



महाराष्ट्र शासन राजपत्र

असाधारण भाग चार-अ

वर्ष ५, अंक ५७(३)

शुक्रवार, मे २४, २०१९/ज्येष्ठ ३, शके १९४१

पृष्ठ १६, किंम

असाधारण क्रमांक १२५

प्राधिकृत प्रकाशन

महाराष्ट्र शासनाने केंद्रीय अधिनियमान्वये तयार केलेले

(भाग एक, एक-अ आणि एक-ल यांमध्ये प्रसिद्ध केलेले नियम व आदेश यांव्यतिरिक्त) नियम व आदेश.

FOOD, CIVIL SUPPLY AND CONSUMER PROTECTION DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 24th May 2019

NOTIFICATION

CONSUMER PROTECTION ACT, 1986.

No. CPA/RR/2018/CR-88/CP-4.— In exercise of the powers conferred by sub-section (3) of section 10, clause (c) of sub-section (1) of section 13, sub-section (3) of section 14, sub-section (2) of section 16 and sub-section (2) of section 30, of the Consumer Protection Act, 1986 (68 of 1986); and of all other powers enabling it in that behalf and in supersession of all the existing rules, notifications and orders in this behalf in so far as they relate to the appointment, salary, allowances and conditions of service of President and Members of District Consumer Redressal Forum and the President and Members of State Consumer Dispute Redressal Commission the Government of Maharashtra hereby makes the following Rules for recruitment to the posts of President and Members of District Consumer Redressal Forum, and the President and Members of State Consumer Dispute Redressal Commission under the Food, Civil Supplies and Consumer Protection Department of the Government of Maharashtra, namely :-

1. *Short title.*— These rules may be called the Consumer Protection (Appointment, Salary, Allowances and Conditions of Service of President and Members of State Commission and District Forum) Rules, 2019.

2. *Definitions.*— In these rules, unless the context requires otherwise :—

(a) "Act" means the Consumer Protection Act, 1986 (68 of 1986);

(b) "District Forum" means the District Consumer Disputes Redressal Forum established under clause (a) of section 9 of the act;

(c) "Member" means a Member of District Forum appointed under clause (b) of sub-section (1) of section 10 of the Act; or a Member of the State Commission appointment under clause (b) of sub-section (1) of section 16 of the Act, as the case may be ;

(d) "President" means the President of the District Forum appointed under clause (a) of sub-section (1) of section 10 of the Act ; or a President of the State Commission appointed under clause (a) of sub-section (1) of section 16 of the Act, as the case may be ;

(e) "Selection Committee" means the Selection Committee constituted under sub-section (1A) of section 10 or sub-section (1A) of section 16 as the case may be ;

(f) "State Commission" means the State Consumer Disputes Redressal Commission established under clause (b) of section 9 of the Act ;

(g) "Section" means section of the Act;

(h) Words and Expressions used in these rules but not defined in these rules shall have the meanings respectively assigned to them in the Act.

3. *Mode of Appointment in District Fora.*— (1) (A) President of a District Forum shall be appointed either by direct appointment or on deputation from amongst the serving District Judges :

Provided that, appointment of a serving District Judge shall not be made without the concurrence of the High Court.

(B) By Nomination,—

(I) of a Retired District Judge of not more than sixty-five years of age, subject to fitness, having regard to,-

(a) his confidential report and the service record obtained on request from the High Court, by the Selection Committee;

(b) his integrity, quality of judgments and disposal record; or

(II) of a practicing advocate, being a citizen of India and domicile in the State, not below the age of thirty-five years, subject to fitness, possessing,—

(a) a Bachelor's Degree and a Degree in Law of a university recognized by the University Grants Commission;

(b) minimum seven years of continuous practice at the bar;

(c) sufficient knowledge of speaking, reading and writing Marathi and a capacity to translate Marathi into English and *vice versa* ;

(d) good knowledge of computer applications and work on computer:

Provided that, where the pendency of complaints at the starting of the year before a District Forum does not exceed five hundred or the average number of complaints filed in the last three years does not exceed five hundred and the State Government is of the view that the work can be managed by additional charge to the President of the District Forum of the adjoining District, it may do so with the concurrence of the President of the State Consumer Disputes Redressal Commission.

