



**REPORTABLE**

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

**CIVIL APPEAL NO. 9982 OF 2024**  
**(Arising out of SLP (C) No. 25612 of 2023)**

GANESHKUMAR RAJESHWARRAO .....APPELLANT(S)  
SELUKAR AND ORS.

VERSUS

MAHENDRA BHASKAR LIMAYE AND ORS. ...RESPONDENT(S)

WITH

**CIVIL APPEAL NO. 9987 OF 2024**  
**(Arising out of SLP (C) No. 26881 of 2023)**

**CIVIL APPEAL NO(S). 9983-9985 OF 2024**  
**(Arising out of SLP (C) No. 26172-26174 of 2023)**

**CIVIL APPEAL NO. 9988 OF 2024**  
**(Arising out of SLP (C) No. 26582 of 2023)**

**CIVIL APPEAL NO. 9989 OF 2024**  
**(Arising out of SLP (C) No. 26581 of 2023)**

**CIVIL APPEAL NO. 9990 OF 2024**  
**(Arising out of SLP (C) No. 27352 of 2023)**

**CIVIL APPEAL NO(S). 9965-9967 OF 2024**  
**(Arising out of SLP (C) No(s). 639-641 of 2024)**

**CIVIL APPEAL NO. 10029 OF 2024**  
**(Arising out of SLP (C) No. 5866 of 2024)**

**CIVIL APPEAL NO. 9964 OF 2024**  
**(Arising out of SLP (C) No. 8081 of 2024)**

**AND**

**REVIEW PETITION (CIVIL) NO. 1313 OF 2024**  
**(In Civil Appeal No. 831/2023)**

**WITH**

**REVIEW PETITION (CIVIL) NO. 1315 OF 2024**  
**(In Civil Appeal No. 833/2023)**

**WITH**

**REVIEW PETITION (CIVIL) NO. 1314 OF 2024**  
**(In Civil Appeal No. 832/2023)**

**J U D G M E N T**

**M. M. Sundresh, J.**

1. Man is what he consumes. It is generally stated that one becomes a consumer from the time of his birth but, in reality, the journey begins much earlier. It extends from before the cradle to beyond the grave. A mother and her child are inseparable in the womb. Medical treatment received and commodities consumed by the mother, such as food, water, medicine, etc., enure to her child. Consumption is shared between the two, making them joint consumers. Similarly, even after

one dies, consumption continues in multifarious ways. From donation of organs to the needy, to families conducting funeral rites and rituals annually, consumption is a reality that cannot be ignored, especially in an interconnected and interdependent world.

2. **‘Consumerism’** is therefore, one of the most integral aspects of human life. How then does one define it? It is indeed a rather difficult task to comprehensively do so, as every act or omission of an individual might attract the definition, given the impact it may have on others. Perhaps, its essence is best expressed in the words of Mahatma Gandhi, the Father of the Nation.

**“A customer is the most important visitor on our premises. He is not dependent on us. We are dependent on him. He is not an interruption on our work. He is the purpose of it. He is not an outsider on our business. He is a part of it. We are not doing him a favour by serving him. He is doing us a favour by giving us an opportunity to do so.”**

(emphasis supplied)

3. He elevated a consumer above every other entity, transforming the concept of consumerism through the principles of truth and dharma. He galvanised people from all walks of life to participate in the freedom struggle, by incorporating the spirit of consumerism in the pivotal Indian Independence Movement, through methods such as non-cooperation and civil disobedience. One classic instance where politics,

economics and social order were consciously integrated, was the Dandi March of 1930, whereby civil disobedience was extended through the Salt Satyagraha opposing the taxation of salt. It can be rightfully said that democracy was won, not only by the strength of our words and the sweat of our brow, but also over the price of salt. Hence, at its core, the Indian Independence Movement can be seen as a citizen-consumer movement.

4. The concept of consumerism has evolved in India since ancient times. A solemn duty was ordained on the King, to hold the trader accountable to a standard of fairness in every transaction with a consumer. Any violation by traders was dealt with by the Ruler, not only by retributive, but also by reformative action. This was because the knowledge and character of his citizens depended upon their consumption, and would have been substantially impacted, if consumption was either inadequate or the quality poor. The relevance of the same has become even more pronounced today.
5. Consumer movements have deeply impacted the revolutionary struggles for a liberal democracy across the globe. One can view the American Revolution through the lens of the Boston Tea Party incident,

wherein the monopoly of the British traders was sought to be checked by the American citizens, posing as Red Indians and throwing away imported tea into the water. Similarly, the French Revolution can be viewed from the lens of the Bread Riots, particularly the Flour War of 1775 and the Women's March on Versailles in 1789. Since bread was a crucial component of the French diet, especially for the working class who spent a large portion of their income on it, the shortage of grain to make bread and the consequent rise in the price of bread, ignited popular anger in the towns of the Paris Basin, leading to the Bread Riots, and thereafter the French Revolution. Both the aforementioned instances of the American and the French Revolutions, like the Dandi March, were actions on political, economic and social grounds.

### **ESSENCE OF CONSUMERISM IN THE CONSTITUTION**

6. Understanding the concept of consumerism entails rising above any distinction between the public and the private. It is inherently an all-encompassing concept. Therefore, subjects such as politics, economics, sociology, and the environment, become important facets of consumerism. Only by understanding consumerism through the lens of these different facets, can one appreciate the true impact of it on the

daily life - of an individual, a family, a community, a country and the world at large. As E P Mcguire put it succinctly,

**“Consumerism is both an idea and a contagious spirit and national boundaries have never proved much of an obstacle to either of these. Thus, consumerism has become an international social force.”**

(emphasis supplied)

7. Consumerism, thus, constitutes the very spirit of the Constitution of India, 1950 (hereinafter referred to as “**the Constitution**”). It does not end with recognizing and protecting the rights of a consumer vis-à-vis a trader or a service provider, as the case may be, but travels far beyond. The rights of a consumer are not merely constitutional or statutory guarantees, but are in fact, natural, and therefore, inalienable. The fact that the society, economy, polity and the environment, are inseparable from each other, is something that was envisioned even by the framers of the Constitution. Though not explicitly in the context of consumerism, the said vision is reflected in the much-celebrated statement of Dr. B.R. Ambedkar, in his closing speech before the Constituent Assembly of India, on 25.11.1949.

Constituent Assembly of India, Friday, the 25th November, 1949

The Honourable Dr. B. R. Ambedkar:

“The third thing we must do is not to be content with mere political democracy. We must make our political democracy a social democracy as well. Political democracy cannot last unless there lies at the base of it social democracy. What does social democracy mean? It means a way of life which recognises liberty, equality and fraternity as the principles of life. These principles of liberty, equality and fraternity are not to be treated as separate items in a trinity. They form a union of trinity in the sense that to divorce one from the other is to defeat the very purpose of democracy. Liberty cannot be divorced from equality, equality cannot be divorced from liberty. Nor can liberty and equality be divorced from fraternity. Without equality, liberty would produce the supremacy of the few over the many. Equality without liberty would kill individual initiative. Without fraternity, liberty and equality could not become a natural course of things. It would require a constable to enforce them. We must begin by acknowledging the fact that there is complete absence of two things in Indian society. One of these is equality. On the social plane, we have in India a society based on the principle of graded inequality which means elevation for some and degradation for others. On the economic plane, we have a society in which there are some who have immense wealth as against many who live in abject poverty. On the 26th January, 1950, we are going to enter into a life of contradictions. In politics we will have equality and in social and economic life we will have inequality. In politics we will be recognizing the principle of one man one vote and one vote one value. In our social and economic life, we shall, by reason of our social and economic structure, continue to deny the principle of one man one value. How long shall we continue to live this life of contradictions? How long shall we continue to deny equality in our social and economic life? If we continue to deny it for long, we will do so only by putting our political democracy in peril. We must remove this contradiction at the earliest possible moment or else those who suffer from inequality will blow up the structure of political democracy which this Assembly has so laboriously built up.”

(emphasis supplied)

8. Our understanding of consumerism must also be shaped by the Directive Principles of State Policy enshrined under Part IV of the Constitution.

### **Article 38 of the Constitution**

**“38. State to secure a social order for the promotion of welfare of the people.— (1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.**

**(2) The State shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.”**

(emphasis supplied)

### **Article 39 of the Constitution**

**“39. Certain principles of policy to be followed by the State.—The State shall, in particular, direct its policy towards securing—**

**xxx                      xxx                      xxx**

**(b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;**

**(c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;**

**xxx                      xxx                      xxx**

**(e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;**

**xxx                      xxx                      xxx**

(emphasis supplied)

### **Article 47 of the Constitution**



**“47. Duty of the State to raise the level of nutrition and the standard of living and to improve public health.—The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption, except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.”**

(emphasis supplied)

**Murlidhar Dayandeo Kesekar v. Vishwanath Pandu Barde, 1995  
Supp (2) SCC 549**

“14. Providing adequate means of livelihood for all the citizens and distribution of the material resources of the community for common welfare, enable the poor, the Dalits and Tribes, to fulfil the basic needs to bring about a fundamental change in the structure of the Indian society which was divided by erecting impregnable walls of separation between the people on grounds of caste, sub-caste, creed, religion, race, language and sex. Equality of opportunity and status thereby would become the bedrocks for social integration. **Economic empowerment thereby is the foundation to make equality of status, dignity of person and equal opportunity a truism. The core of the commitment of the Constitution to the social revolution through rule of law lies in effectuation of the fundamental rights and directive principles as supplementary and complementary to each other. The Preamble, fundamental rights and directive principles — the trinity — are the conscience of the Constitution. Political democracy has to be stable. Socio-economic democracy must take strong roots and should become a way of life.** The State, therefore, is enjoined to provide adequate means of livelihood to the poor, weaker sections of the society, the Dalits and Tribes and to distribute material resources of the community to them for common welfare etc.”

(emphasis supplied)

9. In India, the Consumer Protection Act, 1986 (hereinafter referred to as **“the 1986 Act”**) and thereafter, the Consumer Protection Act, 2019 (hereinafter referred to as **“the 2019 Act”**) have been brought forth to give effect to the discovery and progressive realization of our

constitutional rights, culture and ethos. It was felt that a dedicated consumer legislation was needed for citizens, to attain exposure to participative democracy, day-to-day economics, ongoing politics and environmental protection, endeavouring towards socio-economic, political and environmental justice. Perhaps, that might be the reason as to why the 1986 Act, being the first consumer protection legislation in India, does not even draw its origins from any specific provision of the Constitution, as all the salient features of the Constitution are put in a basket and offered to the citizen, for whose benefit it has been enacted.

10. It is needless to state that, while dealing with consumer disputes, the Consumer fora created under the 1986 Act and, thereafter, retained under the 2019 Act, must be mindful of the aforesaid constitutional basis, as a mere dictionary meaning can never do complete justice to the word ‘consumer’.

**Spring Meadows Hospital v. Harjol Ahluwalia, (1998) 4 SCC 39**

“8. Before we examine the aforesaid questions it would be appropriate to notice the scenario in which Parliament enacted the Consumer Protection Act (hereinafter referred to as “the Act”). The United Nations had passed a resolution in April 1985 indicating certain guidelines under which the Government could make law for better protection of the interest of the consumers. Such laws were necessary more in the developing countries to protect the consumers from hazards to their health and safety and make them available speedier and cheaper redress. Consumerism has been a movement in which the trader and the consumer find each other as adversaries. Till last two decades in many developed and developing

countries powerful consumer organisations have come into existence and such organisations have been instrumental in dealing with the consumer protection laws and in expansion of the horizon of such laws. In our country the legislation is of recent origin and its efficacy has not been critically evaluated which has to be done on the basis of experience. Undoubtedly the Act creates a framework for speedy disposal of consumer disputes and an attempt has been made to remove the existing evils of the ordinary court system. The Act gives a comprehensive definition of consumer who is the principal beneficiary of the legislation but at the same time in view of the comprehensive definition of the term “consumer” even a member of the family cannot be denied the status of consumer under the Act and in an action by any such member of the family for any deficiency of service, it will not be open for a trader to take a stand that there is no privity of contract. The Consumer Protection Act confers jurisdiction on the Commission in respect of matters where either there is defect in goods or there is deficiency in service or there has been an unfair and restrictive trade practice or in the matter of charging of excessive price. The Act being a beneficial legislation intended to confer some speedier remedy on a consumer from being exploited by unscrupulous traders, the provisions thereof should receive a liberal construction.”

(emphasis supplied)

**State of Karnataka v. Vishwabharathi House Building Coop. Society,  
(2003) 2 SCC 412**

“38. The scope and object of the said legislation came up for consideration before this Court in *Common Cause, A Registered Society v. Union of India* [(1997) 10 SCC 729] . It was held : (SCC p. 730, para 2)

“2. The object of the legislation, as the preamble of the Act proclaims, is ‘for better protection of the interests of consumers’. During the last few years preceding the enactment there was in this country a marked awareness among the consumers of goods that they were not getting their money's worth and were being exploited by both traders and manufacturers of consumer goods. The need for consumer redressal fora was, therefore, increasingly felt. Understandably, therefore, legislation was introduced and enacted with considerable enthusiasm and fanfare as a path-breaking benevolent legislation intended to protect the consumer from exploitation by unscrupulous manufacturers and traders of consumer goods. A three-tier fora comprising the District Forum, the State Commission and the National Commission came to be envisaged under the Act for redressal of grievances of consumers.”

