

Consumer Protection in India: With Special Reference to the Consumer Protection Act, 1986

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Abstract: *The Consumer Protection Act, 1986, is a landmark in the history of socioeconomic legislation in the country. The Act facilitates for setting up of consumer protection councils at the centre and the state level which aimed at promoting and protecting the rights and interests of consumers. It enshrines the rights of the consumers such as right to safety, right to be heard, right to consumer education, right to seek redressal, etc. It also provides for the redressal machinery which will be available within the easy reach of the consumer. It further provides for a quasi - judicial machinery with 3 tiers set up, i. e., at the national, state and district level.*

Keywords: Consumer Protection, Consumer Protection Act 1986, Main Objects, Organisational Structure, Goals, Rights of Consumers, Important Provisions of Act, Amendment Acts.

1. Introduction

With the emergence of the welfare state concepts and industrial revolution in almost all countries for raising the living standard of common man, consumer protection has assumed great importance in modern jurisprudence. The changes in the juristic thought have also changed the duty of state. While in 19th century the whole duty of the government was restricted to the prevention of crimes and preservation of contracts, the recent approach seems to treat law as a flexible instrument of social order and is also concerned with social welfare approach.

From time to time, Indian Parliament has passed various Acts to protect the rights of consumer such as Indian Contract Act, Prevention of Food and Adulteration Act, Essential Commodities (Special Provisions) Act, Standard of Weight and Measures Act. In spite of these Acts, the Indian Consumer did not have any effective mechanism for the speedy protection of their grievances. Then, in compliance of the guideline of UN General Assembly, Indian parliament enacted The Consumer Protection Act 1986, for the effective protection of the consumers.

2. The Consumer Protection Act, 1986

The Consumer Protection Act, 1986 is one of the benevolent social legislation intended to protect the large body of consumers from exploitation. The Act has become the vehicle for enabling people to secure speedy and in - expensive redressal of their grievances. With the enactment of this law, consumers now feel that they are in a position to declare “sellers be aware” whereas previously the consumers were at the receiving end and generally told “buyers be aware”. The Consumer Protection Act, 1986 is a milestone in the history of socio - legislation in the country. It is one of the most progressive, comprehensive and unique legislation enacted for better protecting the interest of consumers by establishing forums for the settlement of consumer disputes. All the provisions of the Consumer Protection Act, 1986 came in force with effect from 1.7.1987 throughout the country except in the state of Jammu and Kashmir because it has enacted its own legislation in this field. Under the Act, the three tier quasi - judicial consumer dispute redressal

machinery was established at the national, state and district levels. These agencies are popularly known as Consumer Forums or Consumer Courts.

The sole objective of the Act is providing better protection to the interests of the consumer. The Act defines the term ‘consumer’ as “any person who buys any goods or hires or avail any services for a consideration which has been paid or partially promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment, when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purposes ” Thus any person who purchases goods or services on payment of money for a consideration is a consumer but a person who purchases goods for resale or for any commercial purpose is not a consumer.

2.1. Preamble

Preamble of the act is as follow: -

“An Act to provide for better protection of the interests of consumers and for that purpose to make provision for the establishment of the consumer councils and other authorities for the settlement of consumers disputes and for matters connected therewith.”

2.2. Scope of the Act

The Act is applicable to all goods and services. The Act covers all complaints with respect to goods, services and unfair trade practices, with a very wide and all comprehensive definition of ‘services’ including services in connection with banking, financing, insurance, transport, supply of electrical or other energy, boarding and lodging, entertainment, amusement or the purveying of news or other information. Under this Act any consumer of goods or services is entitled to seek remedy against the seller for defective goods or services or deficit quality of goods or services supplied.

3. Main Objects of the Consumer Protection Act, 1986

- Enacted to provide for the better protection of the interest of consumer.
- Empowerment of consumers by making them aware about their rights and responsibilities.
- Provision of effective, inexpensive and speedy Redressal system to Consumers.
- Provision for three tier system - District Forum, State Commissions and National Commission.
- Consumer Forum is headed by persons with judicial background (normally retired Judges)
- Enabling National Test House Laboratories.
- A consumer may conduct his case on his own.
- Implementation of regulation of Essential Commodities Act.
- To promote and protect the interest of Consumers through various schemes.
- Certification schemes for products and systems.
- Growth and development of Indian Industry, commerce and exports.
- Proceedings are conducted as per Rules of Natural Justice.
- Act is amended in 1991, 1993, 2002.

