

(22) The President of the district Forum shall discharge the judicial functions, while the Registrar of the District Forum shall discharge the administrative functions

9. *Selection of the President of the State commission.*— (1) The Process of appointment shall be initiated by the State Government at least six months before the vacancy arises.

(2) If a post falls vacant due to resignation or death of a President 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.

(3) The Selection Committee constituted under sub-section (1A) of section 16 of the Act, shall recommend, through a search and selection process after assessing the suitability on the basis of merit and experience, a candidate with another candidate in the waiting list, for consideration of the State government.

(4) The candidates under consideration shall be clear from the vigilance angle.

(5) The State Government shall appoint the selected candidate after consultation with the Chief Justice of the High Court.

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

(7) Before appointment, the selected candidate shall have to furnish an undertaking that he does not have and will not have any such financial or other interests as is likely to affect prejudicially his functions as a President.

(8) Every vacancy caused by resignation and removal of the President or any other Member of the State Commission or otherwise shall be filled by fresh appointment.

(9) The President 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 five years from the date on which he ceases to hold such office.

(10) The President 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 and shall not be eligible for re-appointment :

Provided that the President may :—

(a) by writing under his hand and addressed to the State Government resign his office at any time.

(b) be removed from his office.

10. *Selection of Members of the State Commission.*— (1) The process of appointments shall be initiated by the President of the State Commission at least six months before the vacancy arises.

(2) If the post falls vacant due to resignation or death of 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.

(3) The Advertisement of a vacancy, inviting applications for the posts form 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.

(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.

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

- (6) The Selection Committee shall short-list the applications in the following manner, namely—
- (a) in the case of candidates having judicial background, on the basis of the judgments and other judicial orders passed by such candidates;
- (b) In the 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.

The Selection Committee shall recommend a panel of names of candidates for appointment as Member from amongst candidates in order of merit for the consideration of the State Government on the basis of *Viva-voce* examination including following areas.

Sr. No.	Areas
1.	(a) General Knowledge, Current Affairs etc. (b) Broad features of the Code of Civil Procedure. (c) Knowledge of various Consumer related Laws as indicated in the schedule. (d) Knowledge of Constitution of India. (e) Issues on trade and commerce, consumer related issues or Public Affairs and Grievances. (f) One case study of Consumer Case for testing the ability of analysis and consent drafting of orders.

(7) The Selection Committee shall interview all the shortlisted candidates and award marks with due weightage to the personality, relevant past experience, quality of the judgment, knowledge of law, special achievements, aptitude and vision for the assignment to be taken up.

(8) The Selection Committee shall hold *Viva-Voce* examination carrying out 50 marks. Out of 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.

(9) The Selection Committee shall recommend the panel of names of candidates for appointment as Member from amongst the candidate 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 Member shall be subject to submission of a certificate of physical fitness signed by a Civil Surgeon or District Medical Officer about his medical fitness.

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

(13) 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 performance is not satisfactory.

(14) Every vacancy caused by resignation and removal of any other Member of the State Commission or otherwise shall be filled by fresh appointment.

(15) Where any vacancy occurs in the office of the President of the State Commission, 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 State Commission, holding office for the time being, shall be the acting President until a person appointed to fill such vacancy assumes the office of the President of the State Commission. However, such acting President and other Members shall not hear and decide contested matters. They can dispose off *ex-parte* matters and can given further dates of hearing. However, in the *ex-parte* matters, the opinion of such acting President and Member should be unanimous.

(16) 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.

(17) The Members 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 and shall not be eligible for re-appointment:

Provided that the Members may:-

- (a) by writing under his hand and addressed to the State Government resign his office at any time or
- (b) be removed from his office.

11. *Salaries/Remunerations of the Whole-time President and Members of District Fora :—*

(1) A serving District Judge, appointed on deputation shall be entitled to pay and allowances of a District Judge in the super time scale of pay.

(2) The President who is appointed after selection from the retired District Judge shall get his pay fixed as per sub-rule (2) of rule 157 of the Maharashtra Civil Services (Pension) Rules, 1982.

(3) A whole-time President other than serving shall receive a fixed consolidated remuneration of rupees fifty one thousand five hundred fifty or as may be prescribed by State Government from time to time plus other allowances at the same rate as admissible to Group-A Officer of the State Government time to time.

(4) A whole-time Member shall be paid a consolidated remuneration of rupees fourty thousand all inclusive.

