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**(1993) 10 P&H CK 0001**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Civil Writ Petition No. 3951 of 1993**

Subhash Chander

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

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**Date of Decision :** 15-10-1993

**Acts Referred:**

Constitution of India, 1950 — Article 226, 227

**Citation :** (1994) 106 PLR 726

**Hon'ble Judges :** S.S. Sodhi, J; Ashok Bhan, J

**Bench :** Division Bench

**Advocate :** Ashok Aggarwal and Subhash Goyal, Hemant Kumar, for the Appellant; R.K. Chhibbar and Anand Chhibbar, for the Respondent

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## Judgement

S.S. Sodhi and Ashok Bhan, JJ.—In its concern for the consumer, Parliament enacted "The Consumer Protection Act, 1986" (hereinafter referred to as "The Act") with its preamble proclaiming it to be "an Act to provide for the better protection of the interests of the consumer and for that purpose, to make provision for the establishment of Consumer Councils and other authorities for the settlement of consumers disputes and for matters connected therewith."

2. In pursuance of the provisions of the Act, the Chandigarh Administration, on October 21, 1987, notified the rules framed thereunder known as "The Chandigarh Consumer Protection Rules, 1987" ("The rules" , hereafter in abbreviation). It was almost a year later, on July 21, 1988, that the State Commission and the District Forum came to be established.

3. Delays in the disposal of cases by the District Forum and the State Commission and other hurdles in fulfilling the legislative intent underlying the enactment of the Act, is what has impelled the filing of this writ petition in public interest, seeking thereby directions for necessary steps to be taken to ensure expeditious redressal of the grievances of the consumer, which include the establishment of a regular District Forum and State Commission instead of part-time, as at present, and for the setting up of another District Forum at

Chandigarh.

4. A reference to the material on record would show that the picture of the work-load in the District Forum during the period January, 1992 to March, 1993 was as under:-

|            |         |            |            | Pending Complaints |      |         |        |
|------------|---------|------------|------------|--------------------|------|---------|--------|
| Complaints | Balance | complaints | instituted | disposed           | of   |         |        |
|            |         |            |            | Jan. 92            | 983  | 161     | 27     |
| 1117       | Feb. 92 | 1117       | 100        | 57                 | 1160 | Mar. 92 | 1160   |
| 113        | 1215    | May 92     | 1215       | 94                 | 2    | 1307    | Jun 92 |
| 1500       | Aug. 92 | 1500       | 108        | 47                 | 1561 | Sep. 92 | 1561   |
| 1713       | Nov. 92 | 1713       | 173        | 34                 | 1852 | Dec. 92 | 1852   |
| 2048       | Feb. 93 | 2048       | 105        | 45                 | 2108 | Mar. 93 | 2108   |
|            |         |            |            | 113                | 50   | 2171    |        |

It will be seen that there has been a steady increase in the pendency of complaints before the District Forum, in as much as, the pendency of 983 complaints in January, 1992 rose to 2171 by March, 1993. This came about, by the number of complaints instituted each month, except in April 1992, invariably being much larger than those disposed of, a tendency which, we are informed, still persists. An ever increasing work-load is thus inevitable.

5. Similar is the situation with the State Commission. There too, the pendency of complaints and appeals has been steadily going up. In January, 1992, the total pendency was 103 but it had gone up to 257 by March, 1993. Here against, the reason being that the number of matters disposed of could not match those instituted. ,

6. With such a heavy and ever increasing work load, delays in its disposal by the District Forum as also the State Commission are unavoidable. In this context, it would be pertinent to advert to the provisions of sub-rule (9) of the Rule 4 of the Rules, which provide that not more than one adjournment shall ordinarily be granted and that the complaint be decided within 90 days from the date notice is received by the Opposite Party. There is a similar provision for the State Commission too in sub-rule (8) of Rule 8. The work load and the circumstances being, what they are, these provisions can obviously only be observed in their breach, which is certainly not a desirable state of affairs. It should, therefore, be the concern of the Chandigarh Administration, which we too share, that the consumers' complaints are not defeated by delays. It is imperative, therefore, that all constraints and hurdles that hamper smooth functioning of and expeditious disposal of matters by the District Forum and the State Commission, be removed.

