

Consumer Protection (Amendment) Act, 2002

Section 12 - Amendment of Section 16

In section 16 of the principal Act,-

(a) in sub-section (1), for clause (b) and the proviso thereunder, the following clause shall be substituted, namely :-

'(b) not less than two, and not more than such number of members, as may be prescribed, and one of whom shall be a woman, who shall have the following qualifications, namely :-

(i) be not less than thirty-five years of age;

(ii) possess a bachelor's degree from a recognised university; and

(iii) be persons of ability, integrity and standing, and have adequate knowledge and experience of at least ten years in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration :

Provided that not more than fifty per cent of the members shall be from amongst persons having a judicial background.

Explanation.-For the purposes of this clause, the expression "persons having judicial background" shall mean persons having knowledge and experience for at least a period of ten years as a presiding officer at the district level court or any tribunal at equivalent level :

Provided further that a person shall be disqualified for appointment as a member if he-

(a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude; or

(b) is an undischarged insolvent; or

(c) is of unsound mind and stands so declared by a competent court; or

(d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or

(e) has, in the opinion of the State Government, such financial or other interest, as is likely to affect prejudicially the discharge by him of his functions as a member; or

(f) has such other disqualifications as may be prescribed by the State Government.;

(b) after sub-section (1), the following sub-sections shall be inserted, namely :-

"(1A) 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) President of the State Commission.....Chairman;

(ii) Secretary of the Law Department of the State.....Member;

(iii) Secretary incharge 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.

(1B)(i) The jurisdiction, powers and authority of the State Commission may be exercised by Benches thereof.

(ii) A Bench may be constituted by the President with one or more members as the President may deem fit.

(iii) If the members of a Bench differ in opinion on any point, the points shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ, and make a reference to the President who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more or the other members and such point or points shall be decided according to the opinion of the majority of the members who have heard the case, including those who first heard it.";

(c) in sub-section (2), the following proviso shall be inserted, namely :-

"Provided that the appointment of a member on whole-time basis shall be made by the State Government on the recommendation of the President of the State Commission taking into consideration such factors as may be prescribed including the work load of the State Commission.";

(d) for sub-sections (3) and (4), the following sub-sections shall be substituted, namely :-

"(3) Every member of the State Commission shall hold office for a term of five years or up to the age of sixty-seven years, whichever is earlier:

Provided that a member shall be eligible for re-appointment for another term of five years or up to the age of sixty-seven years, whichever is earlier, subject to the condition that he fulfils the qualifications and other conditions for appointment mentioned in clause (b) of sub-section (1) and such re-appointment is made on the basis of the recommendation of the Selection Committee:

Provided further that a person appointed as a President of the State Commission shall also be eligible for re-appointment in the manner provided in clause (a) of sub-section (1) of this section :

Provided also that a member may resign his office in writing under his hand addressed to the State Government and on such resignation being accepted, his office shall become vacant and may be filled by appointment of a person possessing any of the qualifications mentioned in sub-section (1) in relation to the category of the member who is required to be appointed under the provisions of sub-section (1A) in place of the person who has resigned.

(4) Notwithstanding anything contained in sub-section (3), a person appointed as the President or as a member, before the commencement of the Consumer Protection (Amendment) Act,

2002, shall continue to hold such office as President or member, as the case may be, till the completion of his term.".

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