(5) Fixation of pay of the retired Government Servants (Under Secretary or its equivalent post) appointed to the post of President or Members on overtime basis shall be on the basis of the pay last drawn reduced by the amount of pension plus other allowances as admissible to a re-employed pensioner.

(6) The President and the Members of the District Forum shall be entitled for such conveyance allowance and daily allowance, on official tour at such rate, as may be specified by the State Government, from time to time:

Provided that, the Members of the District Forum, except the Members of the Mumbai District Forum, shall be entitled to conveyance allowance at the rate that Government decides from time to time.

(7) For the purpose of attending sittings of the District Forum, the Members of the District Forum shall be entitled to actual conveyance charges, on production of the certificate that they have not been provided with Government conveyance, subject to the ceiling mentioned below :—

(i) in Mumbai District and Mumbai Suburban District, rupees two hundred per day.

(ii) in the local limits of any Municipal Corporation other than Mumbai Municipal Corporation, rupees one hundred per day; and

(iii) in rest of the area of the State, other than the area mentioned in clauses (i) and (ii) above, rupees seventy-five per day.

(8) When the President or Member of the adjoining District Forum attends the work of the District Forum such President or the Member as the case may be, shall be paid traveling allowance and daily allowance as decided by the Government from time to time.

12. *Salaries/Remunerations of the whole-time President and Members of the State Commission.—*

(1) President of the State Commission shall receive the salary, allowances and other perquisites as are admissible to a sitting judge of the High Court of the State.

(2) A whole-time Member of the State Commission shall be paid a remuneration consolidated rupees sixty two thousand all inclusive.

(3) The serving Government servants appointed on deputation shall be entitled to salary and allowances under the provisions applicable to deputationists.

(4) Fixation of pay of the persons retired from Government service, appointed to the posts of President or Member on whole time basis, shall be on the basis of the pay last drawn reduced by the amount of pension.

(5) (a) If the Member is selected from the retired Deputy Secretary or its equivalent or above the said post in the Government of Maharashtra on whole-time basis shall get his pay fixed as per sub-rule (2) of rule 157 of the Maharashtra Civil Services (Pension) Rules, 1982.

(b) If the Member is selected from the retired District Judges, his pay should be fixed as per sub-rule (2) of rule 157 of the Maharashtra Civil Services (Pension) Rules, 1982. Deputation allowance in addition to pay and allowances shall be payable to such of the judicial Members who is appointed from the cadre of sitting District Judges. The sitting District Judge is entitled to get seventy five liters of petrol per month.

(6) The President and the Members of the State Commission shall be entitled for such conveyance allowance and daily allowance on official tour, at such rate, as specified by the State Government, from time to time.

(7) For the purpose of attending sittings of the State Commission including sittings of Circuit Benches, the Members of the State Commission including the Members of the Circuit Benches shall be entitled to actual conveyance charges, subject to a ceiling of rupees two hundred per day, on production of the certificate that they have not been provided with Government conveyance.

(8) The salary, remuneration and other allowances shall be defrayed out of the consolidated Fund of the State Government and in the case of the Union Territories, from the Consolidated Fund in India.

(9) The terms and conditions service of the President and the Members of the District Forum and the State Commission shall not be varied to their disadvantage during their tenure of office.

13. *Removal of President and Members of State Commission and District Fora from office in certain circumstances.*— (1) The State Government may remove from office, the President or any Member, who,—

(a) has been adjudged as an insolvent ; or

(b) has been convicted of an offence which, in the opinion of the State Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as the President or the Member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as the President or a Member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest; or

(f) remains absent in three consecutive sittings except without leave or for reasons beyond his control.

(2) Notwithstanding anything contained in sub-rule (1) the President of the State Commission shall not be removed from his office on the grounds specified in clauses (d), (e) and (f) of that sub-rule except after an inquiry held by a sitting judge of the High Court nominated by the Chief Justice of the High Court in which the President of the State Commission has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges and found guilty.

(3) Notwithstanding anything contained in sub-rule (1) a Member of the State Commission, President or Member of the District Forum shall not be removed from his office on the grounds specified in clauses (d), (e) and (f) of that sub-rule except after an inquiry held by a Member of the National Commission nominated by the President of the National Commission, in which the President or Member of the District Forum or the Member of the State Commission, as the case may be, has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges and found guilty.

14. *Procedure of the District Forum* .— (1) The language of the District Forum shall be Marathi.

Explanation.— For the purpose of this sub-rule language includes language of hearings and orders.

