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

Date of Decision: 6th January, 2022

+ **W.P.(C) 12490/2021**

MOHAN PRASAD (SINCE DECEASED) THROUGH HIS LRS SH.
YOGESH & ORS. Petitioners

Through: Mr. F.K. Jha, Advocate.
versus

EMPLOYEES STATE INSURANCE
CORPORATION & ANR. Respondents

Through: Mr. Sameer Vashisht, ASC, GNCTD
with Ms. Sanjana Nangia and Ms.
Mahima Arora, Advocates.
Mr. Satyakam, ASC, GNCTD for R-
3.

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through video conferencing.
2. The grievance of the Petitioners in the present matter was that the District Consumer Dispute Redressal Forum (West), Janakpuri, Delhi (*hereinafter "Consumer Forum"*) had not disposed of their consumer complaint, which was filed way back in 2007. The Petitioner-father had lost his son who was just 13 years of age and had filed a consumer complaint against the Employees State Insurance Corporation/Respondent No.1 (*hereinafter "ESIC"*) and the Employees State Insurance Hospital/Respondent No.2. The case of the Petitioners is that there was medical negligence, which led to the demise of his young son.

3. The evidence in the complaint had concluded almost 14 years ago but the matter was not being finally heard and adjudicated. Vide a detailed order passed on 9th November, 2021, this Court had directed the Consumer Forum to expedite the hearing in this matter and had also called for the data relating to the following information:

“9. Accordingly, considering the protracted delay in hearing this matter, it is directed that the case shall be listed before the said Consumer Forum on 22nd November, 2021. The matter shall then be heard and final judgment shall be passed by 20th December, 2021.

10. As to the submissions made by ld. counsels appearing today, concerning the manner of functioning of the Consumer Forum, this is a cause for consternation. In light of these submissions, this Court find it appropriate to ascertain whether there are other similar cases pending before the Consumer Forum, and their status. Accordingly, the worthy Registrar General of this Court, shall obtain a report from the Registrar or Secretary, District Consumer Dispute Redressal Forum (West), Janakpuri, Delhi, containing the following details:

- a. List of cases/complaints pending for final hearing;*
- b. Date of institution of the said complaints;*
- c. Date when evidence was concluded in the said complaints;*
- d. Any infrastructural requirements in the said forum; and*
- e. Status of vacancies of presiding officers including Chairperson and members.*

A proper breakup of these details, in the form of a chart, shall be placed before this Court by the next date of hearing.”

4. Mr. F.K. Jha. Ld. counsel for the Petitioners, today informs the Court that the matter relating to the Petitioners has now been disposed of vide order dated 13th December, 2021 by the Consumer Forum. The said information is taken on record.

5. Further, in compliance of this Court's order dated 9th November, 2021, a report has been placed on record today by the President, District Consumer Disputes Redressal Commission -III, West District, Janakpuri, New Delhi. As per the said report, the President has submitted the information relating to the vacancies in respect of staff and members at the Consumer Forum, as also specifying the urgent requirements in the Consumer Forum, required for its effective functioning. The said requirements include filling up of the existing vacancies for stenographers, Data Entry Operators, Sr. Assistant UDC and Class IV personnel. In addition, the President has also asked for further staff and infrastructure requirements, such as fridge, air conditioners, laptops, etc.

6. Insofar as the pendency of the cases is concerned, for cases wherein the evidence recordal has already been concluded, a chart has been placed on record showing on an yearly basis, that the evidence has been concluded in several matters, which have not yet been finally heard. The year wise details are as under:

<i>Year of Institution of Case</i>	<i>Number of Cases/Complaints pending for Final Hearing (Evidence Concluded)</i>
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2005	3
2006	11
2007	8
2008	24
2009	20
2010	51
2011	58
2012	86
2013	114
2014	130
2015	173
2016	207
2017	263
2018	196
Total	1344

7. The above numbers of cases are only those where the evidence stands concluded. It is, therefore, clear that there is a huge backlog of cases in the Consumer Forum, which could be due to the non-filling of requisite vacancies as also lack of adequate infrastructure and other facilities.

