

SUPREME COURT OF INDIA

State of Uttar Pradesh through Principal Secretary

Vs.

All U.P.Consumer Protection Bar Association

C.A.No.2740 of 2007

(Dipak Misra,CJI., D.Y.Chandrachud and Indu Malhotra,JJ.,)

18.05.2018

JUDGMENT

Indu Malhotra,J.,

1. The issue which arises for consideration in the present civil appeal and writ petition pertains to the paucity of infrastructure in the Consumer Fora all over the country.
2. This Court vide order dated 14th January, 2016 constituted a three-member committee presided over by Justice Arijit Pasayat [Retired] to examine various aspects as enumerated in the Order. The said committee was requested to forward its deliberations to the various State Governments.
3. By Order dated 21st November, 2016 this Court issued directions to the Union Government to frame Model Rules for the purpose of ensuring uniformity by the State Governments in the exercise of the rule-making power under Sections 10(3) and 16(2) of the Consumer Protection Act, 1986. The directions issued by this Court are reproduced hereunder:

"(i) The Union Government shall for the purpose of ensuring Uniformity in the exercise of the rule making power under Section 10(3) and Section 16(2) of the Consumer Protection Act, 1986 frame model rules for adoption by the State Governments. The model rules shall be framed within four months and shall be submitted to this Court for its approval;

(ii) The Union Government shall also frame within four months model rules prescribing objective norms for implementing the provisions of Section 10(1)(b), Section 16(1)(b) and Section 20(1)(b) in regard to the appointment of members respectively of the District fora, State Commissions and National Commission;

(iii) The Union government shall while framing the model rules have due regard to the formulation of objective norms for the assessment of the ability, knowledge and

experience required to be possessed by the members of the respective fora in the domain areas referred to in the statutory provisions mentioned above. The model rules shall provide for the payment of salary, allowances and for the conditions of service of the members of the consumer fora commensurate with the nature of adjudicatory duties and the need to attract suitable talent to the adjudicating bodies. These rules shall be finalized upon due consultation with the President of the National Consumer Disputes Redressal Commission, within the period stipulated above;

(iv) Upon the approval of the model rules by this Court, the State governments shall proceed to adopt the model rules by framing appropriate rules in the exercise of the rule making powers under Section 30 of the Consumer Protection Act, 1986.

(v) The National Consumer Disputes Redressal Commission is requested to formulate regulations under Section 30A with the previous approval of the Central Government within a period of three months from today in order to effectuate the power of administrative control vested in the National Commission over the State Commissions under Section 24(B)(1)(iii) and in respect of the administrative control of the State Commissions over the District fora in terms of Section 24(B)(2) as explained in this Judgment to effectively implement the objects and purposes of the Consumer Protection Act, 1986."

4. On 4th March, 2017, the three-member committee submitted a detailed report to the Court.

5. The Union of India framed draft rules and regulations which were placed for consideration before this Court. During the course of hearing on 07th March, 2017 a need for certain modifications to the Model Rules was expressed by the learned Counsel representing various parties.

6. The Union of India filed an affidavit on 22nd March, 2017 wherein the Final Draft Model Rules were framed and annexed as Annexure-II.

7. In compliance with the directions issued by this Court on 21 November 2016 and 15 December 2017, an affidavit has been filed by the Union of India in April 2018. Paragraphs 9 and 10 of the affidavit are extracted below:

"9. It is respectfully submitted that there are two possible ways at this juncture of the Central Government in this behalf. One method is that the Rules, which have been framed by the Central Government (in compliance with Direction 18(iv) of the judgment dated 21.11.16 that this Court would approve the rules) and which have been filed alongwith the earlier affidavit dated 22.3.17, will be adopted by the State Governments by framing appropriate rules in exercise of the rule making power under Section 30 of the Consumer Protection Act 1986 upon approval by this Court.

10. That the other method would be that the Central Government, with the approval of this Court awaits the completion of the legislative exercise regarding the proposed

consumer bill pending before the Parliament and upon its completion, frames the rules and notifies the same, which would automatically be applicable for all State Commissions and District Forums under the Consumer Protection Laws. The Government is open and willing to adopt any of the above mentioned two methods which may be approved by this Court."

During the course of the hearing on 27 April 2018, a consensus has emerged that the course suggested in paragraph 9 of the above affidavit should be accepted. Counsel for the Union of India has no objection since it is in line with the suggestion contained in paragraph 9. The State Governments shall complete the exercise within a period of three months. The Registrar (Judicial) is directed to forward a copy of this order to the Chief Secretaries of all the States/Union Territories for ensuring compliance. Infrastructure: National Consumer Disputes Redressal Commission:

(i) Posts : Out of 204 additional posts required to be created according to the norms recommended by the Staff Inspection Unit, 51 posts have been created leaving a balance of 153 posts. We request the Union of India to consider the requirement of the NCDRC for sanctioning additional posts in the right perspective so that the efficacy of its work is enhanced. This Court shall be apprised on the next date of hearing of the action taken by the Union government in that regard;

(ii) Space: The affidavit filed on behalf of the NCDRC indicates the dire necessity of procuring additional space. The filing of cases has gone up by nearly 300 per cent, be it consumer complaints, first appeals or revision petitions. This Court has been apprised of the fact that there is no space available for storing the files of fresh cases, which are lying in the corridors. The record room of NCDRC is packed to its capacity. An apprehension has been expressed that unless the Union Government intervenes in the matter on a pro-active basis, a stage will be reached where due to space constraints, it will not be possible to trace out files of cases to be heard by the Benches. Further, due to the increased filing, there is a need to constitute additional Benches. In the existing infrastructure, there is little space for Court halls, Chambers and for the supporting staff. NCDRC has addressed communications on 20 January 2018 and 5 April 2018 to the Secretary, Ministry of Consumer Affairs, Government of India placing a request for the allotment of additional space to the extent of 37, 249 sq. ft. We are sure that the Union of India will respond to the re-request of the NCDRC in the right perspective and will make additional space available. The dearth of space is seriously hampering the functioning of the NCDRC. We commend to the Secretary in the Ministry of Consumer Affairs the urgent necessity of taking steps, in that regard. We expect that this Court would be apprised of the decision of the Union government by the next date of hearing;

(iii) Salaries, honorarium and other allowances of the President and Members of the NCDRC: NCDRC has proposed an amendment to Rule 11 of the Consumer Protection Rules 1987. The Court has been apprised, in the affidavit dated 22 March 2017, that in compliance with the order dated 21 November 2016, draft Consumer

Protection (Amendment) Rules 1987 have been prepared in consultation with the NCDRC and have been referred to the Ministry of Finance for its concurrence.

This Court shall be apprised of the status of the matter by the next date of hearing. A status report indicating compliance with the above directions shall be filed by the next date of hearing.

8. On 27th April, 2018 this Court heard all the parties, including the Counsel appearing for all the States. The said Model Rules were accepted by the Counsel representing all the parties before the Court. Therefore, it is directed that the State Governments shall frame appropriate rules in exercise of the rule-making power under Section 30 of the Consumer protection Act, 1986 in accordance with the Final Draft Model Rules submitted by the Union of India.

9. List on 28 August 2018.