

जा.क.राआ/आस्था/निवडणूक/२००९/८१४
राज्य ग्राहक तक्रार निवारण आयोग, महाराष्ट्र,
जुने प्रशासकीय महाविद्यालय इमारत,
रु.नं.१,२,५ व ६, हजारीमल सोमानी मार्ग,
सी.एस.टी.समोर, मुंबई-४०० ००१.
दिनांक : २०/०६/०९

प्रति,

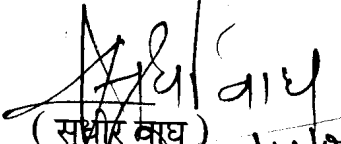
१. प्रबंधक (विधी),
राज्य ग्राहक तक्रार निवारण आयोग, महाराष्ट्र,
नागपूर व औरंगाबाद परिक्रमा खंडपीठ
२. प्रबंधक,
सर्व जिल्हा ग्राहक तक्रार निवारण मंच, महाराष्ट्र राज्य.

विषय : राज्यातील राज्य आयोग व जिल्हा मंचातील पदाधिकारी/कर्मचारी यांच्या सेवा तसेच कार्यालयीन जागा व वाहने अधिग्रहीत न करण्याबाबत

संदर्भ : मा.उच्च न्यायालय, मुंबई यांचे जनहित याचिका क्र.१०९/२००९ मधील आदेश

उक्त विषयाच्या अनुषंगाने मा.अध्यक्ष, राज्य आयोग यांचे निदेशान्वये आपणास कळविण्यात येते की, मा.उच्च न्यायालयासमोरील जनहित याचिका क्र.१०९/२००९ मध्ये मा.उच्च न्यायालयाने दि.२४/४/२००९ रोजीच्या आदेशान्वये (प्रत सोबत जोडलेली आहे) राज्यातील राज्य आयोग व जिल्हा मंचातील पदाधिकारी व कर्मचा-यांच्या सेवा तसेच कार्यालयीन जागा व वाहने अधिग्रहीत न करण्याबाबत निर्देश दिलेले आहेत. तसेच या आदेशाद्वारे याप्रकरणी निवडणूक आयोगाने व संबंधित अधिका-यांनी दिलेले सर्व आदेश मागे घेण्याचेही मा.उच्च न्यायालयाने निर्देश दिलेले आहेत.

सबब सदरचे आदेश संबंधित प्राधिका-यांच्या निदर्शनास आणून द्यावीत व त्या अनुषंगाने योग्य ती कार्यवाही करावी व याबाबतचा अहवाल तात्काळ या कार्यालयास सादर करावा.


(सुधीर कुलकर्णी)
प्रबंधक 27/4/09

सोबत : वरीलप्रमाणे
प्रतिलिपी :

क/म
राज्य आयोग, महाराष्ट्र, मुंबई
२०/०६/०९

१. मा.मुख्य निवडणूक अधिकारी, महाराष्ट्र शासन, सामान्य प्रशासन विभाग, मंत्रालय, मुंबई
२. मा.प्रधान सचिव, अन्न, नागरी पुरवठा व ग्राहक संरक्षण विभाग, मंत्रालय, मुंबई

HIGH COURT, BOMBAY

1173256

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
P.I.L.NO.109/2009

Consumer Courts Advocates Association
Petitioner

Vs.

State of Maharashtra & Ors.

Respondents

Mr.Ashok D.Shetty with Ritak Joshi ,advocates for petitioner
Mr.Pradeep Patil ,AGP for State
Mr.Pradeep Rajgopal & Malar Manoharan i/b Rekha Rajgopal for
Respondent nos.2 & 3

CORAM J.N.PATEL &
MRS.MRIDULA

BHATKAR,JJ.

DATED : 24th APRIL,2009

P.C.

Heard learned counsel for the parties. On the eve of election, it is common knowledge that the staff, premises and vehicles are requisitioned by the officials of the Election Commission in general elections held under Representation of People Act,1951 which gives rise to various controversies on grounds of excessive use of powers by these officials which is arbitrary in nature. Therefore, it will be necessary for this Court to resolve these issues finally and hence we are inclined to admit the petition.

- 2] Rule.
- 3] Respondents waive service.
- 4] Heard on interim relief.
- 5] The petition has been filed by the Consumer Courts Advocates Association . It is the case of the petitioners that they are the advocates practicing in various consumer courts and the consumer courts at Mumbai and other places which has been constituted under the Consumer Protection Act,1986. The Petitioner Association is espousing various causes for effective and meaningful functioning of forums under the said Act e.g. for providing infrastructure and other facilities by filing writ petitions before this court under Articles 226 and 227 of the Constitution of India and this Court has also taken suo motu cognizance of certain subjects which are also under active consideration.
- 6] The petitioners were required to move this Court to file this petition and for urgent interim orders in view of the decision taken by respondent no.2 i.e.Chief Electoral Officer ,Government of Maharashtra who issued certain order such as order dated 3-4-2009 which is annexed as Exh.D at Page 40 and Exh.-F at page 61 resulting in requisition of staff and premises of the Consumer Forum at Thane,Hingoli ,Kolhapur, Bandra in Greater Mumbai which are housed in the office of the Collector for election as well shifting the office of District Consumer Forum Hingoli to an alternate premises causing lot of inconvenience. The respondent has exceeded its

powers vested in him under the Representation of People Act, 1951 and particularly under section 159, 160 of the said Act and the various instructions issued by the Election Commission.

7] Prima facie we find that the respondent -Chief Electoral Officer of the State or any Returning Officer cannot requisition staff of the various forums constituted under the Consumer Protection Act as they do not fall under the definition of authorities or establishments provided under sub clause 2 of section 159 and similarly premises in which these forums are functioning cannot be requisitioned. In given situation like Hingoli the Electoral Officer has provided alternative site for functioning of the District Consumer Forum considering the exigency in the matter which may not be viewed as seriously as in the case of other District Forum which have been made non functional and the premises and staff are requisitioned.

8] We are of the view that the Election Commission or any officer have no powers to requisition any staff including the Presiding Officer or Member of Consumer Forum at all levels or their premises or vehicles for election process as such powers are not conferred u/s 159 and 160 of Representation of People Act, 1951 and therefore, we direct respondent nos. 2 and 3 to withdraw their orders regarding requisition of staff and premises as well as vehicles of all Consumer Forums including the State Commission under the Consumer Protection Act within the State of Maharashtra forthwith and not to interfere with their smooth functioning.

HIGH COURT, BOMBAY

1173259

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Hearing expedited.

The respondents to act on our order.

The parties to act on the authenticated copy of this order.

An authenticated copy be furnished to the learned counsel for the parties.

(J.N.PATEL, J)

(MRIDULA BHATKAR, J)

TRUE COPY
for *20/11/24*
Section Officer
High Court, Appellate Side
Bombay