(2) Notwithstanding the provision in sub-rule (1), if the State Government is of the view that the work can be managed by assigning additional charge to a serving District Judge, it may do so with the concurrence of the Chief Justice of the High Court.

(3) Members of the District Forum shall be appointed on whole-time basis.

(4) In the event of pendency of complaints at the starting of the year before a District Forum exceeding one thousand five hundred or the average numbers of complaints filed in the last three years exceeding one thousand, the State Government may establish an additional District Forum in the District.

(5) Presidents and Members while acting or purporting to act in pursuance of any of the provisions of this Act, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

4. *Mode of appointment in the State Commission.*— (1) President of the State Commission may be appointed on whole time basis or by assigning additional charge to a sitting judge of the High Court :

Provided that, appointment of a sitting High Court Judge, either on whole time basis or on additional charge basis, shall not be made without the concurrence of the Chief Justice of the High Court.

(2) Members of the State Commission shall be appointed either by direct appointment or on deputation from amongst the Government servants, who are qualified to hold the post:

Provided that, a serving judicial officer shall not be appointed without concurrence of the Chief Justice of the High Court.

(3) Presidents and Members while acting or purporting to act in pursuance of any of the provisions of this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

5. *Selection of the President and Members of the District Fora.*— (1) Matters relating to appointment of President and Members of District Fora shall be processed by the President of the State Commission.

(2) The Process of appointments shall be initiated at least six months before the vacancy arises.

(3) If a post falls vacant due to resignation or death of a President or a Member or creation of a new post, the process for filling the post shall be initiated immediately after the post has fallen vacant or is created, as the case may be.

(4) The Advertisement of a vacancy, inviting applications for the posts from eligible candidate will be published in leading newspapers and also circulated in such other manner as the President of the State Commission may deem appropriate.

(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.

(6) After scrutiny of the applications received till the last date specified for receipt of applications, list of eligible candidates along with their applications shall be placed before the Selection Committee.

(7) The Selection Committee shall short-list the applicants in the following manner, namely :—

(a) in case of candidate having judicial background, on the basis of the judgments and other judicial orders passed by such candidates;

(b) in case of candidates having experience of working under the Central Government or any State Government or an undertaking under the Central Government or the State Government, on the basis of their available Annual Confidential Reports for the last ten years and their experience relevant to the post applied for;

(c) In other cases, on the basis of performance in a written test consisting of two papers as per the following scheme. The qualifying marks in each paper shall be 50%.

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

(8) The Selection Committee shall interview all shortlisted candidates in which marks may be awarded giving due weightage to the personality relevant past experience, knowledge of law, special achievements, aptitude and vision for the assignment to be taken up.

(9) The Selection Committee shall recommend a panel of names of candidates for appointment as President or Member, as the case may be, from amongst the candidates in the order of merit for consideration of the State Government.

(10) The State Government shall verify or cause to be verified the credentials and antecedents of the recommended candidates.

(11) Every appointment of a President or Member shall be subject to submission of a certificate of physical fitness signed by a Civil Surgeon or District Medical Officer.

(12) Before appointment, the selected applicant shall have to furnish an undertaking that he does not and will not have any such financial or other interest as is likely to affect prejudicially his functions as President or Member and he shall not have any association with any political party.

6. *Appointment of President of District Fora from the retired District Judge category.*— (1) The State Commission may make a request to the High Court to recommend names of sitting District Judges for appointment by transfer on deputation, after obtaining the consent of concerned sitting District Judge to work on deputation as a President of District Fora.

(2) On an application of retired District Judge, for being appointed as a President the State Commission shall obtain from the High Court confidential report and service record of such Retired District Judges and shall place it before the Selection Committee. The Selection Committee may call for such a retired District Judge for an oral interview consisting of 50 marks. Out of these 50 marks, 45 marks shall be considered for the performance of the candidates facing the oral interview, 05 marks shall be considered for his personality, behavior, attitude while responding the interview.

On the basis of interview, the Selection Committee may recommend to the State Government to make appointment as a President. The decision of the Selection Committee shall be final.