8. This Court being conscious of the possible administrative and infrastructural issues faced by the Consumer Forum, had also requested Id. Counsel for the GNCTD to appear in this matter. Mr. Vashisht and Mr. Satyakam, Id. Counsels have accordingly, appeared.

9. Considering the nature of the issues raised and long pendency of the matters for final arguments before one District Consumer Forum in Delhi, it is deemed appropriate to call for further report from the Registrar/ President State Consumer Disputes Redressal Forum, GNCTD (*hereinafter* “*State Forum*”) for placing the following information about the State forum and all District Consumer Disputes Redressal Fora (*hereinafter* “*District Fora*”) in Delhi i.e.,

- a. List of cases/complaints pending for final hearing;
- b. Date of institution of the said complaints;
- c. Date when evidence was concluded in the said complaints;
- d. Any infrastructural requirements in the said forum; and
- e. Status of vacancies of presiding officers, including President and members and other staff members.

10. Let the report of the President State Consumer Redressal Forum, in this respect, be placed on record within four weeks.

11. In addition, considering the nature of the vacancies and the further requirements of the Consumer Forum, let a copy of the report of the District forum, which is filed, be supplied to the Id. counsels for the GNCTD as also to Id. counsel for the Petitioners. The GNCTD shall look into the infrastructural requirements and vacancies at the Consumer Forum and shall take immediate steps for filling up the vacancies and for provision of the basic infrastructure as requested, such as laptops, computers, toilets facilities, water facilities, refrigerator, etc. as has been requisitioned by the President of the Consumer Forum in this report. This Court also notes that the status report shows that the vacancies in one District Forum, are to the tune of 4 out of 13, and there are further requirements for Data Entry

Operator, Multi-Tasking Staff, Stenographer etc. Considering that this is the situation in one District Forum, it is likely that there are a large number of vacancies and requirements in other fora.

12. Accordingly, the Principal Secretary-cum-Commissioner of the Department of Consumer Affairs, GNCTD shall coordinate with Hon'ble Dr. Justice Sangita Dhingra Sehgal (Retd.), President of the State Consumer Redressal Forum, in order to ascertain the vacancies across the District Fora in Delhi and further requirements of the District Fora and the State Forum. The said official shall ensure that after coordination on a regular basis and taking steps, vacancies for both staff and members are filled up expeditiously across such fora, and the infrastructural requirements are provided to such fora on an urgent basis in an expeditious manner.

13. A report shall be placed by Principal Secretary-cum-Commissioner of the Department of Consumer Affairs, GNCTD, in respect of the filling up of vacancies and the provision of infrastructure requirements and further personnel as may be requested, across all District Fora in GNCTD and the State Forum. Let the same be filed within six weeks. The Registrar/President of the State Forum shall also place on record the details of the cases, which are pending, as directed in paragraphs 9 and 10 above and the status of vacancies and requirements for further staff.

14. Considering the nature of the matter, the GNCTD is impleaded as the Respondent No.3 in this matter. Let the amended memo of parties be filed by Mr. Jha, ld. counsel for the Petitioners.

15. It is also clarified that in respect of the order dated 13th December, 2021, disposing of the consumer complaint involved in the present writ

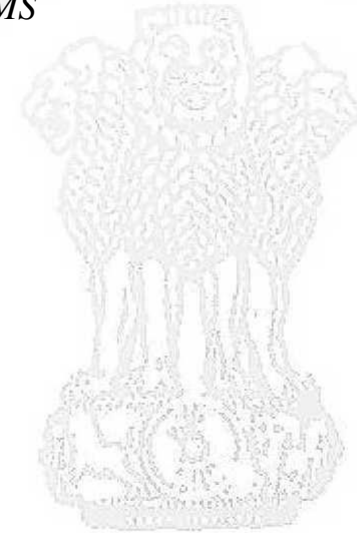
petition, all remedies of the parties in respect of the orders passed are left open.

16. List for the purposes of receiving of the two reports on 4th March, 2022.

17. This shall be treated as a part-heard matter.

**PRATHIBA M. SINGH
JUDGE**

JANUARY 6, 2022/dk/MS



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