

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR.JUSTICE BASANT BALAJI

Thursday, the 29th day of February 2024 / 10th Phalguna, 1945
WP(C) NO. 7999 OF 2024 (Y)

PETITIONER:

CONFEDERATION OF CONSUMER VIGILANCE CENTRE REGISTER NO.T.187/1997,
SREEKOVIL, KODUNGANOUR P.O., THIRUVANANTHAPURAM REPRESENTED BY ITS
GENERAL SECRETARY, MR.A.AYYAPPAN NAIR, 71 YEARS, S/O AYYAPPAN
PILLAI, SREEKOVIL, KODUNGANOUR P.O., THIRUVANANTHAPURAM, PIN -
695013

RESPONDENTS:

1. UNION OF INDIA REPRESENTED BY ITS PRINCIPAL SECRETARY, DEPARTMENT OF PERSONNEL AND TRAINING MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES & PENSIONS 5TH FLOOR, SARDAR PATEL BHAVAN NORTH BLOCK, NEW DELHI, PIN - 110001
2. STATE OF KERALA REPRESENTED BY ITS CHIEF SECRETARY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001
3. THE PRINCIPAL SECRETARY P & ARD DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001
4. THE COMMISSIONER DEPARTMENT OF FOOD, CIVIL SUPPLIES & CONSUMER AFFAIRS, PUBLIC OFFICE BUILDING, VIKAS BHAVAN P.O., THIRUVANANTHAPURAM, PIN - 695033
5. KERALA STATE CONSUMER DISPUTES REDRESSAL COMMISSION REPRESENTED BY ITS SECRETARY & REGISTRAR, SISUVIHAR LANE, VAZHUTHACAUD, THIRUVANANTHAPURAM, PIN - 695010

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to permit the present members/presidents of the State and District Consumer Dispute Redressal Commissions to continue to hold their office subject to the respective age restrictions, pending disposal of the writ petition (C).

This petition coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S.V.M.KRISHNAKUMAR & P.R.REENA, Advocates for the petitioner, DEPUTY SOLICITOR GENERAL OF INDIA for R1, SPECIAL GOVERNMENT PLEADER for R2, R3 & R4, the court passed the following:

BASANT BALAJI, J.

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WP(C) No. 7999 of 2024

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Dated this the 29th February, 2024

ORDER

The learned DSGI takes notice to the 1st respondent. The learned Special Government Pleader takes notice for the respondents 2, 3 and 4. Notice need not be send to 5th respondent for the time being.

2. This Writ Petition is filed by a Society, which consists of a group of lawyers, consumer citizens, etc., intended to protect the consumer interests. The Confederation is registered under the provisions of Travancore Cochin Literary, scientific and Charitable Societies Act, 1955.

3. The grievance highlighted in the writ petition is that the term of President of the State Commission, President of the District Commission and few of the members are now vacant and many are going to be vacant due to the expiry of the term to which they were appointed.

4. The Sr. Counsel points out that in Paragraph 3 of the writ petition, five instances in which the offices have already become vacant and six instances in which either members or the President of the State Commission or District Commission's term are going to end shortly. Therefore, if the present Presidents' or the members' terms are going to end, it will create a vacuum in the State Commission as well as District Commission, which will go against the very object of the Act and the Rules. He therefore, seeks an interim direction to respondent Nos.2 and 3 to allow the President of the State Commission, whose term ends on 29/02/2024 and also the President and the Women Member of Kottayam District Commission, the President of Kasaragod District Commission, the President of Pathanamthitta District Commission and President and member, Kozhikode District Commission, whose terms end on 5.3.2024, 2.6.2024, 15.3.2024, 16.4.2024, 7.5.2024 and 26.7.2024 respectively to continue till new selection is finalised.

5. The learned Special Government Pleader appearing for the respondents submits that a fresh notification is in the pipeline and very soon the same will be published and new incumbents would

be selected and appointed in the respective posts, where there are vacancies which have already arisen or which are going to arise in the near future. If the President of the State Commission is allowed to vacate his office today, there will only be 2 members left as the other members, whose terms also expired, will stall the very functioning of the State Commission.

6. The learned senior counsel relied on the order passed by the apex court SLP.No.19492 of 2021 dated 8.12.2022 (The Secretary Ministry of Consumer Affairs v. Dr.Mahindra Bhaskar Limaye), wherein the apex court taking note the fact that the posts of State Commission as well as District Commisison in the State of Maharashtra slightly fall vacant, passed the following order:

“Learned counsel appearing on behalf of the petitioner(s) has submitted that in the month of December, 2022 and January, 2023, number of posts in the State Commission and the District Commissions in the State of Maharashtra are likely to fall vacant due to their tenure come to an end and if no appointments are made and/or no interim order is

passed. In that case, many of the State Commissions/District Commissions will have to be closed. Considering the request made by Shri R.Venkataramani, learned Attorney General for India, put up on 02.02.2023. In the meantime, by way of interim order it is directed that wherever the post of President/Member of the State Commission or District Commission fall vacant due to respective President/Member's term/tenure comes to an end, they shall be continued upto 01.03.2023 so as to see that the Tribunals continue to function and there is no inconvenience to the litigants.

It is made clear that this interim relief shall be confined to State of Maharashtra, at present.”

7. The intention of the legislature in enacting the Consumer Protection Act and Rules is that the consumers' rights are protected and if the said posts are kept vacant, it will create very hardships and injury to the common citizens who are before the Commission for Redressal of their grievances.

Taking into consideration of the fact that notification is yet to be published, there will be an interim direction to respondent Nos.2 and 3 to allow the President of State Commission as well as President and members of the District Commission to continue in the said posts as a temporary measure, as per the Rules prevailing when they were appointed, till the finalisation of the selection process and consequent appointments are made by the appropriate Government.

5. The Special government Pleader shall file a Counter Affidavit within three weeks. He is also directed to inform the Chief Secretary immediately.

Post on 25/03/2024.

H/o

sd/- **BASANT BALAJI**
JUDGE

sms