**MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION**

**(Department of Consumer Affairs)**

**NOTIFICATION**

New Delhi, the ……………

**G.S.R. …..(E).—**In exercise of the powers conferred by section 29 and section 43, read with clause (n) and clause (w) of sub-section (2) of section 101, of the Consumer Protection Act, 2019 ( 35 of 2019), the Central Government hereby makes the following rules, namely: -

**1. Short title, commencement and application.—**(1) These rules may be called 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, 2019.

(2) They shall come into force on the date of their publication in the Official Gazette.

(3) These rules shall apply to the President and Members of the State Commission and District Commission.

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

1. “Act” means the Consumer Protection Act, 2019 (35 of 2019);
2. “Member” means a member of the State Commission or District Commission, as the case may be, and includes the President.
3. “Selection Committee” means the Search-cum-Selection Committee referred to in sub-rule (2) of Rule 7;

(d) words and expressions used herein and not defined but defined in the Act shall have the same meanings respectively assigned to them in the Act.

3**. Qualifications for appointment of President and Member of State Commission**.**—**The qualification for appointment of the President and Members shall be as follows:

(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 Member unless he is -

(a) of not less than forty years of age; and

(b) possesses a bachelor’s degree from a recognised university; and

(c ) a person of ability, integrity and standing, and having special knowledge of, and professional experience of not less than twenty years in economics, business, commerce, law, finance, accountancy, management, industry, public affairs or administration.

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

Explanation.—For the purpose of this sub-rule, the expression’ persons having a judicial background” shall mean persons having knowledge and experience of at least ten years as a presiding officer at the district level court or any tribunal at equivalent level.

(3) Of the members of the State Commission, one shall be a woman.

**4. Qualifications for appointment of President and Member of District Commission**.**—**The qualification for appointment of the President and Members shall be as follows:

(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 is-

(a) of not less than thirty-five years of age; and

(b) possesses a bachelor’s degree from a recognised university; and

(c ) a person of ability, integrity and standing, and having special knowledge of, and professional experience of not less than fifteen years in economics, business, commerce, law, finance, accountancy, management, industry, public affairs, or administration.

 Provided that of the members, one shall be a woman.

**5. Disqualification for appointment of President and Member of State Commission and District Commission.--**  A person shall be disqualified for appointment as President or a member of the State Commission or District Commission 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 President or a member.

**6. Method of appointment.—** The President and Members of the State Commission and the District Commission shall be appointed on whole time basis.

1. **Procedure of appointment. –**
	1. A person who is or has been a judge of a High Court shall be appointed by the State Government as the President of the State Commission.

Provided that no appointment under this sub-rule shall be made except after consultation with the Chief Justice of the High Court of the State.

* 1. The Members of State Commission and the President and members of District Commission shall be appointed by the State Government on the recommendation of a Selection Committee, the composition of which shall be –

(i) a person who is a Judge of the High Court, to be nominated by the Chief Justice of the High Court -chairperson;

(ii) Secretary, Ministry of Law of the State Government - member;

(iii) Secretary in charge of Consumer Affairs of the State Government – member;

* 1. The Secretary in charge of Consumer Affairs of the State Government shall be the convener of the Search-cum –Selection Committee.
	2. No appointment of President, or Member shall be invalid merely by reason of any vacancy or absence in the Selection Committee.
	3. The process of appointments shall be initiated by the State Government at least six months before the vacancy arises.
	4. If a 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.
	5. The advertisement of a vacancy, inviting applications for the posts from eligible candidates will be published in leading newspapers and also circulated in such other manner as the State Government may deem appropriate.
	6. 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.
	7. The Selection Committee shall consider all the applications of eligible applicants referred to it.
	8. The Selection Committee shall, subject to the provisions of sub-rule (10) , assess the suitability of the candidates for the post of member in the State Commission and President and member in the District Commission.
	9. The Selection Committee shall assess the suitability of the candidates and where short listing is done, from among the short-listed candidates, in the following manner:
		1. in the case of candidates having judicial background, on the basis of the judgements and other judicial orders passed by such candidates;
		2. 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 and their experience relevant to the post applied for;
		3. In other cases, the suitability of the short-listed candidates shall be assessed by the Selection Committee on the basis of personal interview conducted by it.
	10. The Search-cum-Selection committee shall recommend a panel of names of candidates for appointment as Member from amongst the candidates in the order of merit for the consideration of the State Government.
	11. The State Government shall, verify or cause to be verified the credentials and antecedents of the recommended candidates.
	12. Every appointment of a Member shall be subject to submission of a certificate of physical fitness as indicated in the annexure signed by a civil surgeon or District Medical Officer to his medical fitness.