7. It will be recalled that the Supreme Court in Common Cause, A Registered Society v. U.O.I. and Ors. J.T 1992 (6) . 67 in dealing with the complaint that the implementation of the provisions of the Act was sluggish, in that "the machinery for redressing the grievances of the poor consumer at the base level, i.e., the

District Forums, had not been set up in all the districts in the country except a few", after obtaining and scrutinizing the information received from various States and finding a lack of willingness on the part of most States to seriously implement this benevolent legislation, was constrained to issue directions, and that too, to be carried out within a definite time-frame. These directions pertained to the setting-up of District Forums and the discontinuance of the existing arrangement of District Judge also functioning as the District Forums. In doing so, the Court also adverted to the provision of requisite accommodation for the District Forum and expressed the hope that the State Governments would remove the other irritants too without loss of time.

8. Before proceeding further, it must, at the very outset, be recognized that the District Forums and the State Commissions are now here to stay. This being so, there should not and cannot be any ad hocism in their setting-up or functioning. Further, it is also imperative that all steps necessary for their smooth and efficient functioning to ensure expeditious disposal of matters coming up before them, must be taken by the Chandigarh Administration and that too with the sense of urgency, as is undoubtedly required.

9. It would appear that neither in their setting-up nor in their functioning, have the District Forum or the State Commission, received the attention and assistance, which was clearly incumbent upon the Chandigarh Administration to extend to them. To illustrate, it was almost a year after the, rules had been framed, that a letter was written by the District Food and Supplies Officer, Chandigarh on August 19, 1988, to the President of the State Commission to inform him of his nomination as such. Several letters were, thereafter written by the President, regarding the setting-up of the State Commission, but scant regard was given to them by the Chandigarh Administration, with the result that it was over a year thereafter, on September 1, 1989, that the appointment of the President was eventually notified. As has been mentioned earlier, that too was only on a part-time basis, the Commission being required to function for only four days in a week and then for just two hours on each of those days, namely from 11.00 AM to 1.00 P.M.

10. Similarly, the District Forum, too is required to function for just three hours a day from 2.00 to 5.00 PM and that too for only five days in a week. No wonder, therefore, that the work load, both with the District Forum and the State Commission, has been steadily piling up.

11. When we turn to look for the reasons for the work-load, both of the District Forum as also of the State Commission, being what it is, with its apparent tendency to become heavier day by day, what emerges as the major cause for it, is the fact that they both function only on part-time basis. It is indeed imperative that this be rectified by having a regular and whole-time District Forum and State Commission. This cannot brook any delay. A direction is, consequently, hereby issued to the Chandigarh Administration, to do so forthwith, at any rate, within not more than three months.

12. The other steps to be taken, must include those pertaining to the staff of the District Forum and the State Commission. As matters stand at present, the appointment of the staff for them is made by the Chandigarh Administration. What this means is that, while the staff is for and works with the District Forum and the State Commission, their appointing and disciplinary authority is some other. Such a situation, cannot, but adversely mitigate against the control that the District Forum and the State Commission can exercise over their staff.

13. What is more, the word of the staff attached to the District Forum and the State Commission is by its very nature different from that in the other offices of the Chandigarh Administration. The Chandigarh Administration, as their appointing authority, cannot be expected to know or appreciate the quality of persons required for work in the District Forum or the State Commission. It is thus clearly in the fitness of things that both the appointment as also the disciplinary control over its staff must vest in the respective Presidents of the District Forum and the State Commission. It needs to be remembered here that the District Judge, who is the President of the District Forum, had been the appointing authority of his staff. The Presidents of these bodies are thus clearly eminently fit and proper authorities to be made the appointing authorities of their staff. We would, therefore, strongly recommend amendment in the rules to permit this to be so.