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42. We may in this connection also notice that in *Laxmi Engg. Works v. P.S.G. Industrial Institute* [(1995) 3 SCC 583] this Court held : (SCC p. 591, para 10)

“10. A review of the provisions of the Act discloses that the quasi-judicial bodies/authorities/agencies created by the Act known as District Forums, State Commissions and the National Commission are not courts though invested with some of the powers of a civil court. They are quasi-judicial tribunals brought into existence to render inexpensive and speedy remedies to consumers. It is equally clear that these Forums/Commissions were not supposed to supplant but supplement the existing judicial system. The idea was to provide an additional forum providing inexpensive and speedy resolution of disputes arising between consumers and suppliers of goods and services. The forum so created is uninhibited by the requirement of court fee or the formal procedures of a court. Any consumer can go and file a complaint. Complaint need not necessarily be filed by the complainant himself; any recognized consumers' association can espouse his cause. Where a large number of consumers have a similar complaint, one or more can file a complaint on behalf of all. Even the Central Government and State Governments can act on his/their behalf. The idea was to help the consumers get justice and fair treatment in the matter of goods and services purchased and availed by them in a market dominated by large trading and manufacturing bodies. Indeed, the entire Act revolves round the consumer and is designed to protect his interest. The Act provides for 'business-to-consumer' disputes and not for 'business-to-business' disputes. This scheme of the Act, in our opinion, is relevant to and helps in interpreting the words that fall for consideration in this appeal.”

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44. In *Lucknow Development Authority v. M.K. Gupta* [(1994) 1 SCC 243] this Court held : (SCC p. 251, para 2)

“The importance of the Act lies in promoting welfare of the society by enabling the consumer to participate directly in the market economy. It attempts to remove the helplessness of a consumer which he faces against powerful business, described as, ‘a network of rackets’ or a society in which, ‘producers have secured power’ to ‘rob the rest’ and the might of public bodies which are degenerating into storehouses of inaction where papers do not move from one desk to another as a matter of duty and responsibility but for

**extraneous consideration leaving the common man helpless, bewildered and shocked.”**

It has further been held : (SCC pp. 254 & 252, para 3)

**The Act thus aims to protect the economic interest of a consumer as understood in commercial sense as a purchaser of goods and in the larger sense of user of services. ... It is a milestone in history of socio-economic legislation and is directed towards achieving public benefit.”**

(emphasis supplied)

**Nivedita Sharma v. Cellular Operators Assn. of India, (2011) 14 SCC 337**

**“18. The 1986 Act was enacted for the better protection of the interests of consumers by making provision for the establishment of consumer councils and other authorities for the settlement of consumer disputes. The object and purpose of enacting the 1986 Act is to provide for simple, inexpensive and speedy remedy to the consumers who have grievance against defective goods and deficient services. This benevolent piece of legislation intended to protect a large body of consumers from exploitation.”**

(emphasis supplied)

### **CONSUMERISM VIS-À-VIS PUBLIC INTEREST**

11. Though a consumer seeking to redress his grievance may do so for himself, the benefit of the same often enures to the public, which transacts with various entities, including State instrumentalities. In this way, the exercise of the power vested in a single consumer, to hold any entity accountable, transforms him into a flag bearer of public justice. This was seen way back in the year 1932, when Mrs. Donoghue, who fell sick after drinking ginger beer containing a decomposed snail, approached the House of Lords. The House of Lords, in its landmark

decision in *M'Alister (Or Donoghue) (Pauper) v. Stevenson*, [1932] A.C. 562, popularly referred to as the 'snail in the bottle case', held the manufacturer liable for negligence, and ordered it to pay damages to Mrs. Donoghue, establishing the principle of 'duty of care', which can be stated to have paved the way for modern consumer protection jurisprudence.

**12.** The Consumer fora in India, have time and again rendered decisions beneficial to the public at large. In *Indian Medical Association v. V.P. Shantha*, (1995) 6 SCC 651, this Court brought the medical profession within the ambit of the 1986 Act. The National Commission in *Ambrish Kumar Shukla and Others v. Ferrous Infrastructure Pvt. Ltd. Seth Farms*, 2016 SCC OnLine NCDRC 1117 : (2017) 1 CPJ 1 (NC) set a precedent for homebuyers across the country to sue developers for delay in handing over possession of flats. In *Vodafone Idea Cellular Ltd. v. Ajay Kumar Agarwal*, (2022) 6 SCC 496, this Court held that telecom services would be amenable to the relevant consumer protection legislation. At the first glance, these may seem like private reliefs. However, these reliefs have prospectively and progressively shaped the

relationship between consumers and producers/manufacturers, with greater accountability on the latter.

13. Therefore, consumer litigation is a form of public interest litigation, which builds an active citizenry, enhancing participatory democracy. Participatory democracy is one of the basic features of the Constitution. The principle of participation in the governance of the country, is not only a constitutional right, but also a human right. It is thus imperative that consumer litigation should be allowed to grow multi-fold, for a democracy to flourish.

### **CONSUMERISM VIS-À-VIS SOCIAL JUSTICE**

14. Social justice exists when everyone in the society enjoys equal rights, opportunities, and access to resources, goods and services, regardless of where they come from. It entails the creation of a society where issues including but not limited to discrimination, and unequal access to food, water, clothing, shelter, education, healthcare and the like, are addressed proactively. A democratic society is premised on the attainment of social justice. Only when the standard of living is equitable, and equality of opportunities are the order of the day, can a

society be said to have truly achieved social justice and hence, democracy.

**15.** To bring about this social revolution, ‘consumerism’ must be accepted as a social force, as it substantially informs the trajectory of one’s life. The manner in which a growing child’s basic needs of nutrition and education are fulfilled, plays a huge role in the abilities he acquires and the opportunities he receives and may ultimately avail as an adult. A child consuming sub-standard food, growing in abject poverty, will be materially different from his counterpart, who may have exposure to the best of what the world has to offer. Similarly, a child acquiring knowledge through sound and stable education, equipped with necessary learning tools, ranging from something as basic as a pen and paper, to something as advanced as smart classrooms, might be able to avail more opportunities than one growing up without the same. Plainly speaking, if there is no equality of consumption, there can be no equality of life.

**16.** If commodities are enjoyed solely by a particular section of the society, becoming a mirage to the unfortunate majority, then the Fundamental Right conferred under Article 14 of the Constitution steps in. If a



classification has been wrongly drawn, leading to the perpetration of inequality, and a consumer is deprived of what he is otherwise entitled to, on extraneous considerations, the resultant malice must be accordingly dealt with. Especially in an emerging and developing democracy like ours, where human resources are abundant, and the aspirational youth constitute the majority of the population, refusing them their rightful entitlement would be an affront to the Fundamental Rights enshrined in the Constitution.

**17.** Societal structure has far evolved from the rudimentary hunter-gatherer society, to the modern one. Just as the needs and wants of citizens have multiplied and metamorphosed, so have the ways in which inequalities manifest, especially on the anvil of caste, community, religion, language and culture. Therefore, on this count also, empowering consumerism would be the most effective way to remove social inequalities.

**18.** Though bringing about equality amongst all citizens must be the constant endeavour of stakeholders such as the State and independent goods/service providers, absolute equality may not be possible at all times. The State, as the custodian of national resources, is expected to

ensure equitable consumption of material goods by the public at large, while independent goods/service providers are expected to strive towards competitive innovation and continuous improvement in product quality.

**19.** And yet, what remains is the role of a citizen. Where does his role lie?

We feel that the attainment of social justice may be most effective when driven by the smallest unit of the society - a citizen, who is exposed to inequalities through his day-to-day consumption.

**20.** To put it succinctly, it is not only the duty of the State or a goods/service provider, but also of every individual, to make sure that the concept of consumerism flourishes in every possible way, in order to give effect to the Fundamental Rights ensured to the citizens, in adherence with the constitutional mandate. The Directive Principles of State Policy and the Fundamental Duties enshrined under Part IV and Part IVA of the Constitution respectively, reflect the very same understanding.

### **CONSUMERISM VIS-À-VIS POLITICS**

**21.** Man is by nature a political animal. This thought, espoused by the Greek philosopher and polymath Aristotle in the 4th century BCE, has attained tremendous significance in the present day and age. Across the globe,

the seeds of political consumerism sprouted during the struggles for a liberal democracy, becoming their very backbone, particularly in light of the fact that consumption has always been an intrinsic part of people's lives. These saplings have today grown into undercurrents in everyday transactions.

**22.**The choice to consume a particular good or service, or not, reflects our political considerations. It might also be a symbol of class or power. In the words of the acclaimed Polish Nobel Laureate, Olga Nawoja Tokarczuk, "In today's world everything is political. We are a statement - our clothes, haircut, the way we act".

**23.**A nation's political stability, and its international relations, are influenced by its fiscal, monetary and sector-specific policies on education, health and the environment, amongst others. These in turn affect and are affected by consumerism. From an international perspective, trade agreements, import and export policies, military alliances, and international cooperation hinge on the global understanding of consumerism.

**24.**The aforesaid policies of the government in power, influence citizens when they set out to exercise their vote during upcoming elections, as

every voter is a consumer. Political manifestos are often built on the consumption demands of citizens. Free ration, free electricity, and free bus tickets are only some of the promises that have, in the recent past, sparked strong public discourse. These promises, in some sense, determine who forms the government, which thereafter takes policy decisions influenced by consumption patterns. These policy decisions, in turn, influence who forms the next government. Consumerism thus, runs through the cycle of cause-and-effect vis-à-vis politics. Therefore, the importance of a voter to politics would be felt only when there is social and economic equality. Consumerism is the appropriate tool in achieving this valued objective for a mature democracy.

25. Thus, there is a pressing need to understand consumerism from the lens of its political implications. This is particularly so, in light of the growing complexities in our relationship with the polity and the dynamic interplay of rights, duties, and the State's role in governance.

### **CONSUMERISM VIS-À-VIS ECONOMICS**

26. Consumers are the 'invisible hand' of the market. It is through their spending decisions, that producers are informed about the kinds and quantities of goods and services to provide. When there is higher

consumer demand, businesses are incentivised to produce more, leading to economic growth and development. Increased consumer spending also leads to a higher demand for labour, as businesses need more employees to produce and sell goods and services. Key economic indicators like the Consumer Price Index (CPI) and the Consumer Confidence Index (CCI) are closely observed by businesses, investors, and policymakers, to gauge the health of the economy. Thus, the success of all economic activity depends upon the consumer.

27. The world is transforming into a global village, with India growing at a rapid pace to make a permanent place for itself. We may note that according to 'India's Outlook 2025-2026 Story', published by the Union Bank of Switzerland, India is set to become the 3<sup>rd</sup> largest consumer market in the world by 2026, only behind the United States of America and the People's Republic of China. Demographic studies also show that the population size in India has surpassed all other nations, a factor that is certainly contributing to the expansion of the consumer base, thereby leading to an increase in consumption expenditure. This is corroborated by the statistics released by the National Statistics Office (NSO), Ministry of Statistics and Programme

Implementation (MoSPI) vide its Press Note in February 2025, which indicates that Private Final Consumption Expenditure (PFCE) at current prices stood at ₹181.30 lakh crore for the year 2023-24, as against ₹165.28 lakh crore in 2022-23, and that in relation to the Gross Domestic Product (GDP), the PFCE to GDP ratio at current prices during 2022-23 and 2023-24 were 61.5% and 60.2% respectively.

**28.** With rising household income, coupled with development in all spheres, the demand and supply of goods and services, as well as expenditure, are undergoing drastic changes. The aspirational youth, who form a majority of the population and represent the future of our country, crave qualitative commodities at all times. In all, the constant evolution and expansion of the consumer basket will remain a key indicator of the nation's economic progress and potential to transform as an economy.

### **CONSUMERISM VIS-À-VIS ENVIRONMENT**

**29.** At the first blush, the concepts of consumerism and the environment might look distinct and different. However, they are more than interconnected and are, in fact, inseparable.

**30.** Let us take the example of the basic commodity of water. An inadequate or impure supply of water would have drastic effects. From an

environmental perspective, it would lead to widespread digging of borewells, causing groundwater depletion and transforming land into a desert. Another example is the demand and supply of a Liquified Petroleum Gas (LPG) cylinder. If an LPG cylinder is not available in a common household, the option that remains is the usage of wood and dry leaves. This would affect the environment, as there would be more pressure on the forests. The use of the aforementioned alternatives would also cause pollution. Therefore, there is a distinct spiralling effect in a simple case of unavailability of an LPG cylinder.

**31.** These situations may have a drastic impact on public health, leading to increased demand for medicine and medical supplies. Such increased demand, especially for cheaper options, may then affect the environment. We only give this as an example to drive home the point that the development of the society must be seen holistically, and not in piecemeal.