(15) Before appointment, the selected candidate 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 such Member.

**8. Resignation by a Member of the State Commission or District Commission**.**—**A Member may, by writing under his hand addressed to the State Government, resign his office at any time:

Provided that the Member shall, unless he is permitted by the State Government to relinquish office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as a successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

**9. Removal of Member of State Commission or District Commission from office.—**The State Government may**,** on the recommendation of a Committee constituted by it in this behalf, remove from office any Member, who**—**

(a) has been adjudged as an insolvent; or

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

(c) has become physically or mentally incapable of acting as such a Member; or

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

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

Provided that where a Member is proposed to be removed on any ground specified in clauses (b) to (e), the Member shall be informed of the charges against him and given an opportunity of being heard in respect of those charges.

**10. Procedure for inquiry of misbehavior or incapacity of Member of State Commission or District Commission.—**

(1) If a written complaint is received by the State Government, alleging any definite charge of misbehavior or incapacity to perform the functions of the office in respect of the President or a Member the Department of Consumer Affairs of the State Government shall make a preliminary scrutiny of such complaint.

(2) If on preliminary scrutiny, the Department is of the opinion that there are reasonable grounds for making an inquiry into the truth of any misbehavior or incapacity of the President or a member, it shall make a reference to the Committee constituted under rule 9 to conduct the inquiry.

(3) The Committee shall complete the inquiry within such time or such further time as may be specified by the State Government.

(4) After the conclusion of the inquiry, the Committee shall submit its report to the State Government stating therein its findings and the reasons therefor on each of the charges separately with such observations on the whole case as it may think fit.

(5) The Committee shall not be bound by the procedure laid down by the Code of Civil Procedure,1908 (5 of 1908) but shall be guided by the principles of natural justice and shall have power to regulate its own procedure, including the fixing of date, place and time of its inquiry.

**11. Term of office of Member.—(1)** 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 and shall be eligible for reappointment for another term of five years or up to the age of 67 years, whichever is earlier.

(2) Every member of the District Commission shall hold office for a term of five years or up to the age of sixty-five years, whichever is earlier and shall be eligible for reappointment for another term of five years or up to the age of 65 years, whichever is earlier..

**12. Power to relax.—**Where the Central Government is of the opinion that it is necessary or expedient so to do, it may, by order for reasons to be recorded in writing relax any of the provisions of these rules with respect to any class or category of persons.

**13. Interpretation.—**If any question arises relating to the interpretation of these rules, the decision of the Central Government thereon shall be final.

Joint Secretary to the Government of India

ANNEXURE

(see Rule 7(14)]

CERTIFICATE OF PHYSICAL FITNESS

I hereby certify that I have examined Shri/Smt./Ms…………………………………………….. and that I have not discovered that he/she has any disease ( communicable or otherwise) , constitutional weakness or bodily infirmity, except…………………………… I do not consider this a disqualification for his/her for employment as member in the State/District Consumer Disputes Redressal Commission for a period of five years or up to the age of sixty seven/sixty five years, whichever is earlier.

Date……….

Signature of candidate

Signature

Designation

(Civil Surgeon/District medical Officer)