

Common Cause, A Registered Society

Vs

Union of India and Others

Writ Petition (Civil) Nos. 1141 of 1988 and 742 of 1990

(CJI Ranganath Misra, P.B. Sawant JJ)

05.08.1991

ORDER

1. This matter has been pending here for about three years now. With a view to making the Act operate effectively and for the benefit of the consumers, we have made various orders. At our request Mr. Justice Eradi, Chairman of the National Commission, has gone round the entire country and made his reports. Deficiencies indicated in his report have been highlighted in the submissions in Court and we have also made different orders to meet the loopholes indicated in the report of Mr. Justice Eradi; yet we find that in most of States, the statutory scheme is not fully operative yet.

2. The Act envisages appointment of a District Forum in every district. Though the Act has been in force for about four years now, we find that in most of the States, the practice prevalent is of appointing a forum at the divisional level or appointing the District Judge as Ex-Officio Chairman of the District Forum. On account of this position, many consumers who have smaller grievances to ventilate are not able to go to the divisional headquarters, and the Judicial Officers who have been given additional duty to act as Chairman of the District Forums under the Act are not able to sit to work everyday. As a consequence the District Forum sits only once a week. The statement of institutions placed before us indicates that inflow is more than the disposal. It is obviously on account of the fact that full attention is not possible to be given by the District Forums to the complaints.

3. We have told counsel appearing for the different States as also he learned Additional Solicitor General and there are not two opinions, that the scheme of the statute is that every district must have its forum. If that be the legislative mandate, there can be no dispute that most of the States have failed to comply with the statutory requirement.

4. We direct that within two months from today, every district shall have a District Forum which would be presided over by an exclusively appointed Judicial Officer in terms of the prescription of the statute. In such district only, where the minimum monthly load is not above 150 consistently for a six month period, it would be open to the State Government with the concurrence of the High Court to continue a sitting District Judge to do this work but the District Judges should devote attention to complaints under the statute on three alternate days of every week which would mean that he should be sitting as a consumer court on three days a week. We do not intend to divert judicial attention from normal work by our order and if the High Court is of the opinion that this would affect the normal judicial work, it is open to the High Court not to agree to this arrangement and that would mean that in those areas, the State Government will have an obligation to appoint a wholetime Judicial Officer.

5. Compliance report shall be furnished by the appropriate authorities in every State to the Registry of this Court in the shape of an affidavit within two weeks after two months. We must make it clear that we intend strict follow up action to be taken. If there be any failure in future, we would require contempt action to be initiated for violation of our directions.

6. An amendment to the Act is in contemplation as we are told at the Bar. There is some amount of dispute as to whether the amendment contains provisions for giving administrative and superintending jurisdiction to the National Forum over the State Commissions and, to the State Commissions over District Forums. Experience shows that on account of want of such authority, the National Forum is not able to exercise appropriate jurisdiction over the State Forum and the State Forums are not able to exercise appropriate control over the District Forums. Proper operation of the statute requires both administrative and judicial superintendence. While the Act has contemplated judicial superintendence, there is no provision for administrative superintendence. This is a lacunae in the statute. Realising this defect, we had pointed out earlier that the requisite forum should be conferred with the powers of superintendence and we command to the Union Government as quickly as possible to remove the deficiency by conferring appropriate power of super-intendence on the State and the National Commissions. Until that is done, we direct that to meet the situation, the National Commission would be entitled to exercise administrative jurisdiction over the State Commissions and the State Commissions would be entitled to exercise such administrative jurisdiction in their respective areas of control. This order shall be forwarded to the National Commission as also to the State Commissions forthwith.

7. Learned Additional Solicitor General says that the Government of India has cleared the setting up of a second forum in Delhi and has approached the High Court for necessary concurrence. We request the learned Chief Justice of the Delhi High Court to clear the recommendation within a fortnight from today so that the District Forum may be set up by September 1, 1991.

8. The writ petitions are directed to be listed on October 22, 1991.

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