**32.** Today, consumerism has taken a new shape in the form of Green Consumerism. Growing concerns about climate change and resource depletion have spurred consumers, especially in the younger generations, to seek sustainable options. Green consumers are

motivated by the environmental impact of their consumption choices. Some examples of such choices would be the consumption of organic food, sustainable clothing, energy efficient appliances, products made of recycled material, and the usage of sustainable transportation. The demand for such products and services drives businesses to adopt more sustainable practices, and regulatory bodies to implement policies that promote green consumption and encourage businesses to do so. The relevance of green consumerism is multi-fold. It can lead to reduced environmental pollution with less waste generation, lower levels of carbon emissions, and improved air, water, and soil quality and therefore contribute to better public health. Sustainable choices can help conserve natural resources and reduce reliance on finite resources. On the ancillary front, it can stimulate innovation and create new jobs in the renewable energy sector and sustainable industries.

**33.** Thus, green consumerism would lead the country closer towards achieving its milestones under the United Nations Sustainable Development Goals, with better implementation of the polluter pays principle, the precautionary principle, the intergenerational equity principle and the theory of trusteeship. In fact, the urgent need to make



sustainable and healthy lifestyle choices available, accessible, and affordable for all consumers – while ensuring that these transitions uphold people’s basic rights and needs, has been recognised in the theme for this year’s World Consumer Rights Day, ‘A Just Transition to Sustainable Lifestyles.’

### **NEED FOR A CHANGE**

**34.** The importance of consumerism has been sufficiently dealt with by us.

The primary question for consideration now is as to whether the grievance redressal mechanism provided to a consumer, is adequate or not. As consumer justice includes social, economic, political, and environmental justice, the time has now come to test the apparatus available to deal with pressing consumer issues.

**35.** While every Court of Law, of which a consumer is also part, is expected to uphold constitutional principles, a Consumer forum has its primary objective in ensuring the same. This is more so as consumerism is ever-evolving and is likely to take different dimensions in the coming years. It is not going to disappear or pale into insignificance in the foreseeable future. Unless policy-makers are conscious about the emergent need to

effect necessary changes, including but not limited to structural changes, the existing system might crumble.

**36.** Since the essence of consumerism is embedded within the Constitution, there is absolutely no reason to fill up the Consumer fora with tenure-based offices for the Staff, Members and Presidents. While we leave it to the wisdom of the Union of India to revamp the existing structure with holistic changes, we would only implore upon it, to appreciate the pressing need for a permanent structure. Consumer fora can be given permanency through permanent staff and officers, including Presidents and Members at different levels.

**37.** The security of tenure attached to an office administering justice, enhances its efficiency and functionality. Any person appointed to an office with a fixed tenure would not be as motivated as one appointed on a permanent basis. Impermanence would affect the quality of decisions and thus, cause injury to consumers. A consumer is ideally expected to get a qualitative and timely decision from the concerned Consumer forum. Such a decision is the best advertisement for the concept of consumerism. We feel that the time has come to effect a change in mindset *qua* revamping the tenure of office in Consumer fora.

This will go a long way in developing and enhancing the concept of consumerism. We hope and trust that the Union of India would take a deeper look into this issue and act appropriately.

**38.** We may also point out that though provisions for taking action against those who have erred is part of the current legal framework, there is no clear mechanism available, similar to the one provided for under Article 227 of the Constitution.

**39.** At this juncture, we deem it fit to suggest that the Union of India may consider increasing the strength of Consumer fora at all levels.

### **ON MERITS**

**40.** Based on the aforesaid deliberation on the concept of consumerism, we shall strive to address the issues at hand. For doing so, certain factual narrations would be required.

**41.** Though we are concerned with three different sets of facts in the present Civil Appeals, two sets pertaining to the State of Maharashtra and one pertaining to the State of Telangana, we are dealing with all of them together, as the issues involved are overlapping.

**42.** The lacunae prevalent in the implementation of the 1986 Act, was substantially addressed for the first time by this Court in **State of Uttar**

**Pradesh and Others v. All Uttar Pradesh Consumer Protection Bar Association (2017) 1 SCC 444** (hereinafter referred to as “UPCPBA”), wherein directions had been issued to the Union of India, to frame Model Rules under the aforementioned statute.

**State of U.P. v. All U.P. Consumer Protection Bar Assn., (2017) 1 SCC 444**

“28. Hence in terms of the above discussion we issue the following directions:

**28.1.** The Union Government shall for the purpose of ensuring uniformity in the exercise of the rule-making power under Section 10(3) and Section 16(2) of the Consumer Protection Act, 1986 frame model rules for adoption by the State Governments. The model rules shall be framed within four months and shall be submitted to this Court for its approval;

**28.2.** The Union Government shall also frame within four months model rules prescribing objective norms for implementing the provisions of Section 10(1)(b), Section 16(1)(b) and Section 20(1)(b) in regard to the appointment of members respectively of the District Fora, State Commissions and National Commission;

**28.3.** The Union Government shall while framing the model rules have due regard to the formulation of objective norms for the assessment of the ability, knowledge and experience required to be possessed by the members of the respective fora in the domain areas referred to in the statutory provisions mentioned above. The model rules shall provide for the payment of salary, allowances and for the conditions of service of the members of the consumer fora commensurate with the nature of adjudicatory duties and the need to attract suitable talent to the adjudicating bodies. These rules shall be finalised upon due consultation with the President of the National Consumer Disputes Redressal Commission, within the period stipulated above;

**28.4.** Upon the approval of the model rules by this Court, the State Governments shall proceed to adopt the model rules by framing appropriate rules in the exercise of the rule-making powers under Section 30 of the Consumer Protection Act, 1986;

**28.5.** The National Consumer Disputes Redressal Commission is requested to formulate regulations under Section 30-A with the previous approval of the Central Government within a period of three months from today in order to effectuate the power of administrative control vested in the National

Commission over the State Commissions under Section 24-B(1)(iii) and in respect of the administrative control of the State Commissions over the District Fora in terms of Section 24-B(2) as explained in this judgment to effectively implement the objects and purposes of the Consumer Protection Act, 1986.”

**43.** Thus, this Court was pleased to hold that it would only be just and fair to ensure uniformity by way of a common set of rules applicable to the Consumer fora in all the States. Based upon the Model Rules framed by the Union Government in compliance with the aforesaid decision, the Consumer Protection (Appointment, Salary, Allowances, and Conditions of Service of President and Members of State Commission and District Forum) Rules, 2019 (hereinafter referred to as “**the 2019 Rules**”) were notified by the State of Maharashtra, invoking its power to make rules under Section 10(3), Section 13(1)(c), Section 14(3), Section 16(2) and Section 30(2) of the 1986 Act.

**44.** Thereafter, the 1986 Act was substituted by the 2019 Act, with effect from 09.08.2019. While dealing with the Finance Act, 2017, this Court, in **Rojer Mathew v. South Indian Bank Limited (2020) 6 SCC 1** (hereinafter referred to as “**Rojer Mathew**”), was pleased to hold that the composition of the concerned Selection Committee must have maximum participation of the judiciary and that it would only be

appropriate to have a minimum tenure of 5 years for the Presiding Officers and Members of the Tribunal and the Appellate Tribunal.

45. Thereafter, the Union of India came out with a fresh set of Rules, being the Consumer Protection (Qualification for appointment, method of recruitment, procedure of appointment, term of office, resignation and removal of the President and members of the State Commission and District Commission) Rules, 2020 (hereinafter referred to as “**the 2020 Rules**”) in exercise of the powers conferred under Sections 101(2)(n) and 101(2)(w) read with Sections 29 and 43 of the 2019 Act.

#### **Section 29 of the 2019 Act**

**“29. Qualifications, etc., of President and members of District Commission.**—The Central Government may, by notification, make rules to provide for the qualifications, method of recruitment, procedure for appointment, term of office, resignation and removal of the President and members of the District Commission.”

#### **Section 43 of the 2019 Act**

**“43. Qualifications, etc., of President and members of State Commission.**—The Central Government may, by notification, make rules to provide for the qualification for appointment, method of recruitment, procedure of appointment, term of office, resignation and removal of the President and members of the State Commission.”

#### **Section 101 of the 2019 Act**

**“101. Power of Central Government to make rules.**—(1) The Central Government may, by notification, make rules for carrying out any of the provisions contained in this Act.  
(2) Without prejudice to the generality of the foregoing power, such rules may provide for, —

xxx xxx xxx

(n) the qualifications for appointment, method of recruitment, procedure for appointment, term of office, resignation and removal of President and members of the District Commission under Section 29;

xxx xxx xxx

(w) the qualifications for appointment, method of recruitment, procedure for appointment, term of office, resignation and removal of the President and members of the State Commission under Section 43;”

(emphasis supplied)

46. We may point out that even under the 2020 Rules, the tenure of the Presidents and Members of the State Commission and District Commission, was fixed as 4 years. This Court, in **Madras Bar Association v. Union of India and Another (2021) 7 SCC 369** (hereinafter referred to as “MBA – III”) and **Madras Bar Association v. Union of India and Another (2022) 12 SCC 455** (hereinafter referred to as “MBA – IV”) vide decisions dated 27.11.2020 and 14.07.2021 respectively, reiterated the views expressed in **Rojer Mathew (supra)** to the effect that the tenure of office under the legislations impugned therein, must be a minimum of 5 years.
47. In the first round of litigation, a writ petition and a public interest litigation had been filed before the High Court of Bombay, laying a challenge to Rules 3(2)(b), 4(2)(c) and 6(9) of the 2020 Rules.

### **Rule 3 of the 2020 Rules**

**“3. Qualifications for appointment of President and members of the State Commission.** — (1) A person shall not be qualified for appointment as President, unless he is, or has been, a Judge of the High Court;

(2) A person shall not be qualified for appointment as a member unless he is of not less than forty years of age and possesses—

**(a) an experience of at least ten years as presiding officer of a district court or of any tribunal at equivalent level or combined service as such in the district court and tribunal:**

Provided that not more than fifty percent of such members shall be appointed; or

**(b) a bachelor's degree from a recognised university and is a person of ability, integrity and standing, and has special knowledge and professional experience of not less than twenty years in consumer affairs, law, public affairs, administration, economics, commerce, industry, finance, management, engineering, technology, public health or medicine:**

(3) At least one member or the President of the State Commission shall be a woman.”

(emphasis supplied)

### **Rule 4 of the 2020 Rules**

**“4. Qualifications for appointment of President and member of District Commission.** — (1) A person shall not be qualified for appointment as President, unless he is, or has been, or is qualified to be a District Judge.

(2) A person shall not be qualified for appointment as member unless he—(a) is of not less than thirty-five years of age;

(b) possesses a bachelor's degree from a recognised University; and

**(c) is a person of ability, integrity and standing, and having special knowledge and professional experience of not less than fifteen years in consumer affairs, law, public affairs, administration, economics, commerce, industry, finance, management, engineering, technology, public health or medicine.**

(3) At least one member or the President of the District Commission shall be a woman.”

(emphasis supplied)

### **Rule 6 of the 2020 Rules**

**“6. Procedure of appointment.** —



xxx

xxx

xxx

(9) The Selection Committee shall determine its procedure for making its recommendation keeping in view the requirements of the State Commission or the District Commission and after taking into account the suitability, record of past performance, integrity and adjudicatory experience.”

(emphasis supplied)

48. Vide judgment and order dated 14.09.2021, the Division Bench of the High Court of Bombay, declared the aforesaid Rules as unconstitutional, placing reliance on **UPCPBA (*supra*)** and **MBA - III (*supra*)**. While Rule 3(2)(b) and Rule 4(2)(c) of the 2020 Rules unreasonably fixed the eligibility criteria as experience of 20 years and 15 years for the Non-Judicial members of the State Commission and members of the District Commission respectively, Rule 6(9) of the 2020 Rules gave uncanalised power to the Selection Committee, to adopt its own procedure.

49. The decision rendered by the Division Bench of the High Court of Bombay, was challenged before this Court in **The Secretary Ministry of Consumer Affairs v. Dr. Mahindra Bhaskar Limaye & Ors., 2023 SCC OnLine SC 231** (hereinafter referred to as “**Limaye – I**”). Vide judgment dated 03.03.2023, it was held that the requirement of 20 years and 15 years of experience for eligibility as Non-Judicial members of

the State Commission and the members of the District Commission respectively, was arbitrary and that 10 years of experience is sufficient. It was also held that Rule 6(9) of the 2020 Rules, which conferred unfettered and unbridled powers on the Selection Committee, without the mandate of conducting a written examination followed by a viva voce, cannot be sustained in the eye of law. This was because the 1986 Act and the 2019 Act are *pari materia* as regards Consumer fora, and the 2019 Rules framed under the 1986 Act, provided for the conduct of written examinations *qua* appointment to the Consumer fora. Incidentally, the power conferred under Article 142 of the Constitution was exercised, issuing directions to conduct a written examination followed by viva voce for the posts of Presidents and Members of the State and District Commissions. Suggestions had been given on the manner in which the written examination, followed by viva voce, was to be conducted.

**The Secretary Ministry of Consumer Affairs v. Dr. Mahindra Bhaskar**

**Limaye & Ors., 2023 SCC OnLine SC 231**

“44. Similarly providing 20 years' experience under Rule 3(2)(b) also rightly held to be arbitrary and violative of Article 14 of the Constitution. It is required to be noted that under Section 3(2)(b), a presiding officer of a Court having experience of 10 years is eligible for becoming President of the State Commission. Even under Section 3(1) a judge of the High Court,

present or former, shall be qualified for appointment of the President. As per Article 233 of the Constitution, a lawyer needs to have only 7 years of practice as an advocate in High Court. Under the circumstances to provide 20 years' experience under Rule 3(2)(b) is rightly held to be unconstitutional, arbitrary and violative of the Article 14 of the Constitution of India. We are in complete agreement with the view taken by the High Court. At this stage, it is required to be noted that in the case of Madras Bar Association (supra) - MBA III, this Court directed to consider 10 years' experience, after detail reasoning.