(2) The complaint before the District Forum shall be made in writing and may be filed in the District Forum or sent by post. The complaint and the documents shall be in triplicate and shall be accompanied by as many copies of the complaint and documents as the number of defendants. The Registrar shall on receipt of the complaint scrutinize the same and file the same in the Register maintained for this purpose.

(3) The District Forum is the authority to decide any complaint, including the preliminary hearing, necessary, if any.

(4) The defendant shall give his reply and documents in quadruplicate.

(5) The President and Member of the District Forum shall endeavor the speedy trial for disposal of the matters.

(6) The President of the District Forum shall, after receipt of the execution application of the judgment forward the same to the Civil Court for necessary execution.

(7) The Registrar shall provide the Members of the Forum information with regard to official work and correspondence of the Forum with the Government. It shall be the duty of the Registrar to place with the Members the files with respect to the matters with the Forum so that the Members can devote their time for the working of the Forum.

15. *Place of sitting and other matters relating to District Forum*.— (1) The office of the District Forum shall be located at the headquarter of the District, where the State Government decides to establish a single District Forum having jurisdiction over more than one District. It shall notify the place and jurisdiction of the District Forum so established.

(2) The working days and the office hours of the District Forums shall be the same as that of the State Government.

(3) The official seal and emblem of the District Forum shall be such as the State Government may specify.

(4) Sitting of the District Forum, as and when necessary, shall be convened by the President.

(5) State Government shall appoint such staff, as may be necessary to assist the District Forum in its day to day work and perform such other functions as are provided under these rules, or assigned to it by the President.

(6) Where the opposite party (Defendant) admits the allegation made by the complainant, the District Forum shall decide the complaint on the basis of the merit of the case and documents present before it.

(7) If during the proceedings conducted under section 13, District Forum fixes a date for hearing of the parties, it shall be obligatory on the complainant and opposite party (Defendant) or its authorized agent to appear before the District Forum on such date of hearing or any other date to which hearing could be adjourned. Where the complainant or his authorized agent fails to appear before the District Forum on such day, the District Forum may in its discretion either dismiss the complaint for default or decide on merit. Where the opposite party (Defendant) or its authorized agent fails to appear on the day of hearing, the District Forum may decide the complaint *ex-parte*.

(8) While proceeding under sub-rule (7), the District Forum may, on the reasonable grounds at any stage, adjourn the hearing of the complaint but not more than one adjournment shall ordinarily be given and the complaint should be decided as far as possible within ninety days from the date of notice received by the opposite party (Defendant) where complaint does not require analysis or testing of the goods and as far as possible within one hundred fifty days if it requires analysis or testing of the goods.

(9) Orders of the District Forum shall be signed and dated by the Members of the District Forum constituting the Bench and shall be communicated to the parties free of charge.

(10) When the hearing takes place at the time when all Members of the District Forum are present, the opinion of the majority shall be the order of the Forum.

16. *Procedure to be adopted by the District Forum for analysis and testing of goods.*— (1) Under clause (c) of sub-section (1) of section 13, if considered necessary, the District Forum may direct the complainant to provide more than one sample of the goods in clean containers with stopper properly fixed on them.

(2) On receiving the samples of goods, the District Forum shall seal it and fix labels on the containers carrying following information :—

- (i) name and address of the appropriate laboratory to whom sample will be sent for analysis and test ;
- (ii) name and address of the District Forum;
- (iii) case number;
- (iv) seal of the District Forum.

(3) The sample will be sent to the appropriate laboratory by the District Forum for report within forty-five days or within such extended time as may be granted by the District Forum after specifying the nature of the defect alleged and date of submission of the report.

17. *Place of sitting and other matters relating to State Commission.*— (1) Office of the State Commission shall be located at Mumbai.

(2) The working days and the office hours of the State Commission shall be the same as that of the State Government.

(3) The official seal and emblem of the State Commission shall be such as the State Government may specify.

(4) Sitting of the State Commission as and when necessary, shall be convened by the President.

(5) State Government shall appoint such staff, as may be necessary to assist the State Commission in its work and perform such other functions as are provided under these rules or assigned to it by the President.

(6) Where the opposite party (Defendant) admits the allegation made by the complainant, the State Commission shall decide the complaint on basis of the merit of the case and documents present before it.

