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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 7912/2023 & CM APPLs. 30541-42/2023

NBCC INDIA LIMITED

..... Petitioner

Through: Mr Sukumar Pattjoshi, Sr. Advocate
with, Mr. Vipul Ganda, Ms. Abhipsa
Mohanty, Ms. Priyanka Jindal & Mr.
Ram Krishna Rao, Advocates

versus

RANDHIR SINGH REDHU AND ORS

..... Respondents

Through: Mr. Nitish Banka, Mr. Shubham
Kumar, Advocates for Respondents
Mr. Sanchit Seth, Mr. Nikhil
Sehrawat, Advocates for R-5 & 6

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

12.07.2023

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1. The present Writ Petition has been filed by the Petitioner challenging the Order dated 23.02.2023, passed by the National Consumer Disputes Redressal Commission (*hereinafter referred to as 'the NCDRC'*) on the ground that the Presiding Member of the Commission does not have the jurisdiction to pass such orders.

2. Learned Counsel for the Petitioner has drawn the attention of this Court to Section 58(2)(3) of the Consumer Protection Act, 2019 to contend that the said Section stipulates that the jurisdiction, powers and authority of the National Commission can be exercised only by a Bench constituted by the President with one or more members as he may deem fit. He has also drawn the attention of this Court to Section 2(27) of the Consumer

Protection Act, 2019 which defines a member of the NCDRC to mean members including the President and a member of the National Commission or a State Commission or a District Commission, as the case may be. He, therefore, states that the complaint could have been entertained only by a Bench comprising of two members. Learned Counsel for the Petitioner draws the attention of this Court to a judgment dated 25.10.2028, passed by the High Court of Rajasthan, in **S.B. Civil Writ No.1972/2012** titled as Divisional Manager NIC Ltd. Jodhpur v. Rajasthan State Cons. Disp. Red. Commi.& Ors., wherein in similar facts and circumstances the Rajasthan High Court has held that Bench/Benches of the State Commission must be constituted by at least two members of the Commission. He states that the said order has been upheld by the Division Bench of the High Court of Rajasthan as well as the Supreme Court. He also draws the attention of this Court to a judgment passed by the Apex Court in State of Rajasthan &Ors Vs Kamal Travel Kokks International & Ors. in **SLP No 4969 of 2020**, wherein it has been held by the Apex Court that Bench/Benches of the National Commission must be constituted by at least two members of the Commission one of whom may be the President.

3. Normally this Court does not entertain writ petitions when alternate remedy is available to the petitioners but the issue in the present case is as to whether a member sitting singly can pass a judgment when the rules specifically provide that the composition of the Bench must be minimum two. Moreover, this issue has already attained finality in the proceedings which emanated from Rajasthan.

4. Issue notice limited to the issue of jurisdiction of the NCDRC and the composition of Benches.

5. Learned Counsel for Respondents No.1 to 101 accepts notice.
6. Let written submissions be filed within three weeks.
7. Since learned Counsel for the Petitioner has been able to make out a *prima facie* case, Order dated 23.02.2023, passed by the NCDRC shall remain stayed till the next date of hearing.
8. List on 02.11.2023.

SUBRAMONIUM PRASAD, J

JULY 12, 2023/Rahul