**45.** In view of the above and for the reasons stated above, we see no reason to interfere with the impugned judgment and order passed by the High Court declaring Rule 3(2)(b), Rule 4(2)(c) and Rule 6(9) of the Consumer Protection (Qualification for appointment, method of recruitment, procedure of appointment, term of office, resignation and removal of President and Members of State Commission and District Commission) Rules, 2020 as arbitrary, unreasonable and violative of Article 14 of the Constitution of India. The Central Government and the concerned State Governments have to amend Rules, 2020, more particularly, Rule 6(9) of the Rules, 2020, providing that the Selection Committee shall follow the procedure for appointment as per Model Rules, 2017 and to make the appointment of President and Members of the State Commission and the District Commission on the basis of the performance in written test consisting of two papers of 100 marks each and 50 marks for viva voce and the written test consisting of two papers may be as per the following schemes:—

Paper	Topics	Nature of test	Max. marks	Duration
Paper-I	(a) General Knowledge and current affairs  (b) Knowledge of Constitution of India  (c) Knowledge of various Consumers related Laws as indicated in the Schedule	Objective Type	100	2 hours

Paper-II	<p>(a) One Essay on topics chosen from issues on trade and commerce consumer related issues or Public Affairs.</p> <p>(b) One case study of a consumer case for testing the abilities of analysis and cogent drafting of orders.</p>	Descriptive type	100	3 hours
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**46.** The Central Government and the concerned State Governments have also to come with an amendment in the Rules, 2020 to provide 10 years' experience to become eligible for appointment of President and Member of the State Commission as well as the District Commission instead of 20 years and 15 years respectively, provided in Rule 3(2)(b) and Rule 4(2)(c) which has been struck down to the extent providing 20 years and 15 years of experience, respectively. Till the suitable amendments are made in Consumer Protection (Qualification for appointment, method of recruitment, procedure of appointment, term of office, resignation and removal of President and Members of State Commission and District Commission) Rules, 2020 as above, in exercise of powers under Article 142 of the Constitution of India and to do complete justice, we direct that in future and hereinafter, a person having bachelor's degree from a recognized University and who is a person of ability, integrity and standing, and having special knowledge and professional experience of not less than 10 years in consumer affairs, law, public affairs, administration, economics, commerce, industry, finance, management, engineering, technology, public health or medicine, shall be treated as qualified for appointment of President and Members of the State Commission. Similarly, a person of a person of ability, integrity and standing, and having special knowledge and professional experience of not less than 10 years in consumer affairs, law, public affairs, administration, economics, commerce, industry, finance, management, engineering, technology, public health or medicine, shall be treated as qualified for appointment of President and Members of the District Commissions. We also direct under Article 142 of the Constitution of India that for appointment of President and Members of the State Commission and District Commission, the appointment shall be made on the basis of performance in written test consisting of two papers as per the following scheme: —

Paper	Topics	Nature of test	Max. marks	Duration
Paper-I	(a) General Knowledge and current affairs  (b) Knowledge of Constitution of India  (c) Knowledge of various Consumers related Laws as indicated in the Schedule	Objective Type	100	2 hours
Paper-II	(a) One Essay on topics chosen from issues on trade and commerce consumer related issues or Public Affairs.  (b) One case study of a consumer case for testing the abilities of analysis and cogent drafting of orders.	Descriptive type	100	3 hours

**47. The qualifying marks in each paper shall be 50 per cent and there shall be viva voce of 50 marks. Therefore, marks to be allotted out of 250, which shall consist of a written test consisting two papers, each of 100 marks and the 50 marks on the basis of viva voce.”**

(emphasis supplied)

50. After the judgment was pronounced by this Court on 03.03.2023, a notice had been issued on 23.05.2023 by the State of Maharashtra, inviting applications for the posts of Members of the State Commission and Presidents and Members of the District Commission (hereinafter referred to as “**the advertisement**”). Prior to the aforesaid advertisement, a Selection Committee had been constituted by the State of Maharashtra, in which a nominee of the Hon’ble the Chief Justice of the High Court of Bombay, was made the Chairperson vide notification dated 10.04.2023, which was reconstituted vide notification dated 13.06.2023 (hereinafter referred to as “**the notifications**”).

51. Three writ petitions had been filed before the High Court of Bombay, bearing Writ Petition Nos. 3680/2023, 2107/2023 and 2496/2023, laying a challenge to Rules 6(1) and 10(2) of the 2020 Rules, the advertisement and the notifications. Incidentally, in two of the aforesaid writ petitions, reappointment had also been sought for. We may hasten to add that all the writ petitions had been filed by interested persons. Broadly, the writ petitioners comprised practicing advocates seeking appointment, and functioning Members and Presidents of the District Commissions in the State of Maharashtra, who sought reappointment to

their respective posts. There were also intervenors, some of whom supported the case of the writ petitioners, while the others supported the stand taken by the State of Maharashtra.

### **Rule 6 of the 2020 Rules**

**“6. Procedure of appointment.**—(1) The President and members of the State Commission and the District Commission shall be appointed by the State Government on the recommendation of a Selection Committee, consisting of the following persons, namely:—

**(a) Chief Justice of the High Court or any Judge of the High Court nominated by him- Chairperson;**

**(b) Secretary in charge of Consumer Affairs of the State Government – Member;**

**(c) Nominee of the Chief Secretary of the State—Member.**

(2) The Secretary in charge of Consumer Affairs of the State Government shall be the convener of the Selection Committee.

(3) No appointment of the President, or of a member shall be invalid merely by reason of any vacancy or absence in the Selection Committee other than a vacancy or absence of the Chairperson.”

(emphasis supplied)

### **Rule 10 of the 2020 Rules**

**“10. Term of office of President or Member.**—(1) The President of the State Commission shall hold office for a term of four years or upto the age of sixty-seven years, whichever is earlier and shall be eligible for reappointment for another term of four years subject to the age limit of sixty-seven years, and such reappointment shall be made on the basis of the recommendation of the Selection Committee.

**(2) Every member of the State Commission and the President and every member of the District Commission shall hold office for a term of four years or upto the age of sixty-five years, whichever is earlier and shall be eligible for reappointment for another term of four years subject to the age limit of sixty-five years, and such reappointment shall**

be made on the basis of the recommendation of the Selection Committee.”

(emphasis supplied)

52. We also take note of a separate writ petition filed before the High Court of Bombay, bearing Writ Petition No. 3756/2023 (*Suhas Milind Untwale v. State of Maharashtra*), whereby the petitioner therein sought appointment to the post of a Judicial Member of the State Commission, having already served as a President of the concerned District Commission for two consecutive terms. In essence, clarification of the directions issued by this Court in **Limaye - I** (*supra*), was sought for, *qua* appointment under Rule 3(2)(a) of the 2020 Rules.

53. In the meanwhile, the Consumer Protection (Qualification for appointment, method of recruitment, procedure of appointment, term of office, resignation and removal of the President and members of the State Commission and District Commission) Amendment Rules, 2023 were notified by the Union of India, with effect from 21.09.2023, incorporating the directions issued in **Limaye – I** (*supra*).

54. It has been brought to our attention that 112 persons, including some of the appellants before us, have been appointed to the posts of Members of the State Commission, and Presidents and Members of the District



Commissions, vide order dated 05.10.2023, by the State of Maharashtra, pursuant to a written examination, followed by viva voce. Consequently, the requests seeking reappointment were rejected by the State of Maharashtra, vide order dated 06.10.2023.

**55.**The High Court of Bombay, vide judgment dated 20.10.2023 (hereinafter referred to as **“Impugned Order - I”**), impugned before us in Civil Appeal Nos. 9982/2024, 9987/2024, 9983-9985/2024, 9989/2024, 9990/2024 and 9965-9967/2024, has partly allowed the writ petitions and struck down Rules 6(1) and 10(2) of the 2020 Rules, finding them to be legally unsustainable, and has also quashed the notifications, and the advertisement insofar as Paper II is concerned.

**56.**As regards Rule 6(1) of the 2020 Rules, the High Court of Bombay found that it suffered from the following infirmities:

- a. Since the Chairperson is the sole representative of the Judiciary in the three Member Selection Committee, there is a lack of judicial dominance, which is a direct contravention of the doctrine of separation of powers and also an encroachment on the judicial domain.

b. There is excessive interference of the Executive in the appointment of Presidents and Members of the State and District Commissions.

Accordingly, the said Rule was found to be in violation of the law laid down in **Roger Mathew** (*supra*), **MBA-III** (*supra*) and **MBA-IV** (*supra*). The contention of the State, that Rule 6(3) of the 2020 Rules would save the constitution of the Selection Committee from being declared invalid, was rejected. Consequently, the notifications were also quashed.

**57.**As regards Rule 10(2) of the 2020 Rules, it was found that the reduction of the tenure of office from five years as it existed under the 2019 Rules, to four years, was not legally sustainable, especially in view of the dictum in **MBA – III** (*supra*).

**58.**On the issue of reappointment under Rule 10(2) of the 2020 Rules, it was held that since Rule 6(9) of the 2020 Rules, dealing with the power of the Selection Committee to determine its procedure, had been struck down previously, no power was available with the Selection Committee to determine its procedure for making recommendations for reappointments. It was held that until Rule 6(9) of the 2020 Rules was suitably amended, the Selection Committee could be guided by the

procedure for reappointment that was prevailing under Rule 8(18) of the 2019 Rules.

**59.**As regards the advertisement, upon finding deviations in the conduct of the written examination vis-à-vis the directions issued in **Limaye- I (supra)**, Paper II of the said advertisement was held to be without jurisdiction. The High Court of Bombay deemed it necessary for the written examination *qua* Paper II, to be re-conducted, adhering to the directions issued in **Limaye - I (supra)**. Finally, on the issue regarding inclusion of important consumer related laws in the syllabus for the written examination, the High Court of Bombay found that it was impermissible to make any addition, alteration or modification to the directions issued in **Limaye – I (supra)**.

**60.**The High Court of Bombay, taking note of the facts of the case, had stayed the effect and operation of **Impugned Order – I** for a period of four weeks.

**61.**At this juncture, we may point out that most of the candidates appointed vide order dated 05.10.2023, by the State of Maharashtra, had not been arrayed as parties before the High Court of Bombay in the aforementioned writ petitions aggrieved by which, some of the present

appeals have been filed. The State of Maharashtra as well as the Union of India are also before us challenging **Impugned Order - I**, apart from one of the writ petitioners before the High Court of Bombay himself. Intervention applications have also been filed before us, by persons similarly placed as some of the appellants.

62. The High Court of Bombay, vide a separate judgment dated 20.10.2023 (hereinafter referred to as “**Impugned Order - II**”), impugned before us in Civil Appeal No. 9988/2024, has held that the directions issued by this Court in **Limaye - I (supra)** *qua* the conduct of the written examination, relate only to the appointment of Non-Judicial members of the State Commission and members of the District Commissions. It held so on the basis that this Court in **Limaye - I (supra)**, was only concerned with the validity of Rules 3(2)(b) and 4(2)(c) of the 2020 Rules, which pertain to the posts of Non-Judicial Members of the State and Members of the District Commissions, and no challenge to the validity of Rule 3(2)(a) of the 2020 Rules, which deals with the post of a Judicial Member of the State Commission, had been made. Accordingly, the advertisement was also restricted to appointments of Non-Judicial members of the State Commission alone and the

candidature of the writ petitioner therein was directed to be considered under Rule 3(2)(a) of the 2020 Rules.

**63.**The Division Bench of the High Court of Telangana, vide judgment dated 22.02.2024 (hereinafter referred to as “**Impugned Order - III**”), impugned before us in Civil Appeal Nos. 10029/2024 and 9964/2024, was pleased to confirm the order of the learned Single Judge of the High Court of Telangana dated 31.01.2024, wherein the appointments of the respondents therein, to the post of Members of the District Commission, pursuant to a written examination and viva voce, was set aside. This was done on the premise that the Rules, based on which the respondents therein had been appointed, had been struck down by the Division Bench of the High Court of Bombay vide judgment and order dated 14.09.2021, prior to the issuance of the selection notification in Telangana, and at the time that the said notification had been issued, the operation of the aforementioned judgment had not been suspended, and was subsequently upheld in **Limaye- I (supra)**. Despite having taken note of the fact that the entire selection process was concluded prior to the directions issued in **Limaye - I (supra)**, it was found that the examination was not conducted in tune with the same.

64. Before we deal with the submissions of the parties, we take note of the interim order passed by us on 10.11.2023, wherein this Court had taken note of the fact that appointments had been made by the State of Maharashtra on 05.10.2023, after the judgment had been reserved by the High Court of Bombay on 01.09.2023, but before it was pronounced on 20.10.2023, and since the persons who were working at the time would stand to be removed as a consequence of **Impugned Order - I**, the interim stay granted by the High Court of Bombay was directed to remain in operation till 24.11.2023. The said interim order has been extended from time to time.