(3) The ratio of appointment by nomination from the category of Advocates along with category of retired judges shall be in the ratio of 50:50.

7. *Procedure for Appointment of President of the District Fora from the Practicing Advocates category.*— (1)(A) The applicant shall submit along with the application attested copies of certificates showing,—

- (i) his age as on the date of advertisement;
- (ii) his standing as Practitioner in Court;
- (iii) certificates in respect of degrees possessed by him;
- (iv) that he is of good moral character from two respectable persons:

Provided that, where the applicant practices in a District Court, such certificate should be from the district and from the Civil Judge, Junior Division, if the candidate is practicing in Taluka Court. The candidate practicing in Metropolitan Cities shall submit such certificate of Principal Judge of the Court where he is usually practices;

(v) he is certified to have sufficient knowledge of Marathi to enable him to read, write and translate into English and *vice-a-versa* ;

(vi) the nationality and domicile certificate;

(vii) the certificate showing that he possesses knowledge of computer applications;

(viii) if a candidate belongs to backward class, he shall produce a caste validity certificate issued by Caste Scrutiny Committee so as to give preference for his selection; and

(ix) an affidavit duly sworn before Magistrate that on being appointed he will not have any financial or other interest as is likely to affect prejudicially his discharge of duty as a President.

(B) An applicant who is,—

(a) compulsorily retired, removed or dismissed person from judicial service or from service in Government or statutory or local authority; or has failed to complete probation period in judicial service on any post or in Government, statutory or local authority; or

(b) if he has been convicted of an offence involving moral turpitude; or

(c) has been permanently debarred by the Union Public Service Commission or any State Public Service Commission from appearing for examination or selections conducted by it; or

(d) has been punished for misconduct for any duration by the Bar Council of Maharashtra and Goa or by the India Bar Council; or

(e) has been convicted and sentenced under the Contempt of Courts Act, 1971; or

(f) directly or indirectly influences the recruiting authority by any means for his candidature; or

(g) has more than one living spouses; or

(h) has more than two living children; or

(i) is an un-discharged insolvent; or

(j) is of unsound mind and stands so declared by competent court, shall be disqualified for the post applied for.

(2) Where it is proposed to appoint the practicing Advocate as a President, the Selection Committee shall consider all the applications of the eligible candidates referred to it and may shortlist them on the basis of comparative merit and the number of vacancies and thereafter, the State Commission shall hold the final examination of 250 marks for the post of Presidents. Out of 250 marks, 200 marks shall be for written examination and 50 marks shall be for *viva-voce* examination.

(3) The written examination of 200 marks shall be on the Consumer Protection Act, 1986 and the rules framed thereunder as mentioned in clause (c) of sub-rule (7) of rule 5. The candidates who secures at least 50 marks in each paper in written examination shall be eligible for *viva-voce* examination:

Provided that, candidates belonging to backward class who obtains at least 45% marks in written examination shall be eligible for *viva-voce* examination.

(4) The candidate who is eligible for *viva-voce* examination as stated above, he will be included in a selection list as per merit. The Selection Committee shall hold *viva-voce* examination carrying out 50 marks. Out of these 50 marks, 45 marks shall be considered for the performance of the candidates facing the oral interview and 5 marks shall be considered for his personality, behavior, attitude while responding the interview.

(5) The decision of Selection Committee as to the eligibility or otherwise of candidate for admission to the written and *viva-voce* examination shall be final.

(6) Candidates who could not pass the written examination in three attempts consequently shall be disqualified from appearing for such examination thereafter. The Selection Committee on the basis of competitive marks secured by the candidates, shall prepare, in the order of merit, a list of candidates eligible for appointment. The number of candidates to be included in the list shall be equal to the number of vacancies as on the date of examination.

(7) Besides the merit list, the Selection Committee shall take into consideration the probable or resultant vacancies due having regard to the tenure completion, age bar, etc.; and shall prepare a wait list. Such wait list may consist the number of candidates 10% more or above the assessed vacancies for wait list.

(8) The merit list and wait list so prepared shall be published within one month in the *Official Gazette* and the wait list shall be valid for a period of one year from the date of such publication.

