

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2011

CORAM:

THE HON'BLE MR. JUSTICE K.CHANDRU

W.P.No.9356 of 2011 and
M.P.No.1 of 2011

P.Subburaj

... Petitioner

Vs

1.The State President cum Chairman,
Selection Committee,
State Consumer Disputes Redressal Commission
Mylapore, Chennai - 600 004.

2.The Principal Secretary to Government,
Co-operation, Food and Consumer
Protection (H1) Department,
Secretariat, Chennai - 600 009.

3.Secretary to Government,
Law Department,
Secretariat, Chennai - 600 009.

... Respondents

Prayer : Petition under Article 226 of the Constitution of India praying for a Writ of Mandamus, directing the respondents to consider the representation for reappointment made by the petitioner on 14.10.2010 and re-appoint the petitioner as the President of the District Consumer Disputes Redressal Forum as per the proviso to Section 10(2) of the Consumer Protection Act, 1986.

For Petitioner :: Mr.R.Muthukumaraswamy,
Senior Counsel for
Mr.A.Jenasenan

For Respondents :: Mr.V.Subbiah, Spl.G.P.
For R2 and R3

O R D E R

The petitioner is a practising Advocate and was appointed one time as President of the District Consumer Redressal Forum at Madurai and thereafter at Namakkal. He had filed the present Writ Petition

seeking for a direction to the State Government to consider the representation dated 14.10.2010 and to reappoint him as President of the District Consumer Disputes Redressal Forum as per the proviso to Section 10(2) of the Consumer Protection Act, 1986.

2. It is the case of the petitioner that he was one of the few members of the Bar, who were directly selected to sit in the District Forum and during his tenure he has done remarkable work and disposed number of cases that came before the Forum. After the end of his term, he is entitled for consideration for the 2nd term even for the post of the President of the District Consumer Disputes Redressal Forum. In his representation dated 14.10.2010, a copy of which is found enclosed at page 7 of the typed set, he had stated that he is the youngest and senior most President of the District Judges of the Consumer Forum and he is also entitled for the second term and he must be appointed as President of the District Consumer Disputes Redressal Forum either in Chennai South or North being the senior most President of the existing Presidents.

3. When the matter came up on 18.4.2011, this Court ordered Notice of Motion. Subsequently, this Court directed the learned Government Advocate to get instructions from the respondents.

4. Accordingly, on behalf of the 1st respondent, a counter affidavit dated 30.5.2011 has been filed. In the counter affidavit, it is stated that it is the stand of the Consumer Forum that only if serving or retired District Judges are not available, the Advocates can be considered for the post of President of the District fora. For that purpose, reliance was placed upon the Circular sent by the National Consumer Disputes Redressal Commission, New Delhi dated 17.5.2011. In that Circular letter, it was stated that the appointment of the lawyer as President of the District Forum will create more problem and therefore as a matter of policy, the appointment of the President should be made only from the sitting or retired Judges, whose honesty and integrity are beyond doubt. It is also stated that when the said Circular was challenged in a batch of Writ Petitions before this Court in W.P.Nos.15364, 14248, 15401 of 1999 and 11680 of 2006, this Court rejected those Writ Petitions, but, however, in paragraph 10 this Court made the following observation, which is as follows:

"10. In our opinion, the directive issued by the National Commission under Section 24-B of the Consumer Protection Act cannot be said to be contrary to the provisions of Section 10(1-A) of the Consumer Protection Act. All that the

directive says is that precedence should be given to the District Judges or retired District Judges having regard to the experience gained by them in discharge of their duties as Judicial Officer. If serving or retired District Judges are not available, it is always open to the Committee to make appointments from amongst advocates, and it is not correct to say that the advocates are excluded from consideration for the post of President of the District fora. In our opinion, the National Commission has issued this directive keeping in view the purpose sought to be achieved by enactment of Section 10(1-A) and in the interest of better administration of the District fora. (Emphasis added)

5. Therefore, in the light of the order passed by this Court, the petitioner's present representation cannot be considered. It is also stated that the petitioner's claim was also not considered by the Selection Committee for the post of President of the District Forum at Namakkal though he was called for an interview on 19.10.2010 based upon the representation dated 14.10.2010. It is also stated that re-appointment cannot be claimed as a matter of right and also the selection for the post of President of District Consumer Disputes Redressal forum was made by the Selection Committee convened on 19.10.2010.