### **SUBMISSIONS**

65. We have heard the learned Additional Solicitor General (ASG) Ms. Aishwarya Bhati, appearing for the Union of India, learned Senior counsel and learned counsel appearing for the respective parties. We have also carefully perused the written arguments along with the documents, filed by all the parties in respect of their respective contentions.

**Qua the Review Petitions seeking clarification of Limaye - I**

66.Learned counsel appearing for the review petitioners submitted that **Limaye - I (*supra*)** had mandated the conduct of a written examination followed by a viva voce, despite several States having expressed their difficulty in doing so. It is their contention that it is virtually impossible for persons seeking appointment to the posts of President of the State Commission who must be a former Judge of the High Court, Judicial Members of the State Commission and Presidents of the District Commissions, having a judicial background, to undergo a written examination followed by a viva voce. Reliance has been placed on the Rules framed by the Government of Tamil Nadu under the 1986 Act, following the Model Rules framed by the Central Government, including Rule 5(7) of the Model Rules, which indicated the manner in which judicial persons could be considered for membership to the Consumer fora.

**Qua Impugned Order - I**

67.Learned counsel appearing for the appellants in Civil Appeal Nos. 9982/2024, 9987/2024 and 9983-9985/2024, submitted that **Impugned**

**Order – I** cannot be sustained in the eye of law on the following grounds:

- a) It had not been brought to the notice of the High Court of Bombay that the entire recruitment process had been completed, and that the appellants have been duly appointed by the State of Maharashtra vide order dated 05.10.2023.
- b) The High Court of Bombay had no opportunity to consider the amended Rules 3(2)(b), 4(2)(c) and 6(9) of the 2020 Rules, which were notified while the matter was heard and reserved for orders.
- c) The principles of natural justice have been violated inasmuch as the new appointees, who include the appellants, were not made parties before the High Court of Bombay.
- d) Despite having been selected, Dr. Mahendra Bhaskar Limaye, the respondent herein, had challenged the 2020 Rules, instead of joining the service.
- e) Rule 8(18) of the 2019 Rules, having been repealed, could not have been brought into operation as an interim arrangement.



- f) Any possible contingency that might arise in giving effect to Rule 6(1) of the 2020 Rules is taken care of under Rule 6(3) of the 2020 Rules.
- g) Section 102 of the 2019 Act, which specifically empowers the State Government to prescribe the mode of recruitment, has been completely ignored and glossed over.
- h) The ratio in **Rojer Mathew (*supra*)**, **MBA- III (*supra*)** and **MBA - IV (*supra*)**, are inapplicable to the facts of the present case, as the aforesaid judgments dealt with Tribunals where the State is usually the litigant.

**68.** Learned counsel appearing for the appellants in Civil Appeal No. 9990/2024 submitted that having gone through the examination process for selection for the first term, the appellants are not required to undergo the said process once again for the purpose of reappointment. It is contended that Rule 6(9) and Rule 10(2) of the 2020 Rules, are independent of each other, and that the process for fresh appointment and reappointment of candidates cannot be equated with each other. To buttress the aforesaid submissions, learned counsel has placed reliance on the decision of the High Court of Bombay dated 18.02.2019 in Writ

Petition No. 4974/2018 (*Mukund v. State of Maharashtra*). Learned counsel has also submitted that all the appointments made under the 1986 Act, were saved under Section 31 read with Section 107 of the 2019 Act. Hence, the ‘right accrued for re-appointment’ as per Rule 10 of the 2020 Rules, would have to be recognised on the basis of Rule 34 of the Maharashtra Consumer Protection Appointment Rules, 2012 and Rule 8(18) of the 2019 Rules read with Rule 14 of the Consumer Protection (Salary, allowance and conditions of service of President and Members of State and District Commission) Model Rules, 2020 made under Section 102(1) of the 2019 Act, by the Central Government. The said Rule 14 clearly specifies that the terms and conditions of service of the Presidents and Members of the State and District Commissions shall not be varied to their disadvantage during the tenure of their office.

69. Similar submissions have been made by some of the intervenors, with a few seeking reappointments for a second term and others for a third. As regards those who were seeking reappointment for the third term, we have already held, vide order dated 27.06.2024, that no one is

entitled to continue for a third term on the basis of our interim order dated 10.11.2023.

70. Learned counsel appearing for the appellant Dr. Mahendra Bhaskar Limaye in Civil Appeal No. 9989/2024 seeking quashing of the advertisement *qua* Paper I, submitted that the syllabus for the written examination was in complete contradiction to and in violation of the directions issued in **Limaye – I** (*supra*). The High Court of Bombay failed to note that the rules of the game *qua* negative marking were changed by the State of Maharashtra, just 24 hours before the date of the written examination. The High Court of Bombay also failed to take cognizance of events subsequent to the judgment being reserved on 01.09.2023, despite the appellant bringing them to its notice on 06.10.2023, by mentioning the matter and subsequently filing a pursis. The results were declared on 15.09.2023, which displayed that the total marks for Paper I of the advertisement had been arbitrarily reduced to 90 marks, so as to give an undue advantage to undeserving candidates. The State of Maharashtra had arbitrarily added marks for candidates, despite there being no such provision for doing so under the 2020 Rules. Furthermore, candidates were asked to write their names on their

respective answer sheets, which resulted in the violation of the principle of impartiality. It is thus contended that the appointment order issued by the State of Maharashtra on 05.10.2023, is illegal. To buttress his submission, learned counsel has placed reliance on the 2019 Act, to contend that rule making powers are only with the Union of India and the State Government has no power to introduce its own manner of conducting the examination, in the absence of a rule in place of Rule 6(9) of the 2020 Rules struck down in **Limaye – I (supra)**. Any attempt by the State Government to determine its own process of conducting the examination, otherwise than in accordance with the process provided for in **Limaye – I (supra)**, is illegal.

71. Learned ASG appearing for the Union of India in Civil Appeal Nos. 9965-9967/2024, submitted that any possible contingency that might arise in giving effect to Rule 6(1) of the 2020 Rules, is taken care of by Rule 6(3) of the 2020 Rules. On the validity of Rule 10(2) of the 2020 Rules, she submitted that the term of office of the President and Members of the National Commission is 4 years, and therefore, there cannot be two different tenures of office within the hierarchy of Consumer fora. In any case, the term of office is purely a policy

decision, in view of the Central Government having been empowered to make rules under clauses (n) and (w) of Section 101(2) of the 2019 Act. She also submitted that the phrase ‘another term’ used in Rule 10(2) of the 2020 Rules, means one more term and thus, none would be entitled to reappointment for a third term. The decision of the High Court of Bombay dated 18.02.2019, in Writ Petition No. 4974/2018 (*Mukund v. State of Maharashtra*), is not applicable to the facts of the present case as the rules concerned therein have ceased to operate after the enactment of the 2019 Act. Upon making these submissions, it has been fairly conceded on behalf of the Union of India that a fresh set of Rules would be enacted replacing the existing Rules, after taking note of the lacunae pointed out by the concerned stakeholders. We have also been informed that the Department of Consumer Affairs, vide Letter dated 26.11.2024, emphasised on the need to expedite the process of appointments and that under Rule 6(9) of the 2020 Rules, as amended in 2023, many States such as Rajasthan, Uttar Pradesh, West Bengal, and the Union Territory of the Andaman & Nicobar Islands had started advertising vacancies in the Commissions and conducting examinations.

72. The Union of India in IA No. 97449/2024 has proposed an amendment to the 2020 Rules, amended in 2023, as follows:

<b><u>2020 Rules as amended in 2023</u></b>	<b><u>Proposed Amendment</u></b>
<p><b><u>4. Qualifications for appointment of President and member of District Commission.—</u></b></p> <p>(1) A person shall not be qualified for appointment as President, unless he is, or has been, or is qualified to be a District Judge.</p>	<p><b><u>4. Qualifications for appointment of President and member of District Commission.—</u></b></p> <p>(1) A person shall not be qualified for appointment as President, unless he is, or has been a District Judge.</p>
<p><b><u>6. Procedure of appointment.—</u></b></p> <p>(1) The President and members of the State Commission and the District Commission shall be appointed by the State Government on the recommendation of a Selection Committee, consisting of the following persons, namely:-</p> <p>(a) Chief Justice of the High Court or any Judge of the High Court nominated by him- Chairperson;</p> <p>(b) Secretary in charge of Consumer Affairs of the State Government – Member;</p> <p>(c) Nominee of the Chief Secretary of the State – Member.</p>	<p><b><u>6. Procedure of appointment.—</u></b></p> <p>(1) The President and members of the State Commission and the District Commission shall be appointed by the State Government on the recommendation of a Selection Committee, consisting of the following persons, namely:-</p> <p>(a) Chief Justice of the High Court or any Judge of the High Court nominated by him- Chairperson;</p> <p>(b) President of the State Commission- Member;</p> <p>(c) Secretary in charge of Consumer Affairs of the State Government – Member;</p> <p>(d) Nominee of the Chief Secretary of the State, not below the level of Secretary to the State Government– Member.</p>

	<p>Provided that in case of the President of the State Consumer Disputes Redressal Commission is seeking re-appointment, there shall be a retired Judge of the Supreme Court or a retired Chief Justice of a High Court, to be nominated by the Chief Justice of India.</p>
<p><b><u>6. Procedure of appointment.—</u></b>  (9) The Selection Committee shall short-list the applicant on the basis of performance in a written test consisting of two papers as specified in the table below, with the qualifying marks of fifty percent in each paper and there shall be viva voce of 50 marks.</p>	<p><b><u>6. Procedure of appointment.—</u></b>  (9) The Selection Committee shall shortlist the applicants for the office of President of the State Commission or the District Commission, as the case may be, on the basis of a personal interaction and shall give due weightage inter alia to the personality, knowledge of law, quality of the judgments, adjudicatory experience, integrity and special achievements.  (9A) The President of the State Commission maybe appointed on whole time basis or by assigning additional charge to a sitting Judge of the High Court.  Provided that appointment of a sitting Judge of High Court, either on whole time basis or on additional charge, shall not be made without the concurrence of the Chief Justice of the High Court.  (9B) The Selection Committee shall determine its procedure for shortlist of the applicants for the</p>

	office of Member of the State Commission or of the District Commission, as the case may be, and make its recommendation keeping in view the requirements of the State Commission or the District Commission, and after taking into account the suitability, record of past performance, integrity and adjudicatory experience.
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73. IA No. 180566/2024 and IA No. 27612/2025 in Civil Appeal Nos. 9965-9967/2024, have been filed by an advocate and by persons who are currently serving as Presidents of District Commissions, respectively. They oppose the proposed amendment to Rule 4(1) of the 2020 Rules, as amended in 2023. It is their contention that the omission of the phrase “qualified to be a District Judge”, from the qualification for appointment to the post of President of the District Commissions, violates principles of Administrative Law and is contrary to Article 233(2) of the Constitution.

#### **Qua Impugned Order - II**

74. Learned counsel appearing for the State of Maharashtra in Civil Appeal No. 9988/2024 submitted that **Impugned Order - II** cannot be sustained in the eye of law, as appointments to the posts of Judicial and



Non-Judicial Members of the State Commission under Rule 3(2)(a) and Rule 3(2)(b) of the 2020 Rules respectively, have merged in view of the directions issued in **Limaye - I (supra)**. Thus, without undergoing the process as contemplated in **Limaye - I (supra)** vis-à-vis the written examination and the viva voce, the writ petitioner therein, would not be eligible to seek appointment to the post of Judicial Member of the State Commission.

### **Qua Impugned Order - III**

75. Learned counsel appearing for the appellants in Civil Appeal Nos. 10029/2024 and 9964/2024 submitted that **Impugned Order – III** cannot be sustained, as **Limaye – I (supra)** operates prospectively and that the judgment and order dated 14.09.2021 passed by the Division Bench of the High Court of Bombay, which was impugned and upheld in **Limaye- I (supra)**, is inapplicable to the facts of the aforementioned appeals. Learned counsel also submitted that the appointments of the appellants were protected by virtue of the interim orders of this Court in *Suo Motu Writ Petition (Civil) No. 2/2021* and Civil Appeal No. 9982/2024. Moreover, the respondent herein had herself participated in

the recruitment process, and therefore, was not entitled to question the same.

## **DISCUSSION**

76. Having heard the learned Additional Solicitor General (ASG) Ms. Aishwarya Bhati, appearing for the Union of India, learned Senior counsel and learned counsel appearing for the respective parties, we shall now proceed to analyse the merit in their respective submissions.

77. Considering that the issues raised in the Review Petitions are similar to the ones raised in the Civil Appeals, we deem it fit to tag them and pass a common judgment.

### **Qua the Review Petitions seeking clarification of Limaye - I**

78. Vide interim order dated 07.03.2024, this Court had already taken note of the anomaly created in **Limaye - I** (*supra*), vis-à-vis the requirement of holding written examinations and viva voce for persons with a judicial background, seeking appointment under Rules 3(1), 3(2)(a) and 4(1) of the 2020 Rules. Accordingly, on a concession by the parties, the requirement of holding a written examination and viva voce was relaxed for the post of President of the State Commission, as an interim measure, clarifying that appointments would be made in consultation

with and subject to the concurrence of the Chief Justice of the High Court.

