**IN THE HIGH COURT OF ANDHRA PRADESH**
**AT AMARAVATI**
**(Special Original Jurisdiction)**

FRIDAY, THE TWENTY FIFTH DAY OF APRIL
TWO THOUSAND AND TWENTY FIVE

**PRESENT**

**THE HONOURABLE SRI JUSTICE B. KRISHNA MOHAN**

**AND**

**THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY**

**WRIT APPEAL No.978 of 2024**

**Between:**

Smt. T. Anitha, W/o M. Purushotham,
Aged 52 years, President, District Consumer
Disputes Rederessal Commission, Chittoor,
R/o H.No.989, NGO's Colony, K.T. Road,
Tirupati. …. Appellant/2nd Respondent

And

1. Kummara Mohan, S/o Late K. Rajagopal,
Aged 49 years, Occupation: Advocate,
R/o D.No.2/5, G.H. Puram Village,
Vadamalapet Mandal, Tirupati
District – 517 551. …. Respondent/Writ Petitioner

2. State of Andhra Pradesh, Rep. by its
Principal Secretary, Consumer Affairs,
Food & Civil Supplies (CS-II) Department,
Secretariat Buildings, Velagapudi, Guntur
District. …. Respondent/Respondent No.1

**Counsel for the Appellant: Sri J. Ugra Narasimha**

**Counsel for the Respondent(s) : Sri J. Sudheer**
**and Additional Advocate General**

**The Court made the following:**

**THE HONOURABLE SRI JUSTICE B. KRISHNA MOHAN**

**AND**

**THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY**

**WRIT APPEAL No.978 of 2024**

**JUDGMENT:** *(Per Hon'ble Sri Justice Nyapathy Vijay)*

1. The present Writ Appeal is filed questioning the Order dated 15.11.2024 passed in W.P.No.17534 of 2022 whereunder the appointment of the Appellant as President of the District Consumer Forum, Chittoor was set-aside.

2. The parties are referred to as they were arrayed in W.P.No.17534 of 2022. This appeal was heard along with a batch of appeals and case law was cited by the Counsel and Senior Counsel appearing for the respective parties. As facts in each appeal are not similar, separate Judgments are being passed addressing the contentions advanced.

3. ***The introductory facts***:-

A Notification was issued on 17.03.2021 by the State of Andhra Pradesh *vide* Roc.No.3/DC-P/Sectt/CS-II Dept/2020 inviting applications to fill up vacant posts of Presidents of District Commissions of Ananthapuramu, Tirupathi, Kakinada, Rajahmundry, Guntur, YSR Kadapa, Machilipatnam, Ongole, Srirakulam,

Visakhapatnam-II, Vizianagaram, Eluru and Chittoor, totalling to 13 vacancies.

4. As per the Notification, the applicants should have the qualifications prescribed for the post of a District Judge and should be above 35 years and below 65 years under Sections 28 to 30 of the Consumer Protection Act, 2019. The procedure for selection is that the Selection Committee shall, on the basis of the assessment made by it in the interview and after satisfying the eligibility criteria and after taking into account the suitability, record of past of performance, integrity and adjudicatory experience, will recommend a panel of names of applicants for appointment as Members/Presidents from amongst the applicants in the order of merit for approval to the State Government and for issuance of appointment orders to the selected applicants.

5. In this case, the writ petitioner along with one P. Kummara Murali Mohan Reddy and the Appellant/Respondent No.2 were among the shortlisted candidates for the post of President of District Consumer Forum, Chittoor. The Appellant was appointed as the President of the District Consumer Forum, Chittoor *vide* G.O.Rt.No.8, Consumer Affairs, Food & Civil Supplies (CS.II) Department, Dated 03.02.2022 as she was ranked No.1 in the order of merit

recommended by the Selection Committee. Questioning the said appointment, the Writ Petition was filed on the ground that the Appellant is not a practising Advocate for 7 years prior to the date of notification and she was working as Member of the District Consumer Commission in Chittoor District for two terms since the year 2010 i.e. from 17.03.2010 to 16.03.2020. As the Appellant was not a practising Advocate and she is not eligible for the post of District Judge i.e. the basic eligibility criteria for appointment, her appointment cannot be sustained.

6. The second ground of challenge is that the posts of President and Member are public posts and, therefore, Rule of Reservation has to be applied and that the Respondent/State has to take a decision by following 100 point roster.

7. The Respondent No.1/State filed its Counter Affidavit stating that the appointments were made taking into consideration the recommendations of the Selection Committee and the antecedent reports.

8. The Respondent No.2/Appellant filed her Counter Affidavit contending that the Selection Committee was aware of the fact that the Appellant worked as Woman Member in the District Consumer Commissions in Chittoor and Tirupati respectively from March, 2010

to March, 2020. The Appellant also pleaded that she was enrolled as Advocate on the Rolls of Bar Association on 23.04.1999 and practised as Advocate at Tirupati Bar Association for more than 10 years before she was appointed as Woman Member of the District Consumer Commissions mentioned above. It is further contended that the Consumer Protection Act, 2019 does not provide for any reservation in appointments to the posts of President and Member and that the writ petitioner cannot seek to enforce reservation in the absence of any enabling provision.

9. The Respondent No.2/Appellant also filed an additional Counter Affidavit stating that the writ petitioner had secured 12 marks and another applicant by name P. Kummara Murali Mohan Reddy had secured 20 marks and the Appellant had secured 23 marks. It was also mentioned that the Judgments enclosed by the writ petitioner, which is one of the requirements as per the notification, show that the writ petitioner had submitted copies of Judgments where he did not appear as counsel in those cases and, therefore, the writ petitioner does not have *locus standi* to question the appointment of the Respondent No.2.

