

filing of written statement/reply to a complaint is concerned. The earlier mentioned line of decisions take the view that the relevant provisions including those of Order 8 Rule 1 of the Civil Procedure Code, 1908 are directory in nature and the Courts concerned have the power to extend time for filing the written statement.

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second line of decisions which are also of coordinate Benches however takes a contrary view and hold that when it comes to power of the Consumer Fora to extend the time for filing a reply there is no such power.

Since the question that falls for determination here often arises before the Consumer Fora and Commissions all over the country it will be more appropriate if the conflict is resolved by an authoritative judgment. Further since the conflict is between Benches comprising three Judges we deem it fit to refer these appeals to a five-Judge Bench to resolve the conflict once and for all. While we do so we are mindful of the fact that in the ordinary course a two-Judge Bench ought to make a reference to a three-Judge Bench in the first place but in the facts and circumstances of the case and keeping in view the fact that the conflict is between coordinate Benches comprising three Judges a reference to three Judges may not suffice.

We have heard Mr. K.T.S. Tulsi, learned counsel for the appellant on the question whether we ought to stay the proceedings before the National Commission, Mr.Tulsi submits that the National Commission is proceeding with the case without receiving the reply of the appellant-company or even allowing appellant-company to adduce evidence or even to cross-examine the witnesses that may be cited and produced by the complainant.

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Stay of the proceedings before the National Commission would in our opinion not only result in procrastination but also cause

prejudice to the complainant.

The proper course in our opinion is

to permit the appellant-company to file its response, which was

delayed by just about one day.

We accordingly permit the appellant

to file its reply before the National Commission within two weeks

from today subject to payment of Rs.50,000/- as costs to be paid to

the opposite party.

The Commission can upon deposit of costs

proceed with the trial of the complainant on merits after receiving

the reply filed by the respondent. The pendency of present

proceedings shall not be an impediment for the Commission to do so.

This however is subject to the condition that

complainant-respondent is ready and willing to take the proceedings

forward on the conditions aforementioned. In case the

complainant-respondents have any objection to the continuance of

the proceedings before the Commission they shall be free to seek

stay of such proceedings pending disposal of these appeals in which

event the proceedings shall remain stayed till disposal of the

present appeals.

(Ashok Raj Singh)
Court Master

(Veena Khera)
Court Master