Article 142 of the Constitution of India in *The Secretary, Ministry of Consumer Affairs* (supra) and the same occupy the field. In paragraph 8.1 of the aforesaid decision, the Hon'ble Supreme Court has issued directions under Article 142 of the Constitution of India requiring the written test consisting of two papers in the manner stated therein. It would therefore not be permissible for this Court to make any addition, alteration or modification to the aforesaid directions in the matter of conduct of the written test by including 'important consumer related laws' therein. It would be for the Central Government when it amends Rules 3(2)(b) and 4(2)(c) of the Rules of 2020 in the light of the directions issued in the aforesaid decision to consider whether any questions related to 'important consumer related laws' are required to be made a part of the written test. The aforesaid declaration therefore cannot be granted. When the exercise of amending the Rules of 2020 is undertaken, it is expected that the Central Government would consider the decision in *The Secretary, Ministry of Consumer Affairs* (supra) in its proper perspective.

30. It was also urged by the learned counsel for the petitioners that the District and State Commissions are Courts and its members are judicial officers. It is not necessary to go into this aspect in detail since the Hon'ble Supreme Court in *The Secretary, Ministry of Consumer Affairs* (supra) has

considered this very contention as can be seen from the observations in paragraphs 4.2(b), (d), 4.3, 4.5 and 4.7 therein. The Hon'ble Supreme Court has held in paragraph 6.5 that the Commissions are empowered with the powers of Court and are quasi-judicial authorities. They are empowered to discharge judicial powers with adequate powers of the Court including civil and criminal. These observations have been made in the context of the Act of 2019 and the Rules of 2020. In view thereof we do not deem it necessary to re-examine the very same contentions. In these facts, the ratio of the decision in *Sanjay R. Kothari* (supra) is not attracted.

31. In the light of aforesaid discussion, the following order is passed :-

- (A) Rule 6(1) of the Rules of 2020 is struck down on the ground that the same results in diluting the involvement of the judiciary in the process of appointment of the President and members of the State Commission and the District Commission. The said Rule is against the spirit of the decision of the Constitution Bench in *Rojer Mathew* (supra).
- (B) Since Rule 6(1) of the Rules of 2020 has been struck down the notifications dated 10.04.2023 and 13.06.2023 would not survive.
- (C) Rule 10(2) of the Rules of 2020 to the extent it prescribes the tenure of the members of the State Commission and the President and members of the District Commission to be four years is struck down as not being in consonance with the spirit of the law laid down in the *Madras Bar Association III* (supra).

- (D) Since re-appointment of members of the State Commission and the President as well as members of the District Commission under Rule 10(2) of the Rules of 2020 is on the basis of recommendation to be made by the Selection Committee and as Rule 6(9) of the Rules of 2020 has been struck down in *Vijaykumar Bhima Dighe* (supra), till the time Rule 6(9) of the Rules of 2020 is suitably amended the Selection Committee can consider following the procedure for the appointment of members of the State Commission and the President as well as members of the District Commission by taking into consideration the procedure that was prevailing *vide* Rule 8(18) of the Rules of 2019.
- (E) The notice issued by the Department of Food, Civil Supplies and Consumer Affairs alongwith the advertisement dated 23.05.2023 in relation to Paper-II is held to be without jurisdiction. Consequently, it would be necessary for the Department to re-conduct the test in Paper-II by following the directions issued by the Hon'ble Supreme Court under Article 142 of the Constitution of India in *The Secretary, Ministry of Consumer Affairs* (supra).
- (F) In view of the decision in *Suhas Milind Untwale Versus The State of Maharashtra* [Writ Petition No. 3756 of 2023] decided today, it is held that the notice annexed to the advertisement dated 23.05.2023 that pertains to the appointment on the post of Member, State Commission would be applicable only to a candidate seeking appointment in terms of Rule 3(2)(b) and not a candidate seeking appointment in terms of Rule 3(2)(a) of the Rules of 2020.

32. Rule in all the writ petitions is disposed of in aforesaid terms leaving the parties to bear their own costs. Pending civil applications are disposed of.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S. CHANDURKAR, J.)

APTE

At this stage, the learned counsel for the respondents pray that the effect and operation of the judgment be stayed for a period of eight weeks. This request is opposed by the learned counsel for the petitioners.

Considering the facts of the case, the judgment delivered today shall operate after a period of four weeks from today.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S. CHANDURKAR, J.)

APTE