10. The learned Single Judge after referring to Rule 6 of the 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 & District Commission) Rules, 2020 (for short ***"Consumer Protection Rules, 2020"***) held that the antecedent report relied on by the Respondent No.2/Appellant is not in consonance with Circular Memo No.132/SC.B/A1/2012-I, General Administration (SC.B) Department, dated 15.11.2012 and does not contain any signature of any authority, set-aside the appointment of Respondent No.2 and the official respondents were directed to obtain fresh credentials/antecedents as per the Circular Memo dated 15.11.2012 and in the meantime, the official respondents were directed to place an in-charge to avoid inconvenience to the District Commission proceedings. The official respondents were directed to issue appointment orders on the basis of the credentials/antecedents and the time calendared for compliance was two (2) months. Hence, the present Writ Appeal.

11. ***Contentions***:- Heard Sri J. Ugra Narasimha, learned counsel for the Appellant, Sri J. Sudheer, learned counsel for the Respondent No.1 and learned Additional Advocate General for the Respondent No.2/State.

12. The learned counsel for the Appellant contended that as the Appellant had practised from the year 1999 onwards till March, 2010 in Tirupathi Courts, she is entitled to be appointed as District Judge as provided under the Constitution. The further contention was that the Appellant is better placed than the other candidates since she has adjudicatory experience in Consumer Disputes and as there are no adverse remarks against her over the period of 10 years, she discharged duties as Woman Member of the District Consumer Forums. It is further contended that the Appellant was ranked No.1 in the order of merit with 23 marks and the writ petitioner having secured only 12 marks and standing at Sl.No.3 in the order of merit does not have any *locus standi* to question the appointment of the Appellant as the immediate candidate available is Sri P. Kummara Murali Mohan Reddy, who stood at Sl.No.2 in the order of merit with 20 marks.

13. The learned counsel for the Appellant further contended that the writ petitioner is not a regular practitioner and it is apparent from the fact that the Judgments enclosed along with the application form are the Judgments rendered in the cases, which were not argued by him. The further argument was that the reservation is not mandatory and it is only an enabling provision under the Constitution and it is for the appointing authority to frame appropriate rules to that effect. In the absence of any rule providing for reservation, the appointment of the

Appellant cannot be questioned and the writ petitioner should have questioned the rules.

14. The learned counsel for the Respondent No.1/writ petitioner contended that the Appellant cannot be considered as practising Advocate and she is not entitled to be appointed as District Judge. The learned counsel emphasized on the Andhra Pradesh Judicial Service Rules, 2007 and Article 233(2) of the Constitution of India to substantiate his plea that the Appellant does not meet the eligibility criteria of a District Judge and her consequential appointment as the President of the District Consumer Commission cannot be sustained. The counsel further contended that the posts in question are the public posts and reservation should be provided by the State.

15. The learned Additional Advocate General appearing for the Respondent No.2/State supported the arguments of the counsel for the Appellant.

16. ***Issue***:- After hearing the respective counsel, the issue that falls for consideration is as follows:

> *Whether the State Government was correct in appointing the Appellant as President of the District Consumer Forum, Chittoor?*

17. The qualification for appointment as President/Member of District Consumer Commission as per the Rule 4 of the Consumer Protection Rules, 2020 is as follows:-

***"4. Qualifications for appointment of President and Member of District Commission –***

*(1) A person shall not be qualified for appointment as President, unless he is, or has been, or is qualified to be a District Judge.*

*(2) A person shall not be qualified for appointment as member unless he –*

*(a) is of not less than thirty-five years of age;*

*(b) possesses a bachelor's degree from a recognised University; an*

*(c) is a person of ability, integrity and standing, and having special knowledge and professional experience of not less than fifteen years in consumer affairs, law, public affairs, administration, economics, commerce, industry, finance, management, engineering, technology, public health or medicine.*

*(3) At least one member or the President of the District Commission shall be a woman.*

18. As per Article 233(2) of the Constitution of India and as per Rule 5(a) of the Andhra Pradesh Judicial Service Rules, 2007 the basic criteria for appointment to the post of District Judge is that a person should have practice as an Advocate for 7 years. In this case, the Appellant, as narrated above, was practising as an Advocate in Tirupathi Courts from the year 1999 onwards till 2010 i.e. till her appointment as Member of the District Consumer Commissions, Chittoor and Kadapa as stated above. As per the above Rule, a person should be qualified or had been qualified to be appointed for the post of District Judge. The words *"he is, or has been or is qualified"* occurring in Section 4(1)(a) of the Rules indicates that a person, who was qualified for the post of District Judge would suffice the criteria for appointment as President/Member. The Appellant having more than 7 years of practice as an Advocate and was qualified for appointment as District Judge. Therefore, the contention of the writ petitioner that the Appellant is not qualified cannot be sustained.

19. As regards the plea of reservation, the writ petitioner primarily should have questioned the rules rather than the appointment. In the absence of any challenge to the Rule, which do not provide for any reservation, the challenge to the appointment of the Appellant, which is in consonance with the Rules existing as on date cannot be sustained.

20. A Full Bench of this Court in **S. Nagender vs. Government of Andhra Pradesh and others**[1] held that to provide reservation is a policy decision of the State. The learned Single Judge did not notice these aspects. Therefore, this Court is not inclined to sustain the Order dated 15.11.2024 passed by the learned Single Judge in W.P.No.17534 of 2022.

21. Accordingly, the order of the learned Single Judge is set-aside and the Writ Appeal is allowed. No order as to costs. As a sequel, pending applications, if any, shall stand closed.

**_____**
**B. KRISHNA MOHAN, J**

**_____**
**NYAPATHY VIJAY, J**

Date: 25.04.2025
IS

[1] 2006 (4) ALD 210

**THE HONOURABLE SRI JUSTICE B. KRISHNA MOHAN**

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