

(2008) 04 JH CK 0082
In the Jharkhand High Court

National Insurance Co. Ltd.	Vs	APPELLANT
State of Jharkhand and Others		RESPONDENT

Date of Decision : 01-04-2008

Acts Referred:

Consumer Protection Act, 1986 — Section 12, 13, 14, 16, 18

Citation : AIR 2008 Jhar 84 : (2008) 2 JCR 521

Hon'ble Judges : M. Karpaga Vinayagam, C.J; Dabbiru Ganeshrao Patnaik, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. The only ground urged by the learned Counsel for the petitioner is that as the President of the State Commission has not participated in its proceedings, the order passed by the Commission is not valid.
2. Learned Counsel appearing for the petitioner, referring to Section 14(2-A) of the Consumer Protection Act, 1986 (hereinafter referred to as the Act), would submit that every order made by the District Forum under Sub-section(1) shall be signed by its President and the member or members who conducted the proceedings and that similarly Section 18 of the Act, which deals with procedure applicable to State Commission, provides that the provisions of Sections 12, 13 and 14 of the Act have to be invoked, while the case is being disposed of by the State Commission.
3. According to the learned Counsel for the petitioner, though the District Forum consisting of its President and Members has given the verdict with reference to the award, the State Commission only consisting of its Members has passed the order and not consisting of the President. Therefore, the order passed by the Commission is invalid.
4. We have heard the learned Counsel for the parties.
5. We are not impressed with the point raised by the learned Counsel for the

petitioner because Section 29A of the Act provides that no act or proceeding of the District Forum, the State Commission or the National Commission shall be invalid by reason only of the existence of any vacancy amongst its members or any defect in the constitution thereof.

As a matter of fact, the District Forum consisting of its President has passed the award; therefore, the same has not been challenged. The State Commission only consisting of its Members has passed the order. As indicated above. Section 29A of the Act explicitly provides that on account of the existence of and vacancy amongst its members or any defect in the constitution thereof, no order can be said to be invalid.

6. Further Section 16(1-B)(i) of the Act provides as follows:

16(1-B)(i) The jurisdiction, powers and authority of the State Commission may be exercised by Benches thereof.

(ii) A Bench may be constituted by the President with one or more members as the President may deem fit.

(iii) If the members of a Bench differ in opinion on any point, the points shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ, and make a reference to the President who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other members and such point or points shall be decided according to the opinion of the majority of the members who had heard the case, including those who first heard it.

7. In view of the above specific provisions quoted above, it is not necessary that the President shall be the Member of the Bench of the State Commission. Therefore, we do not find any merit in this application, which is, accordingly, dismissed. However, it is open to the petitioner to approach the National Commission by filing an appropriate appeal, raising all the points, on merit.