6. In the light of these developments, the petitioner's request to consider his representation dated 14.10.2010 has become infructuous. Mr.A.Jenasenan, learned counsel for the petitioner seeks liberty to challenge his non-selection as well as selection of some other person. That question does not arise in this Writ Petition. The petitioner's challenge over the selection of some other person or his non-selection do not require any liberty from this Court. The Writ Petition stands dismissed. No costs. The connected Miscellaneous Petition is closed.

Sd/

Asst.Registrar

/true copy/

Sub Asst.Registrar

ajr

To

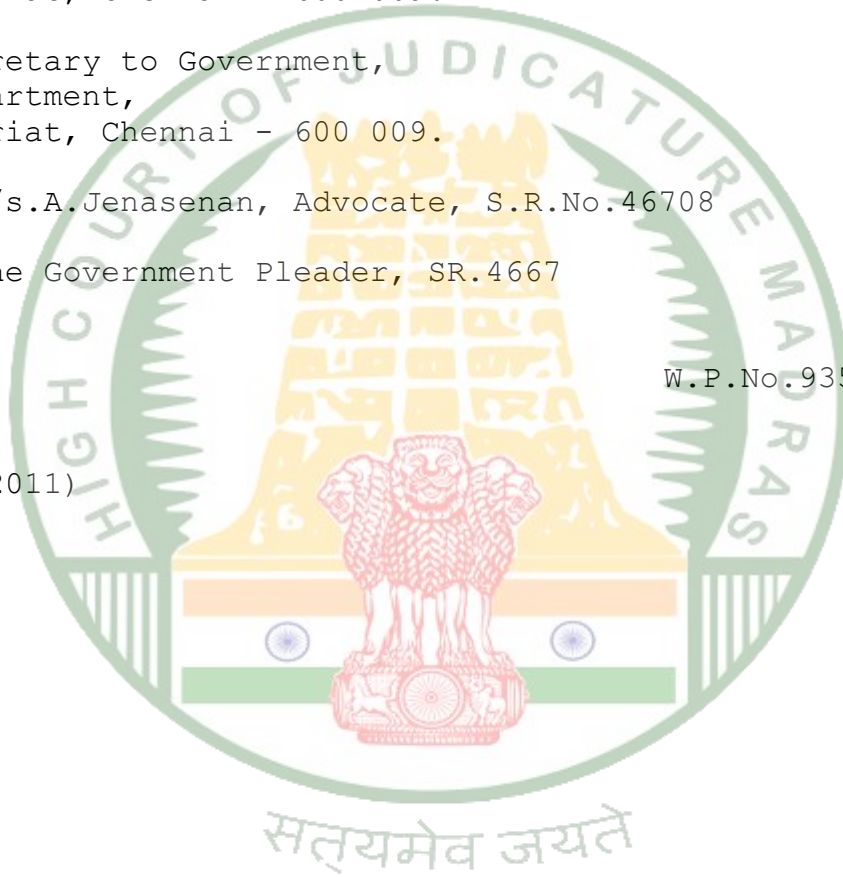
- 1.The State President cum Chairman,
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- 2.The Principal Secretary to Government,
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- 3.The Secretary to Government,
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1 CC to M/s.A.Jenasenan, Advocate, S.R.No.46708

1 cc To The Government Pleader, SR.4667

W.P.No.9356 of 2011

MG(CO)
SRA(08/8/2011)



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