

Consumer Protection in India : Need of today

Dr. Ajeya Verma

Department of commerce, L.B.S.M. College, Jamshedpur, Kolhan University

Email: ajeyajsrverma@gmail.com

ABSTRACT

Consumer protection is a social economic activity that is carried out by the state as a prime interest of consumer satisfaction. Consumer protection is a responsibility of the state. Consumer protection movements started in the early 20th century made the whole world focus on formulation of strong consumer act. United Nation guidelines are the basis of formulation of consumer protection policies not only India but all over the world. As a result consumer protection Act passed in a parliament in the year 1986 .which is considered as one of the best Act for consumer protection. The consumer protection Act (here in after “this act”) is enacted for the purpose of protecting the safety, quality, and interest of consumers. The paper discusses the evolution of consumer protection in India and its formulation of consumer protection act 1986 and its implementation.

Keywords: Act, consumer protection Act, consumer movements, Supreme court cases, Reporter, Consumer, protection, complainant, Commission,

Introduction:

The concept of consumer protection is found in ancient days. Protecting the consumer interest is one of the prime concerns of the government. In fact it is the moral obligation of the business to serve them because business earn form the society. But the profit motive of many manufacturers are doing consumer exploitation through deceitful and immoral market practices the rights and interest of consumers through formulating suitable policies, law and administrative frame work are the prime responsibility of the government. There are many civil laws that protect the right of the consumers but all these laws are dilatory and costly. Therefore common man is avoiding court case even they are cheated by the businessmen and service providers. So there is the demand to make a strong effective and

cheaper law for common consumers. At last government on the demand of society made a consumer law which is called the consumer protection Act 1986. That law proves a stronger milestone in the history of the consumer movement in India. The Act was made to provide for the better protection and promotion of consumer’s right through the establishment of consumer councils and quasi- judicial machinery.

Objectives of the study:

- 1 To protect the consumer from hazardous goods
- 2 To aware consumer from the quality, quantity, purity, standard of the goods to protect the consumer against unfair trade practices.
- 3 To provide speedy and simple redressal mechanism through quasi-judicial machinery at the three level.

- 4 To follows the principles of natural justice.
- 5 To award appropriate compensation and penalty for non-compliance of quasi-judicial body to the consumer.

Hypothesis:

- HO1: consumer protection Act has significant value in consumer redressal
- HO2 consumer protection Act has a role in easy faster and cheaper redressal.

Methodology:

The research article is based on secondary data reporting in various laws Journal, PLJR (Patna law journal reporter) AIR (all India reporters) SCC (Supreme Court cases) Bare Act, and some reports on newspapers.

In the present socio economic scenario we find that the consumer is the victim of many unfair trade practice adopted by the market. The untrained consumer is no match by trained businessman. The consumer who is the king of the market has become the victim of it. Therefore consumer protection need issue arose all over the world. Taking into account the interest and needs of the consumer protection some measures should essential. Hence it is necessary on the part of the Government to enforce a law that could effectively check frauds, adulteration, standard of goods etc. The Government has made a law which is called "A consumer protection ACT 1986" which is applies the whole India except the state Jammu and Kashmir (state J&K has a separate law). Consumer protection act constitute by two words that is consumer and its protection. The consumer under this Act means any person who buy any goods and hire any services which has been paid, partly paid, or promise to pay for his

own use and not for resale of goods and services. This definition does not include the goods purchase for any commercial uses. The second word protection, which means protection of consumer from goods which is, suffered from defects, hazardous to life, unfair trade practices, and services are suffered from deficiency in any manner like imperfection, shortcoming, or inadequacy in the quality, etc. For the purpose of this act some definitions shall apply.

- 1 Trader means any person who deals with the goods that is a person who sells or distributes any goods for sell.
- 2 Manufactures means a person who make or manufactures any goods or parts.
- 3 Restrictive Trade Practice means a trade practice which tend to mean about manipulation in quality goods, condition of goods, price of goods etc.
- 4 Unfair trade practice means a trade practice which is falsely represent the goods for standard, quality, Grade of goods, False and misleading representation about the goods.

Time to time consumer redressal agencies and courts have through its judgment made the law clearer and wider to fill-up the gap of law. Government has also made things easy through the several amendments like.

- A. Education does not comes the preview of consumer protection Act 1986.this was clear by court in its order in case N. Taneja VS Calcutta District forum reported in All India Reporter Addition 1992 Calcutta issue page no 95 (now noted as N Taneja vs. Calcutta district form AIR 1992 cal P 95)
- B. A railway passenger is a consumer (Basant kumar Sahoo VS Chief commercial manager 1998(3) CPJ P 286 Orissa)