“1. In the judgment of this Court in *The Secretary Ministry of Consumer Affairs vs Dr Mahindra Bhaskar Limaye* (Civil Appeal No.831 of 2023), directions were issued on 3 March 2023, *inter alia*, in the exercise of the jurisdiction under Article 142 of the Constitution that for the appointment of the President and Members of the State Consumer Disputes Redressal Commission (SCDRC) and the District Consumer Redressal Commissions, the basis for selection would be a written test consisting of two papers, each of 100 marks followed by a *viva voce*. The judgment sets out the total marks to be assigned as well as the minimum qualifying marks by directing that the total marks would comprise of 250, of which the written test would carry 200 marks and *viva voce* 50 marks.

**2. A considerable difficulty has been faced in working out of the directions under Article 142 of the Constitution. In this backdrop, an interlocutory Application has been filed by the Union Government.**

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4. During the course of the hearing, **it is conceded on both the sides that no written test would be either feasible or practical for the appointment of the President of the SCDRC for which a former Judge of the High Court is eligible for appointment. Hence, insofar as appointments to the post of President of the SCDRC are concerned, we direct that the requirement of holding a written examination and *viva voce* in the terms as envisaged shall stand relaxed for the present.** At the same time, it is clarified that the appointments to the office of President of the SCDRC shall be made in consultation with and subject to the concurrence of the Chief Justice of the High Court.”

(emphasis supplied)

79. We also take note of our order dated 11.11.2024 in Miscellaneous Application No. 2449/2023 in Civil Appeal No. 831/2023, filed by the Secretary, Ministry of Consumer Affairs, wherein it was clarified that the aforesaid relaxation would enure to the benefit of persons seeking

appointment to the post of President of the State Commissions across the country.

- 80.**It appears to us that by inadvertence, the directions issued in **Limaye – I (*supra*)** were made applicable to the posts of President of the State Commission, Judicial Members of the State Commission and the President of the District Commission. The *lis* before this Court in **Limaye - I (*supra*)**, being only with respect to the constitutional validity of Rules 3(2)(b), 4(2)(c) and 6(9) of the 2020 Rules, the directions issued therein shall not be applicable to the posts of President of the State Commission, Judicial Members of the State Commission, and President of the District Commission.
- 81.**In light of the aforesaid discussion, the review petitions seeking to clarify the directions issued in **Limaye - I (*supra*)** stand allowed to the extent that there shall be no requirement of a written examination followed by a viva voce for selection to the posts of President of the State Commission, Judicial Members of the State Commission and President of the District Commission under Rules 3(1), 3(2)(a) and 4(1) of the 2020 Rules, respectively.

## **Oua Impugned Order - I**

82. Before we proceed to deal with the submissions in these appeals, we

deem it fit to extract the directions issued by the High Court of Bombay

in **Impugned Order - I**.

“31. In the light of aforesaid discussion, the following order is passed:—

(A) Rule 6(1) of the Rules of 2020 is struck down on the ground that the same results in diluting the involvement of the judiciary in the process of appointment of the President and members of the State Commission and the District Commission. The said Rule is against the spirit of the decision of the Constitution Bench in *Rojer Mathew* (supra).

(B) Since Rule 6(1) of the Rules of 2020 has been struck down the notifications dated 10.04.2023 and 13.06.2023 would not survive.

(C) Rule 10(2) of the Rules of 2020 to the extent it prescribes the tenure of the members of the State Commission and the President and members of the District Commission to be four years is struck down as not being in consonance with the spirit of the law laid down in the *Madras Bar Association III* (supra).

(D) Since re-appointment of members of the State Commission and the President as well as members of the District Commission under Rule 10(2) of the Rules of 2020 is on the basis of recommendation to be made by the Selection Committee and as Rule 6(9) of the Rules of 2020 has been struck down in *Vijaykumar Bhima Dighe* (supra), till the time Rule 6(9) of the Rules of 2020 is suitably amended the Selection Committee can consider following the procedure for the appointment of members of the State Commission and the President as well as members of the District Commission by taking into consideration the procedure that was prevailing *vide* Rule 8(18) of the Rules of 2019.

(E) The notice issued by the Department of Food, Civil Supplies and Consumer Affairs alongwith the advertisement dated 23.05.2023 in relation to Paper-II is held to be without jurisdiction. Consequently, it would be necessary for the Department to re-conduct the test in Paper-II by following the directions issued by the Hon'ble Supreme Court under Article 142 of the Constitution of India in *The Secretary, Ministry of Consumer Affairs* (supra).

(F) In view of the decision in *Suhas Milind Untwale Versus The State of Maharashtra [Writ Petition No. 3756 of 2023]* decided today, it is held that the notice annexed to the advertisement dated 23.05.2023 that pertains to the appointment on the post of Member, State Commission would be applicable only to a candidate seeking appointment in terms of Rule 3(2)(b)

and not a candidate seeking appointment in terms of Rule 3(2)(a) of the Rules of 2020.”

**a) Rule 6(1) and Rule 10(2) of the 2020 Rules**

**83.** Upon a perusal of the **Impugned Order - I**, we find that the decision of the High Court of Bombay, in striking down Rule 6(1) of the 2020 Rules and the consequent notifications, cannot be found fault with. Rule 6(1) of the 2020 Rules, which provides for the composition of the Selection Committee, has been rightly struck down, placing reliance upon the doctrine of separation of powers and earlier decisions of this Court in **Rojer Mathew (*supra*)**, **MBA - III (*supra*)** and **MBA - IV (*supra*)**, as the composition of the Selection Committee as per the said Rule indicates executive dominance. The setting aside of the notifications is merely consequential.

**Rojer Mathew v. South Indian Bank Ltd., (2020) 6 SCC 1**

“**148.** Composition of a Search-cum-Selection Committee is contemplated in a manner whereby appointments of Member, Vice-President and President are predominantly made by nominees of the Central Government. A perusal of the Schedule to the Rules shows that save for token representation of the Chief Justice of India or his nominee in some committees, the role of the judiciary is virtually absent.

**149.** We are in agreement with the contentions of the learned counsel for the petitioner(s), that the lack of judicial dominance in the Search-cum-Selection Committee is in direct contravention of the doctrine of separation of powers and is an encroachment on the judicial domain. **The doctrine of separation of powers has been well recognised and reinterpreted by this Court as an important facet of the basic structure of the Constitution, in its dictum in *Kesavananda Bharati v. State of Kerala* [**

**(1973) 4 SCC 225] , and several other later decisions. The exclusion of the judiciary from the control and influence of the executive is not limited to traditional courts alone, but also includes Tribunals since they are formed as an alternative to courts and perform judicial functions.**

**150. Clearly, the composition of the Search-cum-Selection Committees under the Rules amounts to excessive interference of the executive in appointment of members and Presiding Officers of statutory tribunals and would undoubtedly be detrimental to the independence of judiciary besides being an affront to the doctrine of separation of powers.**

**151.** In *R.K. Jain v. Union of India* [*R.K. Jain v. Union of India*, (1993) 4 SCC 119 : 1993 SCC (L&S) 1128], a three-Judge Bench of this Court asserted the need for independent system of appointment and administration of Tribunals to maintain public trust in the judiciary while expressing its agony over inefficacy of the working of tribunals in the country. In addition to discussing the perils of providing direct statutory appeals to the Apex Court from the tribunals, it was also suggested that there is an imminent need for reform in the manner of recruitment of Members of tribunals to maintain public faith in the institution of judiciary. Adjudication of disputes by Technical Members should be confined only to cases requiring specialised technical knowledge. (*Union of India v. Madras Bar Assn.* [(2010) 11 SCC 1] and *Madras Bar Assn. v. Union of India* [(2014) 10 SCC 1] , SCC paras 107 and 126)

**152.** Subsequently, in its dictum in *L. Chandra Kumar v. Union of India* [(1997) 3 SCC 261 : 1997 SCC (L&S) 577], a seven-Judge Bench of this Court noted the observations in the Malimath Committee Report, discussing the administration of the tribunals established under Article 323-A and Article 323-B of the Constitution. The Malimath Committee Report had pointed out that a tribunal constituted in substitution of any other court should have similar standards of appointment, qualifications and conditions of service, to inspire the confidence of the public at large. Shortcomings in composition, tenure, conditions of service, etc. of the Members of tribunals were also highlighted in the Report as reasons for increased intervention by the executive in the working of judicial institutions. The relevant extract is reproduced below : (SCC pp. 305-06, para 88)

“88. ... The observations contained in the Report, to this extent they contain a review of the functioning of the tribunals over a period of three years or so after their institution, will be useful for our purpose. Chapter VIII of the second volume of the Report, “*Alternative Modes and Forums for Dispute Resolution*”, deals with the issue at length. After forwarding its specific recommendations on the feasibility of setting up “Gram

Nyayalayas”, Industrial Tribunals and Educational Tribunals, the Committee has dealt with the issue of tribunals set up under Articles 323-A and 323-B of the Constitution. The relevant observations in this regard, being of considerable significance to our analysis, are extracted in full as under:

*‘Functioning of tribunals*

8.63. Several tribunals are functioning in the country. *Not all of them, however, have inspired confidence in the public mind.* The reasons are not far to seek. *The foremost is the lack of competence, objectivity and judicial approach. The next is their constitution, the power and method of appointment of personnel thereto, the inferior status and the casual method of working. The last is their actual composition; men of calibre are not willing to be appointed as Presiding Officers in view of the uncertainty of tenure, unsatisfactory conditions of service, executive subordination in matters of administration and political interference in judicial functioning.* For these and other reasons, the quality of justice is stated to have suffered and the cause of expedition is not found to have been served by the establishment of such tribunals.

8.64. Even the experiment of setting up of the Administrative Tribunals under the Administrative Tribunals Act, 1985, has not been widely welcomed. Its members have been selected from all kinds of services including the Indian Police Service. The decision of the State Administrative Tribunals are not appealable except under Article 136 of the Constitution. On account of the heavy cost and remoteness of the forum, there is virtual negation of the right of appeal. This has led to denial of justice in many cases and consequential dissatisfaction. There appears to be a move in some of the States where they have been established for their abolition.

*Tribunals—Tests for Including High Court's Jurisdiction*

8.65. A Tribunal which substitutes the High Court as an alternative institutional mechanism for judicial review must be no less efficacious than the High Court. *Such a tribunal must inspire confidence and public esteem that it is a highly competent and expert mechanism with judicial approach and objectivity. What is needed in a tribunal, which is intended to supplant the High Court, is legal training and experience, and judicial acumen, equipment and approach.* **When such a tribunal is composed of personnel drawn from the judiciary as well as from services or from amongst experts in the field, any weightage in favour of the service members or expert members and value-discounting the Judicial Members would render the tribunal less effective and efficacious than the High Court. The Act setting up such a tribunal would itself have to be declared as void under such circumstances. The same would not at all be conducive to judicial independence and may even tend,**



**directly or indirectly, to influence their decision-making process, especially when the Government is a litigant in most of the cases coming before such tribunal.** (See *S.P. Sampath Kumar v. Union of India* [(1987) 1 SCC 124].) The protagonists of specialist tribunals, who simultaneously with their establishment want exclusion of the writ jurisdiction of the High Courts in regard to matters entrusted for adjudication to such tribunals, ought not to overlook these vital and important aspects. *It must not be forgotten that what is permissible to be supplanted by another equally effective and efficacious institutional mechanism is the High Courts and not the judicial review itself.* Tribunals are not an end in themselves but a means to an end; even if the laudable objectives of speedy justice, uniformity of approach, predictability of decisions and specialist justice are to be achieved, the framework of the tribunal intended to be set up to attain them must still retain its basic judicial character and inspire public confidence. Any scheme of decentralisation of administration of justice providing for an alternative institutional mechanism in substitution of the High Courts must pass the aforesaid test in order to be constitutionally valid.’ ”

(emphasis in original)

**153. We are of the view that the Search-cum-Selection Committee as formulated under the Rules is an attempt to keep the judiciary away from the process of selection and appointment of Members, Vice-Chairman and Chairman of Tribunals.** This Court has been lucid in its ruling in *Supreme Court Advocates-on-Record Assn. v. Union of India* [(2016) 5 SCC 1] (*Fourth Judges case*), wherein it was held that **primacy of judiciary is imperative in selection and appointment of judicial officers including Judges of the High Court and the Supreme Court. Cognizant of the doctrine of separation of powers, it is important that judicial appointments take place without any influence or control of any other limb of the sovereign. Independence of judiciary is the only means to maintain a system of checks and balances on the working of legislature and the executive. The executive is a litigating party in most of the litigation and hence cannot be allowed to be a dominant participant in judicial appointments.**

**154. We are in complete agreement with the analogy elucidated by the Constitution Bench in *Fourth Judges case* [(2016) 5 SCC 1] for compulsory need for exclusion of control of the executive over quasi-judicial bodies of tribunals discharging responsibilities akin to courts. The Search-cum-Selection Committees as envisaged in the Rules are against the constitutional scheme inasmuch as they dilute the involvement of judiciary in the process of appointment of Members of**

**tribunals which is in effect an encroachment by the executive on the judiciary.”**

(emphasis supplied)