4. Organizational Structure of the Consumer Disputes Redressal Agencies

In India, there is three tier structure of the Consumer Disputes Redressal Agencies:

National Level

At the National level, there is Central Consumer Protection Council along with the National Consumer Disputes Redressal Commission.

State Level

At the state level, there is State Consumer Protection Council along with State Consumer Disputes Redressal Commission.

District Level

At the District level, there is District Consumer Protection Council along with District Consumer Disputes Redressal Forum.

5. Goals of the Consumer Disputes Redressal Agencies

- To provide a simple, speedy and inexpensive justice to the consumers almost at their doorsteps.
- To promote and protect the rights of the consumers.
- To ensure timely disposal of cases.
- To ensure flexibility in procedural requirements.
- To provide safeguard to the consumers against different types of exploitation such as defective goods, unfair trade practice, etc.
- To promote consumer awareness.

6. Rights of the Consumers

The Consumer Protection Act, 1986 provide the following rights to the consumers:

- **Right to Safety:** The right to be protected against products, the production process and marketing of goods and services that is hazardous to life and property.
- **Right to be Informed:** The right to be informed about the quality, quantity, purity, standard and price of goods.
- **Right to Choose:** The right to access the products of varying qualities, prices, sizes, and designs to choose from according to his/her needs and wants.
- **Right to be Heard:** The right to be heard and to be assured that consumer's interests should receive due consideration at appropriate forums.
- **Right to Seek Redressal:** The right to seek Redressal against unfair trade practices or exploitation of consumers and right to fair settlement of the genuine grievances; and
- **Right to Consumer Education:** It refers to preparing an individual to solve his/her problems one himself/herself.

7. Important Provisions of the Consumer Protection Act, 1986

7.1 Who can file a Complaint?

A complaint in relation to any goods and services provided or aggrieved to be provided may be filed with the District Forum, the State Commission or the National Commission, by any of the following:

- The consumer to whom such goods are sold or delivered or are agreed to be sold or delivered;
- Any recognised consumer association whether the concerned consumer is a member of such association or not;
- The complaint may also be filed by one or more consumers having same interest, with the permission of the District Forum, the State Commission, or the National Commission, as the case may be, on behalf of or for the benefit of all consumers so interested;
- The complaint may also be filed by the Central or the State Government, either in its individual capacity or as a representative of interests of consumers in general;
- In case of death of the consumer his legal representative can be a complainant.

7.2 What constitutes a Complaint?

The aggrieved person can file a complaint in case of:

- An unfair trade practice or restrictive trade practice have been adopted by
- any trader or any service provider, such as representing sec hand goods as new one;
- The goods bought by him or agreed to bought by him suffer from one or more defects such as any fault, imperfection or shortcoming in the quality which is required to be maintained;
- The services hired or availed of or agreed to be hired or availed of by him suffer from deficiency in any respect;
- A trader or the service provider has charged for the goods mentioned in the complaint a price in excess of the price fixed by or under any law for the time

- being in force or displayed on the goods or any package containing such goods;
- Goods which will be hazardous to life and safety when used, are being offered for sale to the public in contravention of the provisions of any law for the time being in force requiring traders to display information in regard to contents, manner and effect of use of such goods.

7.2. Where to file a Complaint?

A written complaint can be filed:

- If the value of the goods or services and the compensation asked for is up to 20 lakh, then the complaint can be filed in the District Forum within the local limits of whose jurisdiction the opposite party actually resides or carries on business or has a branch office, or where the cause of action has arisen;
- If the value of the goods or services and compensation asked for is more than Rs.20 lakh but less than Rs.1 crore, then the complaint can be filed before the State Commission or the UT concerned;
- If the value of the goods or services and compensation asked for exceeds Rs.1 crore then the complaint can be filed before the National Commission at New Delhi.

7.3. How to file a Complaint?

The procedure for filing a complaints and seeking redressal is simple. There is no prescribed performa for the submission of complaint. However, it must be written. It may be submitted directly or by post. A nominal fee is required to be deposited for making complaints before State Commission. A complaint should contain the following information:

- Name and Address of the Complainant;
- Name and Address of the opposite party or parties;
- Description of the fact of the Complaint;
- Documentary evidence collaborating the Complaint;
- Relief expected as redressal of the Complaint;
- Signature of the Complainant or his authorised agent.

7.4. Limitation for filing a Complaint

The District Forum, State Commission and the National Commission shall not entertain a complaint unless it is filed within two years from the date on which the cause of action has arisen. However, provisions has been made to entertain the Complaint, if the Complainant satisfies that he has sufficient cause for not filing a complaint within such period.