(7) If during the proceedings conducted under section 13, State Commission fixes a date for hearing of the parties, it shall be obligatory on the complainant and opposite party (Defendant) or its authorized agent to appear before the State Commission on such date of hearing or any other date to which hearing could be adjourned. Where the complainant or his authorized agent fails to appear before the State Commission on such day, the State Commission may in its discretion either dismiss the complaint for default or decide on merits. Where the opposite party (Defendant) or its authorized agent fails to appear on the day of hearing, the State Commission may decide the complaint *ex-parte*.

(8) While proceeding under sub-rule (7), the State Commission may, on such terms as it may think fit and at any stage adjourn the hearing of the complaint but not more than one adjournment shall ordinarily be given and the complaint should be decided within ninety days from the date of notice received by the opposite party (Defendant) where complaint does not require analysis or testing of the goods and within one hundred fifty days if it requires analysis or testing of the goods.

(9) Orders of the State Commission shall be signed and dated by the Members of the State Commission constituting the Bench and shall be communicated to the parties free of charge.

18. *Procedure for hearing appeal.*— (1) Memorandum shall be presented by the appellant or his authorized agent to the State Commission in person or sent by registered post addressed to the Commission.

(2) Every memorandum filed under sub-rule (1) shall be in legible handwriting preferably typed and shall set forth concisely under distinct heads, the grounds of appeal without any argument or narrative and such grounds shall be numbered consecutively,

(3) Each memorandum shall be accompanied by the certified copy of the order of the District Forum appealed against and such of the documents as may be required to support grounds of objection mentioned in the memorandum.

(4) When the appeal is presented after the expiry of period of limitation as specified in the Act, memorandum shall be accompanied by an application supported by an affidavit setting forth the fact on which appellant relies to satisfy the State Commission that he has sufficient cause for not preferring the appeal within the period of limitation.

(5) The appellant shall submit four copies of the memorandum to the State Commission for official purposes.

(6) On the date of hearing or any other day to which hearing may be adjourned, it shall be obligatory for the parties or their authorized agents to appear before the State Commission. If appellant or his authorized agent fails to appear on such date, the State Commission may, in its discretion either dismiss the appeal or decide it on the merit of the case. If respondent or his authorized agent fails to appear on such date, the State Commission shall proceed *ex-parte* and shall decide the appeal *ex-parte* on merits of the case.

(7) The appellant shall not except by leave of the State Commission, urge or be heard in support of any ground of objections not set forth in the memorandum, but the State Commission, in deciding the appeal, shall not confine to the grounds of objections set forth in the memorandum or taken by leave of the State Commission under this rule:

Provided that, the Commission shall not rest its decision on any other ground unless the party who may be affected thereby, has been given at least one opportunity of being heard by the State Commission.

(8) The State Commission may, on such terms as it may think fit and at any stage, adjourn the hearing of appeal if there are reasonable grounds, but not more than one adjournment shall ordinarily be given and the appeal should be decided as far as possible within ninety days from the first date of hearing.

(9) The orders of the State Commission on appeal shall be signed and dated by the Members of the State Commission constituting the Bench and shall be communicated to the parties free of charge.

19. *Repeal and savings.*— On the commencement of these rules the Maharashtra Consumer Protection Rules, 2000 and The whole-time President and Members of District Consumer Redressal Forum, Group-A, under the Food, Civil Supplies and Consumer Protection Department of the Government (Recruitment) Rules, 2012, in so far as relate to the matters provided by these rules, are hereby repealed :

Provided that—

(a) such repeal shall not affect previous operation of any notifications or orders made or anything done or any action taken under the rules so repealed;

(b) any proceedings under the rules so repealed which were pending at the commencement of these rules shall be continued and disposed of as far as may be, in accordance with the provisions of these rules, as if, such proceedings were proceedings under these rules.

By order and in the name of the Governor of Maharashtra,

MAHESH PATHAK,
Principal Secretary to Government.

SCHEDULDE

(see Rule 5(7)(C))

- (1) The Consumer Protection Act, 1986.
- (2) The Legal Metrology Act, 2009.
- (3) The Bureau of Indian Standards Act, 2016.
- (4) The Competition Act, 2002.
- (5) The Food Safety and Standards Act, 2006.
- (6) The Drugs and Cosmetics Act, 1945.
- (7) The Sales of Goods Act, 1930.
- (8) The Real Estate (Regulation and Development) Act, 2016.
- (9) The Electricity Act, 2003.
- (10) The Insurance Act, 1938.

By order and in the name of the Governor of Maharashtra,

MAHESH PATHAK,
Principal Secretary to Government.