**Madras Bar Assn. v. Union of India, (2021) 7 SCC 369**

“33. It has been repeatedly held by this Court that the Secretaries of the sponsoring departments should not be members of the Search-cum-Selection Committee. We are not in agreement with the submission of the learned Attorney General that the Secretary of the sponsoring department being a member of the Search-cum-Selection Committee was approved by this Court in *Union of India v. Madras Bar Assn.* [(2010) 11 SCC 1] and it would prevail over the later judgment in *Madras Bar Assn. v. Union of India* (2014) [(2014) 10 SCC 1] . We have already referred to the findings recorded in para 70 [Ed. : See also para 120(xii) for the direction in this regard.] of the judgment in *Union of India v. Madras Bar Assn.* [(2010) 11 SCC 1] **that the sponsoring department should not have any role to play in the matter of appointment to the posts of Chairperson and members of the tribunals. Though the ultimate direction of the Court was to constitute a Search-cum-Selection Committee for appointment of members to NCLT and NCLAT of which Secretary, Ministry of Finance and Company Affairs is a member, the ratio of the judgment is categorical, which is to the effect that Secretaries of the sponsoring departments cannot be members of the Search-cum-Selection Committee.** We, therefore, see no conflict of opinion in the two judgments as argued by the learned Attorney General. However, we find merit in the submission of the learned Attorney General that the presence of the Secretary of the sponsoring or parent department in the Search-cum-Selection Committee will be beneficial to the selection process. **But, for reasons stated above, it is settled that the Secretary of the parent or sponsoring Department cannot have a say in the process of selection and service conditions of the members of tribunals. Ergo, the Secretary to the sponsoring or parent Department shall serve as the Member-Secretary/Convener to the Search-cum-Selection Committee and shall function in the Search-cum-Selection Committee without a vote.**

34. The Government of India is duty-bound to implement the directions issued in the earlier judgments and constitute the Search-cum-Selection Committees in which the Chief Justice of India or his nominee shall be the Chairperson along with the Chairperson of the Tribunal if he is a retired Judge of the Supreme Court or a retired Chief Justice of a High Court and two Secretaries to the Government of India. **In case the tribunal is headed by a Chairperson who is not a judicial member, the Search-cum-Selection Committee shall consist of the Chief Justice of India or his**

**nominee as Chairperson and a retired Judge of the Supreme Court or a retired Chief Justice of a High Court to be nominated by the Chief Justice of India and Secretary to the Government of India from the Ministry of Law and Justice and a Secretary of a department other than the parent or sponsoring department to be nominated by the Cabinet Secretary. As stated above, the Secretary of the parent or sponsoring department shall serve as the Member-Secretary or Convener, without a vote.”**

(emphasis supplied)

### **Madras Bar Assn. v. Union of India, (2022) 12 SCC 455**

“62. The tenure of the Chairperson and Member of a tribunal is fixed at four years by Section 184(11), notwithstanding anything contained in any judgment, order or decree of any court. It is relevant to mention that subsection (11) of Section 184 has been given retrospective effect from 26-5-2017. Rule 9 of the 2020 Rules had specified the term of appointment of the Chairperson or Member of the Tribunal as four years. The learned Amicus Curiae while making his submissions in *MBA (3)* [*Madras Bar Assn. v. Union of India*, (2021) 7 SCC 369] had insisted that the Chairperson and Members of a tribunal should have a minimum term of five years by placing reliance on the judgment of this Court in *S.P. Sampath* [*S.P. Sampath Kumar v. Union of India*, (1987) 1 SCC 124], *MBA (1)* [*Union of India v. Madras Bar Assn.*, (2010) 11 SCC 1] and *Rojer Mathew* [*Rojer Mathew v. South Indian Bank Ltd.*, (2020) 6 SCC 1]. The stand taken by him was that a short tenure would be a disincentive for competent persons to seek appointment as Members of Tribunals. The learned Attorney General submitted that the term of four years is subject to reappointment. He contended that advocates who are appointed at an early age can get more than one extension and continue till they reach the age of superannuation. **After perusing the law laid down by this Court in *MBA (1)* [*Union of India v. Madras Bar Assn.*, (2010) 11 SCC 1] and *Rojer Mathew* [*Rojer Mathew v. South Indian Bank Ltd.*, (2020) 6 SCC 1] which held that a short stint is anti-merit, we directed the modification of tenure in Rules 9(1) and 9(2) as five years in respect of Chairpersons and Members of Tribunals in *MBA (3)* [*Madras Bar Assn. v. Union of India*, (2021) 7 SCC 369]. This Court declared in SCC para 60.4 that the Chairperson, Vice-Chairperson and the Members of the tribunals shall hold office for a term of five years and shall be eligible for reappointment. The insertion of Section 184(11) prescribing a term of four years for the Chairpersons and Members of Tribunals by giving retrospective effect to the provision from 26-5-2017 is clearly an attempt to override the declaration of law by this Court under Article 141 in *MBA (3)* [*Madras Bar Assn. v. Union of India*, (2021) 7 SCC 369]**

**. Therefore, clauses (i) and (ii) of Section 184(11) are declared as void and unconstitutional.”**

(emphasis supplied)

84. The striking down of Rule 10(2) of the 2020 Rules as invalid, with respect to the term of office of the President of the District Commission, and Members of the State and District Commissions, can also not be found fault with, in light of the settled position of law, on the aspect of tenure of office in special fora.

85. Before we proceed with the next aspect, we may note that most of the writ petitioners before the High Court of Bombay underwent the impugned selection process. Having participated in the selection process, it was not open for them to have continued to challenge the same. To put it differently, the writ petitioners before the High Court of Bombay would not have continued to press the reliefs sought for, had they been selected. One cannot be permitted to approbate and reprobate at the same time.

**b) Paper II**

86. The question that arises for our consideration herein, is with respect to the non-compliance of the directions issued in **Limaye - I** (*supra*) under Article 142 of the Constitution, especially with respect to Paper II. A

direction issued by this Court in exercise of the power conferred under Article 142 of the Constitution, with specific reference to the conduct of a written examination followed by a viva voce, may not be read like a statute. It is only suggestive and can only be construed to be a guiding factor. What must be seen is the substantial compliance of the directions issued, which we find to be present in the instant case. One must ensure that justice is rendered, and mere technicalities shall not stand in the way of substantive justice. There is nothing wrong in the question paper that was set and there is no glaring error in the same. Accordingly, both Paper I and Paper II of the advertisement are valid.

**c) Validity of the appointments made by the State of Maharashtra vide order dated 05.10.2023**

87. Admittedly, the appointed candidates had not been arrayed as parties before the High Court of Bombay. We are conscious of the fact that Writ Petition No. 3680/2023 had been filed before the High Court of Bombay at the initial stage of the selection process itself and also that appointments by the State of Maharashtra were made vide order dated 05.10.2023, subsequent to the matter having been reserved for judgment. However, considering the nature of the *lis* and the grievance

sought to be espoused, the appointed candidates are certainly proper and necessary parties to the litigation, as they have gone through the entire selection process. A decision taking away the civil rights that accrued to them, could not have been rendered, without hearing them.

**88.** The High Court, under Article 226 of the Constitution, is also a Court of equity and good conscience, and ought to have taken note of the fact that the selection process had almost been completed during the pendency of the writ petitions before it. Thus, we are inclined to hold that the 112 candidates appointed by the State of Maharashtra are entitled to continue and complete their tenure.

**89.** We are inclined to grant the said relief on one more count. The candidates merely participated in the selection process pursuant to the advertisement made by the State of Maharashtra. Thus, their participation in the selection process was *bona fide* and genuine. As already held by us, Paper II is valid. Therefore, in the absence of any proof that the selection process was tainted, appointments made pursuant to the same, are upheld.

**d) Reappointment**

**90.** Even though the suggestion of the High Court of Bombay in **Impugned Order - I**, as regards reappointments, is infructuous on account of the amendment in 2023 to Rule 6(9) of the 2020 Rules, we deem it fit to deal with it and clarify the question of law that has been raised.

**91.** The High Court of Bombay has suggested that since reappointments under Rule 10(2) of the 2020 Rules were on the basis of the recommendations to be made by the Selection Committee, and as Rule 6(9) of the 2020 Rules had been struck down in **Limaye - I (supra)**, till the time Rule 6(9) of the 2020 Rules is suitably amended, the Selection Committee can consider following the procedure for the appointment of Members of the State Commission, and President as well as Members of the District Commission by taking into consideration the procedure that was prevailing under Rule 8(18) of the 2019 Rules. In our considered view, this cannot be sustained in the eye of law. We say so for two reasons. The 2019 Rules were notified under the 1986 Act, which has been repealed by virtue of Section 107 of the 2019 Act. Rules formulated under a repealed statute, stand repealed in their entirety, once new Rules under the new/re-enacted statute have come into being.

There cannot be two sets of Rules operating the field simultaneously, when the latter has replaced the former. Merely because a particular Rule in the latter Rules, which replaced the earlier Rules, has been struck down, there is no deemed revival of a corresponding Rule in the earlier one. The State Rules are no longer in the statute and there is no question of revival of any particular Rule. Reviving an arm of a dead person would amount to injecting life into him, especially when his role has been taken over by another, after his departure.

<b>Rule 8(18) of the 2019 Rules</b>	<b>Rule 10(2) of the 2020 Rules</b>
<p>8. Procedure for Appointment of Members.—</p> <p>(18) In case of re-appointment of the President and Member of District Forum, as at the time of appointing the President and Member, the concerned candidate have undergone the selection process as stated in the rules, it shall not be necessary for the said candidates to undergo the same process of selection. However, the re-appointment of the President and Member shall be done, if he satisfies the qualifications, on a recommendation of the Selection Committee. The Selection Committee while making recommendation shall take into consideration the Confidential</p>	<p>10. Term of office of President or Member.—</p> <p>(2) Every member of the State Commission and the President and every member of the District Commission shall hold office for a term of four years or upto the age of sixty-five years, whichever is earlier and shall be eligible for reappointment for another term of four years subject to the age limit of sixty-five years, and such reappointment shall be made on the basis of the recommendation of the Selection Committee.</p>



<p>Reports, the disposal of cases, the performance during the time of first appointment, a general reputation of a candidate and the complaints, if any, pending against the candidate.</p>	
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**92.**Rule 8(18) of the 2019 Rules, though not comparable with Rule 10(2) of the 2020 Rules in its entirety, is in fact, narrower in scope *qua* reappointments, as it restricts the discretion of the Selection Committee, and therefore, a glaring inconsistency comes forth *qua* Rule 10(2) of the 2020 Rules read with Rule 6(9) of the 2020 Rules. The inconsistency is also evident in other Rules, including the rules pertaining to the composition of the Selection Committee.

**Rule 5 of the 2019 Rules**

**“5. Selection of the President and Members of the District Fora.—**

**xxx                      xxx                      xxx**

(5) Selection of President and Members of District Fora shall be made by the Selection Committee constituted under sub-section (1A) of section 10 of the Act.”

**Rule 10 of the 2019 Rules**

**“10. Selection of Members of the State Commission.—**

**xxx                      xxx                      xxx**

(4) Selection of Members of the State Commission shall be made by the Selection Committee constituted under sub-section (1A) of section 16 of the Act.”

### **Section 10 of the 1986 Act**

**“10. Composition of the District Forum.—**

xxx                      xxx                      xxx

(1-A) Every appointment under sub-section (1) shall be made by the State Government on the recommendation of a selection committee consisting of the following, namely:—

- |       |  |           |
|-------|--|-----------|
| (i)   | the President of the State Commission  | Chairman; |
| (ii)  | Secretary, Law Department of the State   | Member;   |
| (iii) | Secretary in charge of the Department dealing with consumer affairs in the State | Member.   |

Provided that where the President of the State Commission is, by reason of absence or otherwise, unable to act as Chairman of the Selection Committee, the State Government may refer the matter to the Chief Justice of the High Court for nominating a sitting Judge of that High Court to act as Chairman.”

### **Section 16 of the 1986 Act**

**“16. Composition of the State Commission.—**

xxx                      xxx                      xxx

(1-A) Every appointment under sub-section (1) shall be made by the State Government on the recommendation of a Selection Committee consisting of the following members, namely:—

- |     |                                       |           |
|-----|---------------------------------------|-----------|
| (i) | the President of the State Commission | Chairman; |
|-----|---------------------------------------|-----------|

- |       |   |         |
|-------|---|---------|
| (ii)  | Secretary of the Law<br>Department of the State                                       | Member; |
| (iii) | Secretary incharge of the<br>Department dealing with<br>Consumer Affairs in the State | Member. |

Provided that where the President of the State Commission is, by reason of absence or otherwise, unable to act as Chairman of the Selection Committee, the State Government may refer the matter to the Chief Justice of the High Court for nominating a sitting Judge of that High Court to act as Chairman.”

**93.**Rule 5(5) and Rule 10(4) of the 2019 Rules provide that the selection of the President and Members of the District Commission and Members of the State Commission, respectively, would be made by the Selection Committee constituted under Section 10(1A) and Section 16(1A) of the 1986 Act. The said Selection Committee comprised the President of the State Commission as Chairman, the Secretary of the Law Department of the State and the Secretary in charge of the Department dealing with Consumer Affairs in the State as Members, and in the event of the President of the State Commission being unable to act as Chairman of the Selection Committee, the matter could be referred to the Chief Justice of the High Court for nominating a sitting Judge of that High Court to act as Chairman.