14. Allied to this is the question of the requirement of staff for the District Forum and the State Commission. A reference to the record reveals that the Presidents of both the District Forum and the State Commission have been pressing the Chandigarh Administration for increase in their staff. It deserves note, in this behalf, that there are District Forums as also State Commissions in the States of Punjab and Haryana. The supporting staff of the State Commission in Punjab, we are informed, consists of a Secretary, Private Secretary, Reader, Assistant, Clerk, Senior Scale Stenographer, two Junior Scale Stenographers, Restorer, Driver, Peon and a Sweeper-cum-Chowkidar. The Chandigarh State Commission, which has a heavier work load, can very legitimately ask for staff on this scale. With this yardstick, the requirement of staff for the District Forum too deserves to be considered. The Chandigarh Administration, is consequently, also directed to consider, in consultation with the Presidents of the District Forum and the State Commission, the appropriate norm for their staff, in the context of the norm for the supporting staff for the District Forums and State Commissions in Punjab and Haryana.

15. It need hardly be mentioned that the salaries and emoluments of the staff must be in consonance with those of their counter-parts in the District Courts and the High Court. As regards the Presidents of the District Forum and the State Commission, it has to be taken as understood, that both the District Judge and the Judge of the High Court, appointed as such, on whole-time basis, would not only be paid salary and allowances as such, but also be given the other perks that District Judges and Judges of the High Court are entitled to. The salary

payable to the President of the District Forum being not less than that last drawn by him. Tin"s is rendered essential in order to maintain and uphold the status of the post to which they are appointed.

16. Further, it is also necessary that both the District Forum and the State Commission, should have a regular budget and funds be provided to them to meet the expenses of their staff salaries, furniture, office equipment, library and other contingent expenses, with, of course, the Presidents being the respective drawing and disbursing officers.

17. As regards the functioning of the District Forum, an important aspect of it, which emerged during the hearing, concerned the norm for the disposal of work by it. No such norm has so far been fixed. Such norm is, however, clearly essential. In the absence of the requisite material on the basis of which such a norm could be prescribed by us, a request was made to Shri S.S, Sandhawalia, the former Chief Justice of our Court, now Chairman of the State Commission for Haryana, to advise us in the matter, which he with his usual grace and conscientiousness undertook to do. The opinion expressed by him being-

"As regards the norm of the disposal for each month, it deserves pointing out that even though the pecuniary jurisdiction of the District Forums has been enhanced upto Rs. five lacs, the majority of complaints filed are of a simple and uncomplicated nature. Many of them get resolved at the earliest stage or are compromised by the traders and manufacturers offering to give relief after notice is issued. The experience of this Commission is that a diligent President of the District Forum with the active cooperation of the Members can easily dispose about 90 complaints in every month, including those disposed of on technical grounds by the default of appearance by the complaint and the cases being compromised. In his Commission"s view the said yard-stick is perhaps fairly appropriate;

To sum up, a pendency of a minimum of 300 to 400 cases and a disposal of 90 complaints per month appear to be fair norm for the fixation of the disposal of the work of a whole time District Consumer Forum."

We wholly concur and endorse this opinion and hereby prescribe the norm for disposal of work by the District Forum, accordingly. In doing so, we must also record our deep appreciation to Shri. S.S. Sandhawalia, the Chairman of the State Commission for Haryana, for his invaluable assistance in the matter. 18. As regards the plea for establishment of another District Forum at Chandigarh, we would prefer to leave this matter open for the moment to await the setting-up of a regular whole-time District Forum, for its functioning to be seen six months thereafter, by the Chandigarh Administration. If the Work-load then justifies it, then a second District Forum too be set up at the earliest.

19. Finally, there is the matter with regard to the attendance at the sittings of the District Forum and the State Commission by its part-time members. A watch needs to be kept on their attendance, in order that the functioning of the District

Forum and the State Commission is not in any manner hampered by their persistent absence. Should this be so, the Chandigarh Administration would be well advised to replace erring part-time members by those who would give to this duty, the importance that it undoubtedly deserves.

20. Before parting, we must here, record our appreciation for the assistance rendered to us by Mr. R.K. Chhibar, Sr. Advocate, who had very kindly, at our request, undertaken to advise us in the matter. Similar appreciation, is also due to the counsel for the parties, namely, Mr. Hemant Kumar and Mr. Ashok Aggarwal.

21. We dispose of this writ petition with the observations and directions as set forth earlier, which we trust and hope will be taken due note of and carried out by the Chandigarh Administration, with the urgency and importance that they undoubtedly deserve.