(9) The Selection Committee shall recommend the names of the selected candidates to the State Government by completing the selection process as above.

(10) The State Government shall, before making appointment from the list of candidates forwarded to it, complete the process of verification of antecedents and medical examination and thereafter, shall issue appointment orders.

(11) Selected candidates on appointment shall be on probation initially for period of one year. Probation may be extended, if the President of the State Commission is of the opinion that candidate's performance is not satisfactory for further period of one year.

(12) The candidate making an application for the post of President, District Consumer Forum shall pay application fee of sum of rupees one thousand for General Category and rupees five hundred for Backward Category by way of Demand Draft drawn in favor of Registrar, State Consumer Disputes Redressal Commission, Maharashtra State, Mumbai.

(13) The post of President, District Consumer forum shall be the tenure posts. The persons appointed shall work under administrative control of the State Commission.

(14) The services of the President of District Forum shall be transferable from one District Forum to another District Forum or can be availed by linking two District Forums as may be decided by State Commission taking into consideration work load or pendency of cases.

8. *Procedure for Appointment of Members.*— (1) Appointment to the post of member [(one amongst them shall be a women)] of a District Forum shall be made by nomination of candidates, who,—

(I) shall be a citizen of India and domiciled in the State of Maharashtra;

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

(III) shall possess a Bachelor's Degree from a recognized university, however, candidate with a law degree may be given preference;

(IV) shall be a person ability, integrity, standing and having adequate knowledge and experience of at least ten years in dealing with problems relating to law, economics, commerce, accountancy, industry, public affairs or administration. However, candidates having experience of quasi-judicial matters may be given preference;

(V) shall have sufficient knowledge of Marathi so as to enable him to speak, read, write, and translate from Marathi to English and *vice versa*. Such knowledge must be certified;

(VI) shall have knowledge of computer applications and to work on computer. Such knowledge must be certified.

(2) Candidate applying for the post shall submit along with the application attested copies of,-

(i) Certificate of age on the date of advertisement;

(ii) educational qualifications;

(iii) Certificate of good moral character from two respectable persons, one of such certificate may be of the Head of Department in the field where the candidate had experience of ten years in dealing with the problems relating to economic, law, accountancy, commerce, industry, administration and public affairs;

(iv) Certificate of having sufficient knowledge of Marathi to enable him to read, write and translate into English and *vice versa* ;

(v) the nationality and domicile certificate;

(vi) the certificate showing that he possesses knowledge of computer applications;

(vii) if the candidate belongs to backward class, a caste validity certificate issued by the Caste Scrutiny Committee so as to give preference in selection.

(viii) Affidavit duly sworn before Magistrate that on being appointed, he shall not have any financial or other interest as is likely to affect prejudicially his discharge of duty as a Member.

(3) A candidate who,—

(i) is compulsorily retired, removed or dismissed from service in Government or Statutory or Local Authority or from any employer or who has failed to complete probation period in service on any post or in Government, Statutory or Local Authority or any other Employer; or

(ii) has been convicted of an offence involving moral turpitude; or

(iii) has been permanently debarred by the Union Public Service Commission or any State Public Service Commission from appearing for examination or selections conducted by it; or

(iv) has been punished for misconduct for any duration by the Bar Council of Maharashtra and Goa or by the Indian Bar Council; or

(v) has been convicted and sentenced under the Contempt of Courts Act, 1971; or

(vi) directly or indirectly influences the recruiting authority by any means for his candidature; or

(vii) is a candidate having more than one living spouse; or

(viii) has more than two living children; or

(ix) is an un-discharged insolvent; or

(x) is of unsound mind and stands so declared by competent Court, shall not be eligible for the appointment.

(4) After scrutiny of the applications received till the last date specified in respect of the date of receipt of applications, list of eligible candidates along with their applications shall be placed before the Selection Committee.

(5) The Selection Committee shall consider all the applications of the eligible candidates referred to it and may consider the same depending upon the number of candidates, shortlist them on the basis of comparative merit and thereafter, State Commission shall hold the final examination of 250 marks for the post of Members. Out of 250 marks, 200 marks shall be for written examination and 50 marks shall be for *viva-voce* examination.