**94.**The 2020 Rules, on the other hand, vide Rule 6(1), provides that the Selection Committee would comprise the Chief Justice of the High

Court or any Judge of the High Court nominated by him as Chairperson, a Secretary in charge of Consumer Affairs of the State Government and a Nominee of the Chief Secretary of the State, as Members. It is thus evident that the President of the State Commission does not form part of the Selection Committee in the 2020 Rules. This being so, there is no legal basis for the applicability of Rule 8(18) of the 2019 Rules.

**95.** We may also point out the logical and practical difficulty in giving effect to the suggestion made by the High Court of Bombay. The striking down of Rule 6(1) of the 2020 Rules, and the consequent setting aside of the notifications, left the State of Maharashtra without any Selection Committee at all. Thus, no question of the Selection Committee considering reappointments under Rule 8(18) of the 2019 Rules, would arise at all, as the said Committee is not in existence. We further note that it was nobody's case that the 2019 Rules would be applicable, and many of the parties had already been reappointed for a second term under the 2020 Rules. In such view of the matter, **Impugned Order - I**, to the extent of suggesting the applicability of Rule 8(18) of the 2019 Rules *qua* reappointments, stands set aside.

96. Having set aside the said suggestion made by the High Court of Bombay, we now deal with the submissions made by those persons seeking reappointment. While some persons before us are seeking reappointment for a second term, others are seeking reappointment for a third. We have been informed that for most of them, their services had been terminated vide the order of the State of Maharashtra dated 06.10.2023. Vide interim order dated 27.06.2024, we had clarified that in the case of Presidents/Members whose appointments were terminated and who had filed writ petitions before the High Court of Bombay, it would be open for the High Court of Bombay to decide their petitions in accordance with law. Vide the same interim order, we had also made it clear that the benefit of our interim order dated 10.11.2023, would be available only to those persons who were actually in service on the date of **Impugned Order - I**, provided that their second term had not expired.

97. In light of the same, we make it clear that all persons seeking reappointment can be considered for the same under the new Rules proposed to be notified by the Union of India. We deem it fit to mention that in a tenure-based post, there is no vested right to seek

reappointment, but only a limited one to seek consideration under the relevant provisions. Such consideration is subject to the satisfaction of the Selection Committee, as per the prevalent Rules. Thus, the persons seeking reappointment can only be considered after the new Rules are notified.

**98.**In this connection, we deem it fit to clarify that the consideration for reappointment under the new Rules can be made, subject to the satisfaction of the Selection Committee, *qua* the posts of President of the State Commission, Judicial Members of the State Commission and President of the District Commission, while for Non-Judicial Members of the State Commissions and Members of the District Commissions, it would depend upon the eligibility and qualification that shall be fixed by the Union of India under the new Rules, subject to the condition that a written examination followed by a viva voce must be conducted. The same would apply for reappointment even beyond a second term. At this juncture, we also deem it fit to clarify that the writ petitions pending before the High Court of Bombay, challenging the termination order dated 06.10.2023 and seeking reappointment on the ground of not being required to give the written examination followed by a viva voce, will

have to be decided in terms of this judgment and larger principles of law.

99. Accordingly, **Impugned Order - I** stands set aside to the extent indicated above. Consequently, Civil Appeal Nos. 9982/2024, 9987/2024, 9983-9985/2024, 9990/2024 and 9965-9967/2024 stand partly allowed, while Civil Appeal No. 9989/2024 stands dismissed.

**Qua Impugned Order - II**

100. In Civil Appeal No. 9988 of 2024, challenge is to **Impugned Order - II**, wherein the High Court of Bombay had directed that the candidature of the respondent herein/writ petitioner before the High Court, be considered for the post of Judicial Member of the State Commission, *sans* a written examination followed by a viva voce, as contemplated under the advertisement. We find no reason to interfere with the said order. As held by us in the earlier portions of this judgment, **Limaye - I (*supra*)** would have no bearing on appointments to be made under Rule 3(2)(1), 3(2)(a) and Rule 4(1) of the 2020 Rules i.e., posts of President of the State Commission, Judicial Members of the State Commission and President of the District Commission. The respondent herein had earlier served as the President of the District Commission

for two terms, which makes her eligible to be considered for appointment under Rule 3(2)(a) of the 2020 Rules, to the post of a Judicial Member of the State Commission, provided she fulfils the criteria of being at least forty years of age. In such view of the matter, we are inclined to uphold **Impugned Order - II**. Consequently, Civil Appeal No. 9988 of 2024 stands dismissed.

**Qua Impugned Order - III**

**101.** In Civil Appeal No. 10029 of 2024 and Civil Appeal No. 9964 of 2024, challenge is to **Impugned Order - III**, wherein the High Court of Telangana had set aside the appointment of the appellants to the post of Members of the District Commission. This was done on the ground that the selection process did not adhere to the directions issued in **Limaye-I (supra)**, amongst others. We find that the said order cannot be sustained in the eye of law, as the appointment of the appellants was done pursuant to a written examination as well as a viva voce. The entire selection process had been concluded prior to **Limaye - I (supra)**. The directions issued in **Limaye - I (supra)** would only apply prospectively, and therefore, the appointments of the appellants shall not be affected by the same. Accordingly, **Impugned Order - III** stands set aside and



Civil Appeal No. 10029 of 2024 and Civil Appeal No. 9964 of 2024 are allowed. Consequently, the appellants are directed to be reinstated in service, if not currently serving, and be allowed to complete their tenure in entirety.

### **DIRECTIONS**

**102.** In view of the aforesaid discussion, we deem it fit to pass the following directions, in exercise of the powers conferred under Article 142 of the Constitution:-

- 1)** The Union of India is directed to file an affidavit on the feasibility of a permanent adjudicatory forum for consumer disputes, either in the form of a Consumer Tribunal or a Consumer Court, within a period of 3 months from today, on the touchstone of the constitutional mandate. Such a forum shall consist of permanent members, including both staff and the Presiding officers. The Union of India may also consider facilitating sitting Judges to head the fora. The strength may be increased adequately.
- 2)** In view of the submission made on behalf of the Union of India, we direct the Union of India to notify the new Rules within a period of

4 months from the date of this Judgment, strictly adhering to the following:

- a. The earlier view of this Court in **Rojer Mathew (*supra*)**, **MBA - III (*supra*)** and **MBA - IV (*supra*)**, with respect to the tenure of office being five years, being both logical and necessary, must be incorporated in the new Rules to be notified.
- b. The composition of the Selection Committee shall be such that the members from the Judiciary must constitute the majority. To achieve the same, the Selection Committee shall comprise two members from the Judiciary, one of whom shall be the Chairperson, and the third member from the Executive, all of whom shall have voting rights. However, this shall not preclude the concerned Secretary from being an ex-officio Member of the Selection Committee, without voting rights. The proposal made by the Union of India *qua* Rule 6(1) of the 2020 Rules, may be accordingly modified.
- c. No written examination, followed by a viva voce, shall be required for appointment and reappointment to the posts of

President of the State Commission, Judicial Members of the State Commission and President of the District Commission.

- d. A written examination followed by a viva voce shall be required only for appointment and reappointment to the posts of Non-Judicial Members of the State Commission and Members of the District Commission.
- e. The written examination for appointments to the State and District Commissions shall be conducted in consultation with the respective State Service Commissions.
- f. The proposal made by the Union of India *qua* Rule 4(1) of the 2020 Rules, as recorded by us in Para 72 of this Judgement, that the qualification for appointment to the post of President of the District Commission, shall be restricted to either a serving or a retired District Judge, stands accepted.

- 3) Upon notification of the new Rules by the Union of India, all the States are directed to complete the process of recruitment under the same, within a period of 4 months from the date of the notification of the said Rules.

4) As regards the status of appointment to the posts of Presidents and Members of the State and District Commissions, we are pleased to issue the following directions:

**SUMMARY OF THE RELIEFS**

	<b>Category of Persons</b>	<b>Relief</b>
1.	Persons appointed as Members of the State Commission and Presidents and Members of the District Commission in the State of Maharashtra, vide order dated 05.10.2023 pursuant to the written examination and viva voce.	They shall be allowed to complete their tenure in entirety. In the event of their tenure ending before the completion of the recruitment process under the new Rules to be notified, their appointment shall be allowed to continue until the completion of the said recruitment process.
2.	Persons seeking reappointment in the State of Maharashtra, after their	They can be considered for reappointment in the State and District Commissions, based on the new Rules to be notified, subject to

	<p>services had been terminated vide order dated 06.10.2023.</p>	<p>the condition that persons seeking reappointment to the posts of President and Judicial Members of the State Commission and President of the District Commission, shall not be required to undergo a written examination followed by a viva voce, while Non- Judicial Members of the State and District Commissions, shall be required to undergo a written examination followed by a viva voce.</p> <p>The writ petitions pending before the High Court of Bombay challenging the said termination order of the State of Maharashtra dated 06.10.2023, will have to be decided in terms of this judgment and larger principles of law.</p>
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3.	<p>Presidents and Members of the State and District Commissions who have been appointed and serving prior to <b>Limaye - I (<i>supra</i>)</b>.</p>	<p>They shall be allowed to complete their tenure in entirety. In the event of their tenure ending before the completion of the recruitment process under the new Rules to be notified, their appointment shall be allowed to continue until the completion of the said recruitment process.</p>
4.	<p>Presidents of the State and District Commissions, and the Judicial Members of the State Commission, in other States, with/without having given the written examination followed by a viva voce.</p>	<p>(a) Those who are appointed and serving shall be allowed to complete their tenure in entirety. In the event of their tenure ending before the completion of the recruitment process under the new Rules to be notified, their appointment shall be allowed to</p>

		<p>continue until the completion of the said recruitment process.</p> <p>(b) Those who have been selected, but not appointed, on account of the concerned States having stayed the appointment process during the pendency of these appeals, shall be appointed to the respective post, and shall be allowed to continue in office till the entirety of their tenure.</p>
5.	Persons who are selected to the posts of Non-Judicial Members of the State Commission and Members of the District Commission, without having undergone a	<p>(a) If already appointed and serving:</p> <p>(i) In case the selection process had been completed prior to the decision of this Court in <b>Limaye - I (supra)</b>, such persons shall be entitled to complete their tenure in entirety. In the event of their</p>

	<p>written examination followed by a viva voce.</p>	<p>tenure ending before the completion of the recruitment process under the new Rules to be notified, their appointment shall be allowed to continue until the completion of the said recruitment process.</p> <p>(ii) In case the selection process has been completed post the decision of this Court in <b>Limaye - I (supra)</b>, such persons shall be entitled to continue in their respective posts till the completion of the recruitment process under the new Rules to be notified.</p> <p>(b) If selected but not appointed, such persons shall not be entitled to be appointed.</p>
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6.	Non-Judicial Members of the State Commission and the Members of the District Commission, who have given the written examination and viva voce.	<p>(a) If already appointed and serving, they shall be allowed to continue in service for the entirety of their tenure. In the event of their tenure ending before the completion of the recruitment process under the new rules to be notified, their appointment shall be allowed to continue until the completion of the said recruitment process.</p> <p>(b) If selected, but not appointed, on account of the State having stayed the appointment process during the pendency of these appeals, such persons shall be appointed to the respective posts, and shall be allowed to continue in office for the entirety of their tenure.</p>
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7.	Persons seeking reappointment in other States after termination of their services.	They can be considered for reappointment in the State and District Commissions, based on the new Rules to be notified, subject to the condition that persons seeking reappointment to the posts of President and Judicial Members of the State Commission and President of the District Commission, shall not be required to undergo a written examination followed by a viva voce, while Non- Judicial Members of the State and District Commissions, shall be required to undergo a written examination followed by a viva voce.
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We make it clear that for all those appointments which have been allowed to continue vide this Judgment, the tenure shall be a period of 4 years. Such persons shall not be entitled to claim the benefit of this Judgment *qua* a five-year tenure, subject to the directions issued hereinabove. We also make it clear that this Judgment shall apply prospectively, except to the extent indicated in the directions hereinabove.

**103.** Review Petition (Civil) No. 1313/2024 in Civil Appeal No. 831/2023, Review Petition (Civil) 1315/2024 in Civil Appeal No. 833/2023 and Review Petition (Civil) 1314/2024 in Civil Appeal No. 832/2023 are allowed in the aforesaid terms. Civil Appeal No. 10029/2024 and Civil Appeal No. 9964/2024 are allowed. Civil Appeal No. 9982/2024, Civil Appeal No. 9987/2024, Civil Appeal Nos. 9983-9985/2024, Civil Appeal No. 9990/2024 and Civil Appeal Nos. 9965-9967/2024 are partly allowed, and Civil Appeal No. 9988/2024 and Civil Appeal No. 9989/2024 stand dismissed. The intervention applications, not already disposed of by us, stand disposed of in the aforesaid terms.

**104.** Pending applications, if any, shall also stand disposed of.

..... **J.**  
**(ABHAY S. OKA)**

..... **J.**  
**(M. M. SUNDRESH)**

NEW DELHI;  
MAY 21, 2025