7.5. Notice before filing a Complaint

The complainant must provide a notice in written to the producer or service provider conveying the intention of the consumer who was left with no other alternative but to take legal action. Although the notice is not mandatory, it could be hoped that the matter get settled through the notice and expenses and time involved in legal action could be saved. The notice should be simple and clear pointing out the grievance and requesting the manufacturer to rectify the fault.

7.6. Remedies granted under the Act

If, after the proceeding conducted under the Act, the District Forum, the State Commission or the National Commission is satisfied that the goods complained against suffer from any of the defects specified in the complaint or that any of the allegation contained in the complaint about the services are proved, it may direct any one or more of the following things, namely:

- To remove the defect;
- To replace the goods;
- To return the price;
- To pay compensation for loss or injury suffered by the consumer also to grant punitive damages;
- To remove the defects in goods or deficiencies in the services in questions;
- To discontinue the unfair trade practice or the restrictive trade practice or not to repeat it;
- Not to offer the hazardous goods for sale;
- To withdraw the hazardous goods from being offered for sale;
- To cease manufacture of hazardous goods and to desist from offering services which are hazardous in nature;
- To provide for adequate costs to parties.

8. Consumer Protection Amendment Acts

8.1. Consumer Protection (Amendment) Act, 1991

In order to clarify certain procedural matters, the Act was amended in 1991 and provided that:

- every proceeding of the district forum shall be conducted by the president and at least one member there of sitting together;
- every order made by the district forum shall be signed by its president and member or members who conducted the proceeding;
- where during a proceeding conducted by the president and a member of the district forum they differ on any point or points the same shall be referred to the other member on such point or points and the opinion of the majority shall be the order of the district forum: and
- in the case of vacancy in the office of the president, the person who is qualified to be appointed as president of the district forum or the state commission may be temporarily appointed to hold such office.

8.2. Consumer Protection (Amendment) Act, 1993

The Act was further amended by the Consumer Protection (Amendment) Act of 1993 seeking enlargement of the scope of areas covered under the Act and to entrust more powers to the redressal agencies. Accordingly, the Act, sought to provide for:

- the enlargement of the scope of the Act so as to enable the consumers to file class action complaints where such consumers have a common interest;
- enabling the consumer, who are self - employed, to file complaints before the redressal agencies where goods bought by them exclusively for earning their livelihood, suffer from any defects;
- treating services relating to housing constructions as "services":

- imposing punishment on the complainant in case of frivolous or vexatious complaints; and
- providing a limitation period of two year for filling complaints.

8.3. Consumer Protection (Amendment) Act 2002

With a view to achieve quicker and effective disposal of consumer complaints and to widen the scope of the Act, it was again amended by the Consumer Protection (Amendment) Act, 2002. This amendment Act provided for:

- prescribing the period within which complaints are to be admitted, notices issued and the complaints/appeals are to be decided;
- enhancing the pecuniary limits of jurisdiction of the forum so that the district forum are able to deal with complaints involving value of goods or services and claims of compensation up to Rs.20 lakhs (against earlier limit of Rs.5 lakhs). the State Commissions from Rs.20 lakhs upto Rs.1 crore (as against earlier limit of Rs.5 lakhs upto Rs.20 lakhs) and the National Commission above Rs.1 crore (as against earlier limit of above Rs.20 lakhs);
- charging of fee in respect of complaints filed before the consumer dispute
- redressal agencies
- depositing, either fifty per cent of the amount of compensation or fine or the amounts specified in the Act before the admission of appeal
- exclusion of services availed for commercial purposes from the purview of the consumer dispute redressal agencies
- re - appointment of the president and members of the district forum, State Commissions and the National Commission, for another term of five years
- bringing sale of spurious goods or services within the meaning of unfair trade practices

9. Conclusion

Consumer Courts were conceived, years ago, under the Consumer Protection Act, 1986, as a dedicated and speedier alternative to civil courts, but they have come to resemble the latter. The Consumer Protection Act was also amended in 1991, 1993 and 2002. Despite these amendments several shortcoming had been noticed while administering the Act. Further, the consumer markets had undergone drastic transformation after the said enactment. The Parliament instead of bringing an amendment in the 1986 Act preferred to enact altogether a new Consumer Protection Act in 2019, so as to provide greater protection to the consumers taking care of modern transactions such as online sales, teleshopping, direct selling and multilevel marketing in addition to the traditional methods.

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Author Profile



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