(6) The written examination of 200 marks shall be on the Consumer Protection Act, 1986 and the rules framed thereunder as mentioned in clause (c) of sub-rule (7) of rule 5. The candidate who secures at least 50 marks in each paper in written examination shall be eligible for *viva-voce* examination:

Provided that, candidates belonging to backward class, who obtain at least 45 marks in written examination shall be eligible for *viva-voce* examination.

(7) *Viva-voce* examination shall bear 50 marks out of 50 marks, 45 marks shall be consider for performance of the candidate facing the oral interview. 5 marks shall be consider for his personality, behavior, attitude while responding the interview.

(8) The decision of the Selection Committee as to the eligibility or otherwise of candidate for admission to the written and *viva-voce* examination shall be final.

(9) Candidates who could not pass the written examination in three attempts consequently shall be disqualified from appearing for such examination thereafter. The Selection Committee on the basis of competitive marks secured by the candidates, shall prepare, in the order of merit, a list of candidates eligible for appointment. The number of candidates to be included in the list shall be equal to the number of vacancies as on the date of examination.

(10) Besides the merit list, the Selection Committee shall take into consideration the probable or resultant vacancies due to completion of tenure, age bar etc., shall prepare a wait list. Such wait list may consist number of candidates 10% more or above the assessed vacancies for wait list.

(11) The merit list and wait list prepared shall be published within one month in the *Official Gazette* and the wait list shall be valid only for period of one year from the date of such publication.

(12) The Selection Committee shall recommend the names of the selected candidates to the State Government by completing the Selection process as above.

(13) The State Government shall, before making appointment from the list of candidates forwarded to it shall complete the process of verification of antecedents and medical examination and thereafter, shall issue appointment order.

(14) The selected candidates on appointment shall be on probation initially for the period of one year. Probation may be extended if the President of State Commission is of the opinion that candidates performance is not satisfactory, for further period of one year.

(15) The candidate making an application for the post of Member of District Forum shall be required to pay application fee of rupees five hundred for General Category and rupees two hundred and fifty for backward Category by way of Demand Draft drawn in favor of Registrar, State Consumer Disputes Redressal Commission, Maharashtra State, Mumbai.

(16) Post of Members, District Consumer Forum shall be the tenure posts. The persons appointed shall work under administrative control of the State Commission.

(17) The services of Members of District Forum shall be transferable from one District Forum to another District Forum or can be availed by linking two District Forums as may be decided by State Commission taking into consideration work load or pendency of cases.

(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 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.

(19) Where any vacancy occurs in the office of the President of the District Forum, by resignation, removal or he is unable to discharge the functions owing to absence, illness or any other cause, the senior most (in order of appointment) Member of the District Forum, who is qualified to be appointed as a President of the Forum under clause (a) of sub-section (1) of section 10, holding office for the time being shall discharge the functions of the President until the person appointed to fill such vacancy assume the office of the President of the District Forum. In absence of both the Members of the District Forum, or if none of the member is qualified to hold the office of the President, the President or any senior-most (in order of appointment) member of the District Forum of adjacent District, qualified to be appointed as a President shall discharge the functions of the President of the District Forum:

Provided that, if the Member of the District Forum of any adjacent District is qualified to be appointed as President, preference shall be given to such Member over the President of such adjacent District :

Provided further that, the Government shall, by order specify the District which shall be treated as adjacent District for such purposes :

Provided also that, where there are more than one Forum in the District, the President of any other Forum, in the District or any Member of any other Forum in the District, who is qualified to be appointed as a President shall discharge the functions of the President;

Explanation - If the Members are not eligible under clause (a) of sub-section (1) of section 10 of the Act, such Members shall attend the work of the forum like giving of dates for hearing of complaints, accepting applications, complaints, etc., and bring the same to the notice of the President. Every such work shall be deemed to be a sitting. However they shall not hear and dispose of the complaints.

(20) It shall be the duty of the Registrar and the members of the staff to assist the Members in discharging such functions.

(21) The President or any Member ceasing to hold office as such shall not hold any appointment in or be connected with the management or administration of an organization which have been the subject of any proceeding under the Act during his tenure for a period of five years from the date on which he ceases to hold such office.