
(2021) 09 DEL CK 0132

In the Delhi High Court

Case No : Civil Writ Petition No. 5235, 5424, 5643, 5657, 5671, 5713, 5797, 5855, 6499, 7034, 7210, 7801, 7835, 9384 Of 2020, 2331, 4680, 9922 Of 2021

M/S Hamilton Housewares Pvt. Ltd

APPELLANT

Vs

Directorate Of Enforcement

RESPONDENT

Date of Decision : 28-09-2021

Acts Referred:

Citation : (2021) 09 DEL CK 0132

Hon'ble Judges : Prathiba M. Singh, J

Bench : Single Bench

Advocate : Rahul Jain, Varun Agarwal, Ravi Prakash, Gurtejpal Singh, Deepak Chauhan, Varun Singh, Kamlesh Anand, Akash Deep Gupta, Abhay Prakash Sahay, Mannu Singh, Swayamprabha S, Rishi Salim, Kunal Dhawan, Amit Mahajan, Ananya Khanna

Judgement

Prathiba M. Singh, J

1. This hearing has been done through video conferencing.
2. Pursuant to order dated 2nd September 2021, the situation of the manpower and staff, at the level of Chairman, Members, as also administrative and working staff, in the Adjudicating Authority, under the Prevention of Money Laundering Act, 2002 (hereinafter referred as "PMLA"), as on 1st September, 2021, was placed on record on 8th September, 2021 in W.P.(C) 9384/2020. As per the said affidavit, the following is the position in respect of various vacancies in the Adjudicating Authority.

Sl.

No.

Post

Sanctioned Strength

In Position

Remarks

(A) Members

1.

Chairman

1

Vacant

Vacant since

1.9.2020 (more than a year)

2.

Members

2

1

Vacant since 15.2.2021 (more than six months)

(B) Administrative Officer/Registrar

3.

Administrative Officer

1

Vacant

Vacant since 29.7.2020 (more than one year) which is (Pay Level-11) post.

4.

Registrar

1

Vacant

The post has been lying vacant for more than 5 years. The work is looked after by one of officer in the pay level-10. At present, Sh. Amar Singh, AO has been looking after the work for last one year as additional

charge.

(C) Working Staff

5.

Assistant

1

1

-

6.

Court Master

1

Vacant

Post has been lying vacant.

7.

Stenographers

4

4*

There is no regular appointment. The work is being taken from outsourced staff through

Contractor.

(D) MTS/Peons

8.

MTS (Peons)

4

4*

There is no regular appointment. The work is being taken from outsourced staff through

Contractor.

3. This Court had further enquired from Mr. Ravi Prakash, Id. CGSC, as to the number of cases which were filed before the Adjudicating Authority during January to August, as a comparator, to which, he had submitted the following:

January, 2019 to August, 2019 = 148

January, 2020 to August, 2020 = 130

January, 2021 to August, 2021 = 230

4. Upon perusing the affidavit filed, as also hearing the submission of Id. CGSC on this aspect, this Court had, vide the last order dated 13th September 2021, directed the concerned Joint Secretary (Revenue), Ministry of Finance, Government of India, to file an affidavit stating the following facts:

"(a) As to whether the status of vacant positions in the Adjudicating Authority, as mentioned in today's order are correct and if so since when the said vacancies have existed;

(b) As to what steps are being taken for filling this vacancies, especially Administrative Officers, Registrars, working staff etc.; and

(c) As to what is the stipulated time schedule for filling up the said vacancies."

5. Further to the last order, a further affidavit has been filed, which has been deposed by Sh. Ritvik Pandey, Joint Secretary (Revenue) of the Ministry of Finance, wherein the position in respect of the Presiding Officers as also the Senior Officials, at the Adjudicating Authority under the PMLA, has been given as under:

Sr.

No.

Name of Post

Name of Officer

Date of

Appointment

Completing the tenure/ vacant w.e.f.

1

Chairperson

Shri Vinodanand Jha (Acting Chairperson)

14.02.2021

22.06.2023

2

Member (Administration) & Chairperson

Vacant

-

31.08.2020

3

Member (Law)

Vacant

-

14.02.2021

4

Member (Finance or Accountancy)

Shri Vinodanand Jha

24.10.2018

22.06.2023

(65 Years)

5

Administrative Officer

Vacant

-

13.04.2020

6

Registrar

Vacant

-

Since the

creation of Post w.e.f. 20.08.2010

6. From the above affidavit that has been filed on record in WP(C) 4680/2021, it is clear that the current quantum of work at the Adjudicating Authority is quite substantial. There is an acute shortage of staff members as also vacancies at the level of the Chairperson, Member (Administration) and Member (Law). The positions of the Administrative Officer, Registrar, and the Court Master are all vacant.

7. Considering the fact that benches of the Adjudicating Authority hold hearings, and the quantum of cases is considerable, it is not sufficient to merely fill up the vacancies as they exist today, but there is also a need to increase the manpower

within the Adjudicating Authority, in order to enable the authority to function in an efficient manner. Accordingly, the following directions are issued:

(i) Insofar as the Chairperson is concerned, it is submitted by Mr. Mahajan, Id. CGSC, under instructions from Mr. Pandey, that the selection for the Chairperson is underway and is likely to conclude shortly.

(ii) For the positions of Member (Administration) and Member (Law), the proposal for issuance of vacancy circulars is stated to be under consideration. Since these positions have been vacant for a considerable period of time, the Government is directed to take steps for filling up the said posts, within a period of three months.

(iii) Insofar as the Administrative Officer and Registrar are concerned, in view of the recommendations of the UPSC, as also the lack of a sufficient number of applicants, it appears that appointments have not taken place despite the vacancy circulars having been issued. Even in respect of Court Masters and other staff, such as working staff and peons etc., they have also been retained on a contractual basis. Stenographers and Court Masters would be absolutely essential in the efficient functioning of the Adjudicating Authority. The Id. CGSC Mr. Amit Mahajan along with Mr. Ritvik Pandey submits that it may be possible to explore posting of some officials from other departments to meet the exigency. Thus, if these vacancies cannot be filled up through fresh recruitment, the Ministry shall take steps to fill up all these vacancies through alternate means, within a period of one month from today.

(iv) The Government would also consider, keeping in mind the quantum of cases before the Adjudicating Authority, as to whether the staff strength needs to be increased, and if so the vacancy circulars, which are to be issued, would be issued after taking a decision on the increase in the staff strength.

8. Let a fresh status report be filed in this regard, within a period of two months. The filing of status reports in respect of the steps taken for appointments and filling up of vacancies, shall henceforth be made in WP(C) 4680/2021.

9. Insofar as the present writ petitions and the disputes raised in respect of the freezing of bank accounts of the Petitioners, as also the decision of the Adjudicating Authority is concerned, fresh affidavits have been filed by Mr. Ravi Prakash, CGSC, for the Respondent, as also by the Petitioners in WP(C) 5713/2020. It however appears that copies of the said affidavits filed have not been exchanged amongst the parties concerned. Let copies be exchanged between Id. Counsel for the parties.

10. List for conclusion of submissions in all these petitions on 30th September, 2021 at 3:30 pm. List WP(C) 4680/2021 on 30th November, 2021 as well, to receive the status report as directed, pertaining to the issue of appointments and vacancies at the Adjudicating Authority under the PMLA. These are part-heard matters.