- C. Nomine in LIC Policy is a consumer and he can file a case in consumer court (Jagdish prasad Dager vs. senior Divisional manager LIC 1992(2) C.P.J 493 (National council))
- D. A Doctor will not be guilty of negligence if he has acted in accordance with the settled practice accepted as proper by responsible body and any contrary view will not make him liable for negligence. (Vinitha Ashok VS Lakshmi Hospital (2001 (8) SCC 731))
- E. A person who owns large quantity of rice cannot consider as a consumer as such a large quantity cannot be for self-consumption but for resale. (Shri Laximi Narayan Rice mill vs. Food corporation of India (1996(1) CPJ 161(N.C))
- F. Consumer forums have jurisdiction to entertain complains against common carrier regarding loss of or damage to goods entrusted to carrier for transportation. (Patel Roadways Ltd VS Birla Yamaha (AIR 2000 SC 1461))
- G. Following are some instances of “commercial purpose” and thus not treated as consumer”: (1) purchase of vehicle for running it as taxi (Puspa Meena vs. shah enterprises Rajasthan Ltd 1992 (1) C.P.J 145 (N.C))

Purchase of ultra sound scanner machine (Network LTD VS Vijay prakesh Goyal 1998(3) C.P.J 674 U.P

Consumer protection Act was amended in the year 1991, 1993 and 2002 to make it more powerful, effective, removing lacuna and bringing clarity: like expressly conferring the powers of first class judicial magistrate, power of interim order, and right for substitution of legal heir as a party in the case in the death of

main complainant or the opposite party. Consumer redressal councils work as rational approach and not a technical approach like civil court as per decision of Supreme Court in (India photographic co LTD VS H. D. Shourie AIR 1999 SC 2453).

There are three tier redressal agencies established for the purpose of this Act .District Redressal Forum to be known as District Forum established by state government in each district of the state by notification. Consumer Disputes Commission to be known as State commission established by the state government in the state level through notification. National consumer Disputes Redressal Commission to be known as National commission established by the central government at national level through notification. District forum shall consist of three persons one of them is president and two other members, one of them shall be a woman. The president of the forum is qualified to be a district judge rank, other members are not less than 35 years of age and have possess a bachelor degree from any recognized university along with a persons of ability, integrity and have adequate knowledge and experience of ten years in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration. The appointment of president and other members shall be made by the state Government on the recommendation of the selection committee consist of three persons:

1. The president of state commission
2. Secretary law department of the state,
3. Secretary of consumer affair in the state.

Similarly state commission has minimum three members appointed by the state Government shall consist of a president and

other minimum two members. The president who is or has been a High court judge is eligible for appointment as president of the state commission and other two members have same qualification like District forum. The appointment of president and other members shall be made by the state Government on the recommendation of the selection committee consist of three persons (1) the president of state commission (2) secretary law department of the state (3) secretary of consumer affair in the state. National commission is the highest body to settle disputes under the act. It has the jurisdiction to entertain complains on original side, to hear appeals from the orders of any state commission and to exercise any divisional jurisdiction in respect of any dispute which has been decided by the state commission. National commission has five members appointed by the central Government. One of them is president and other consists of four members. The president is qualified to be a judge of Supreme Court, and other members have similar qualification like District forum and state commission.

Every member of District forum shall hold the office for a term of five years or up to the age of sixty five years, whichever is earlier. Similarly state commission members shall hold the post of five years or sixty seven years, whichever is earlier. National commission members have also hold the office for five years or seventy years, whichever is early. They shall hold the post of further five years but do not exceed the maximum age limit.

Jurisdiction of the District forum is whole District, similarly the state commission jurisdiction is the whole state and National commission jurisdiction is the whole nation that

on the application of the complainant or by its own motion, the state commission may at any stage of the case transfer the case in any other District forum within the state. Similarly the National commission has a power to transfer the case in the interest of justice or on the application of the party, from one District forum of the state to another District forum of the other state. The pecuniary limit of the district forum up to rupees twenty lakhs. The state commission entertain the complain of the goods and services up to twenty lakhs but does not exceed rupees one crore. The National commission entertain the matter up to one crores. In spite of that the aggrieved of the District forum may move to the state commission with prescribed fees and the aggrieved party of the state commission shall move to the National forum with prescribed fees. Any person aggrieved by the order of the national commission may file an appeal against such order to the Supreme Court within period of thirty five days from the date of the order. Every order of a District forum, the state commission and the National commission shall be final if no appeal has been file against such order. The District Forum, State commission, and the National commission shall not admit the complain unless it is filed within two years from the cause of action has arisen. If the complaint instituted before any Forum of consumer court is found to be frivolous is fit to be dismiss by a reasoned order. There is a provision for penalty also for the person against whom the complain has been passed and that person did not comply the order of district forum, state commission, and National commission, such a person shall be punishable with imprisonment for a term of one month to three years, and a fine also.

Conclusion:

The consumer protection Act 1986 successfully protects the widespread consumer interest and the international obligation for protection of consumer right. A rational approach not a technical approach is the mandate of law. The Act provides for an alternative system of consumer justice by easy system. The authority under the consumer Act exercise quasi-judicial power for redressal of consumers disputes. Obligation to give reasons not only for clarity but also excludes the chances of arbitrariness. Both Hypotheses have been clearly defined in consumer protection Act. The consumer disputes redressal agencies have served the purpose for which they were created, the disposal of cases has been faster than traditional courts. Some shortcomings have also come in the way of implementation in various provisions of the Act But these lacunae are removing through amendments.

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