

Np

SLP(C)No. 6928 OF 1999
ITEM No.36

Court No. 9

SECTION XI
A/N MATTER

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.6928/1999
(From the judgement and order dated 08/10/1998 in CMWP 968/97
of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

STATE OF U.P. & ORS

Petitioner (s)

VERSUS

JEET S. BISHT

Respondent (s)

(With Appln(s). for exemption from filing O.T. and
Appln. for taking affidavit on record and for
intervention/ impleadment as RR and directions and
for accepting supple. affidavit and with prayer for
interim relief) (Alongwith the record of SLP(C) 4135/02)

With

W.P(C)No.164/2002 "IN Re : The implementation & The Working of
Consumer Protection Act, 1986"

With SLP(C) 13683/01

(With appln. for exemption from filing O.T.) (For final disposal)
(for Directions) and

With

Cont. Pet. (C) 151/02 in SLP(C) 6928/99

(With appln (s) for exemption from filing O.T.)

Date : 10/07/2002 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.C. LAHOTI
HON'BLE MR. JUSTICE BRIJESH KUMAR

For Petitioner (s) Mr. Rakesh Dwivedi, Sr. Adv.
in SLP(C) 6928/99 Mrs. Niranjana Singh, Adv.
Mr. Abhishek Chaudhary, Adv.
Mr. Ashok K. Srivastava, Adv.

in WP(C) 164/02 Mr. T.V. Ratnam, Adv.
Mr. K. Subba Rao, Adv.

in SLP(C) 13683/01 Mr. Javed Mahmud Rao, Adv.

in CP(C) 151/02 Ms. Shobha Dikshit, Sr. adv.
Ms. Sandhya Goswami, Adv.

For Respondent (s) Ms. Shobha Dikshit, Sr. Adv.
Ms. Sandhya Goswami, Adv.

Mr. M.N. Krishnamani, Sr. Adv.
Ms. C.K. Sucharita, Adv.

State of Arunachal
Pradesh

Mr. Anil Shrivastav, Adv.

...2/-

State of Sikkim	Mr. Brijender Chahar, Adv. Mrs. Jyoti Chahar, Adv. Mr. Ashok Mathur, Adv.
State of Jharkhand	Mr. Rajesh Mr. Ashok Mathur, Adv.
State of U.P.	Mr. Rakesh Dwivedi, Sr. Adv. Mr. Ashok K. Srivastava, Adv.
State of Maharashtra	Mr. S.S. Shinde, Adv. Mr. Naresh Kumar, Adv.
State of Pondicherry	Mr. V.G. Pragasam, Adv. Mr. Rajeev Sharma, Adv. Mr. Sanjay R. Hegde, Adv. Mr. Ranji Thomas, Adv. Mrs. Bharti Upadhyaya, Adv. Mr. Javed Mahmud Rao, Adv.
State of Goa	Ms. A. Subhashini, Adv.
State of M.P.	Mr. Sakesh Kumar, Adv. Mr. Satish K. Agnihotri, Adv.
State of Assam	Ms. Krishna Sarma, Adv. Ms. Asha G. Nair, Adv. Mr. V.K. Sidatharan, Adv. M/s Corporate Law Group, Adv.
State of W.B.	Mr. Tara Chand Sharma, Adv. Ms. Neelam Sharma, Adv. Mr. K.R. Sasi Prabhu, Adv.
States of Gujarat & Mizoram	Ms. Hemantika Wahi, Adv. Mrs. Sadhna Sandhu, Adv.
State of Chattisgarh	Mr. Prakash Shrivastava, Adv.
State of Bihar	Mr. Kumar Rajesh Singh, Adv. Mr. B.B. Singh, Adv.
State of Tripura	Mr. Gopal Singh, Adv. Mrs. Vimla Sinha, Adv. Mr. Radha Shyam Jena, Adv. Ms. Kamini Jaiswal, Adv. Mrs. Shomila Bakshi, Adv. Mrs. Aishwarya Rao, Adv. Ms. Rachna Srivastava, Adv.
State of Haryana	Mr. J.P. Dhanda, Adv. Ms. Raj Rani Dhanda, Adv. Mr. K.P. Singh, Adv. Mr. D.S. Nagar, Adv.

...3/-

State of Nagaland	Mrs. V.D. Khanna, Adv.
-------------------	------------------------

Mr. S.K. Shandilya, Adv.

State of T.N. Ms. Revathy Raghavan, Adv.

State of Manipur Mr. K.H. Nobin Singh, Adv.

For UOI Mr. Harish N. Salve, SG
Mr. Vipin Sanghi, Adv.
Mr. B.V. Balram Das, Adv.

State of Punjab Mr. R.S. Suri, Adv.

NCT of Delhi & Mr. R.K. Rathore, Adv., Mr. K.C. Kaushik, Adv.
UT of Andaman and Mrs. Sunita Sharma, Adv.
Dadra Nagar Haveli, Mr. D.S. Mahra, Adv.
and Daman & Diu

in SLP(C) 13683/01 Mr. Mukul Rohtagi, ASG
Mr. Pallav Shishodia, Adv.

UPON hearing counsel the Court made the following
O R D E R

.....L.....I.....J
.SP2

SLP(C) 6928/1999@@
CCCCCCCCCCCCCCCC

Pursuant to the order dated 28.1.2002, the Allahabad High Court has made available services of Mr. Roop Singh, Addl. District & Session Judge for being appointed as Registrar of the State Commission. The State Government has been informed. However, a formal order of appointment has not been issued as yet by the State Government of Uttar Pradesh. We direct the State Government to do so within two weeks so that the officer may take over as Registrar of the State Commission. Compliance shall be reported to this Court on the affidavit of the Principal Secretary, Food and Civil Supplies Department, State of Uttar Pradesh.

There were 48 vacancies in the office of Members of the District Forum. The Selection Committee appointed under Sub-section (1A) of Section 10 of The Consumer Protection Act, 1986 selected 48 members (29 male and 19

...4/-

- 4 -

female) and made recommendations to the State Government for appointment. It is informed at the Bar that the State Government has not made all the appointments as yet. The recommendations made by the Selection Committee, unless set aside, are binding on the State Government and ordinarily appointments consistently with the recommendations must follow. Let the appointments be now made within a period of two weeks and compliance reported to this Court as above.

So far as the amount of grant given by the Central Government to the State Government for the purposes of being utilised for State Commission is concerned, it is stated on behalf of the State of Uttar Pradesh that the amount was wrongly utilised for purposes other than for which it was allocated. However, now the State of Uttar Pradesh has taken steps to make the amount available to the State Commission. The financial sanction is awaited which is expected to be cleared in about a month. Let it be awaited.

Our attention is invited to two executive orders styled as Office Memorandum No. CP-262/29-10-90 dated 16th July, 1990 and Ordinance No. CP-367(1) 29-10-C.P.-8/88 dated 20th September, 1988. Prima facie, both these appear to be inconsistent with Section 24B of The Consumer Protection Act, 1986 (hereinafter "the Act" for short) whereunder the National Commission has been vested with administrative control over all the State Commissions and the State Commission has been vested with ...5/-

- 5 -

administrative control over all the District Forums within its jurisdiction in the matters covered by clauses (i), (ii) and (iii) of sub-Section (1). We make it clear that no officer of the Executive shall carry out inspection of the District Fora and exercise any administrative control thereon, which apparently can be done only in accordance with Section 24B of the Act.

Let this part of the order be circulated to all the State Governments and Union Territories through their respective Chief Secretaries.

CP No. 151/2002 in SLP(C) 6928/99@@
CCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCC

In view of the abovesaid directions, learned counsel for the petitioner does not press the contempt petition and the same be treated as disposed of.

WP(C) 164/2002@@
CCCCCCCCCCCCCCCC

Vide order dated 6.5.2002, this Court had directed the Secretary, Ministry of Consumer Affairs, Food and Public Distribution to hold a meeting with the Chairman of the National Consumer Disputes Redressal Commission (NCDRC), New Delhi and make available the services of a Joint Registrar in accordance with the consensus arrived at between the two at such meeting. Two weeks' time was allowed for compliance.

On 20.5.2002 an affidavit by Shri S. Bandopadhyay, Secretary to the Government of India, Ministry of Consumer Affairs, Food & Public Distribution (Department of Consumer Affairs) has been filed, which

...6/-

- 6 -

refers to the meeting held on 16.5.2002 and the discussions thereat. It is stated by him that Staff Inspection Unit working in the NCDRC is conducting a study which has proceeded to a fairly advanced stage and the recommendations received from the Unit shall be considered. The learned Solicitor General has made available for our perusal a copy of the provisional assessment made by the SIU wherein, so far as provision of one post of Additional/Joint Registrar alongwith other staff so as to satisfy the requirements of Section 24B of the Act is concerned, the SIU has stated that all items of work including the work relating to the administrative control of the Commission have been taken into account in the assessment. However, the report does not make it clear whether the creation of such post is warranted or not. It is not disputed that the NCDRC has to exercise administrative control over 34 State Commissions and 560 District Forums throughout the country. The provision of one post of Additional/Joint Registrar is bare minimum to enable the function of NCDRC under Section 24B of the Act being discharged.

We have also perused 'Note Verbale' dated 14.5.2002 from the President of NCDRC, New Delhi sent to the Registry and available on record. The least that can be observed is that the approach and attitude of the Secretary Shri Bandopadhyay has not been positive and certainly not such as was expected of him. He should have been positive in his approach so as to see that the National Commission does not face any difficulty or

...7/-

- 7 -

hassles in exercising the jurisdiction and discharging the obligation statutorily cast on it by Section 24B of the central legislation, i.e., The Consumer Protection Act, 1986.

After hearing the learned counsel for the parties as also the learned Solicitor General we are satisfied that one post of a Additional/Joint Registrar placed in the hierarchy between the Registrar and Deputy Registrar of the National Commission is pre-eminently warranted and we direct that the same be created and manned at the earliest. The modalities for this purpose may be worked out in consultation with the Chairman, NCDRC. The requisite administrative and financial sanction may follow. However, the creation of the post and appointment thereon shall not be delayed.

Since a copy of the report of SIU has been made available to the counsel for the petitioner, let him examine the same and file his response/comments within two weeks, whereafter the Union of India may respond in three weeks.

List for hearing after six weeks.

SLP(C) 13683/2001@@
CCCCCCCCCCCCCCCC

List after six weeks along with SLP(C) 6928/199 and WP(C) No. 164/2002.

.SP1

.....L.....T.....J

(Ajay Kr. Jain)
Court Master

(Radha R. Bhatia)
Court Master