

A Review of Effectiveness of Consumer Protection Act, 1986

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Abstract:

The consumer is the focus of all marketing activities of the business organisations. Every organisation should take care of the interest of the consumers to win their confidence. It helps the entities in growing the customer base and, thus increasing sales and profits. However some organisations don't follow this approach. In practice widespread exploitation of consumers is found due to unwanted behaviour of businessmen and ignorance of consumers. To protect the Interest of consumers, the Govt. of India enacted Consumer Protection Act and revised it many a times to make it more effective. This paper is an effort to make a review of the effectiveness of Consumer Protection Act 1986. Through this paper I tried to visualise the scope and usefulness of this act in protecting consumers' interests and rights. Some suggestions are also given to make the act more effective.

Key-Words: Consumer Protection, Consumer Rights, Unfair Practices, Consumer Problems, Challenges, District Forum, State Commission, National Commission.

I. INTRODUCTION

In present Marketing Environment the Consumer is considered as King of the market. However, a consumer does not have perfect knowledge of market, goods, services, his rights and responsibilities. On the other hand, the main purpose of a businessman is to maximise his earnings by whatever means. To achieve this goal some business organisations forget to impart their responsibilities towards their customers and the society. They try to take undue advantage by indulging in some unfair practices such as supply of poor quality goods, rendering deficient services, adulteration etc.

It is the duty of the government of a country to safeguard the interest of citizens. To protect the interests of consumers in India, our Government took various measures. The most effective measure so far is the enactment of Consumer Protection Act, 1986.

II. METHODOLOGY

Need of the Study: The study is required to find the role and actual status of the Act in protecting the rights of consumers. How much effective is the consumer grievances redressal system? What is the level of awareness about the act among consumers?

Scope of the Study:

The study is restricted only to the protection of consumers' interests and rights in India.

Objectives of the Study:

- To know the problems of consumers and unfair practices used by businessmen.
- To study the role of consumer protection act in safeguarding the interests of consumers.
- To review the effectiveness of Consumer Protection Act, 1986, in lowering consumer exploitation in India.

Data Collection Method:

Secondary Data: Data is collected through different sources like; Books, Magazines, Journals, Internet, Newspapers etc.

Brief History of Consumer Protection Act, 1986:

The Consumer Protection Bill 1986 was introduced to provide protection to the interest of consumers in the country. The Bill was passed by both the Houses of Parliament and received the assent of the President on 24th December, 1986(68 of 1986).

List of Amending Acts:

1. The Consumer Protection (Amendment) Act, 1991 (34 of 1991)
2. The Consumer Protection (Amendment) Act, 1993 (50 of 1993)
3. The Consumer Protection (Amendment) Act, 2002 (62 of 2002)

Definition of Consumer:

As per Act, a consumer means any person who:

- (a)
 - Buys any goods for a consideration which has been paid or promised or partly paid and partly 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 purpose; or
- (b)
 - Hires or avails of any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment
 - And includes any beneficiary of such services other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment when such services are availed of with the approval of the first mentioned person;
 - But does not include a person who avails of such services of any commercial purpose.

Rights of Consumer:

- **Right to Safety:** A consumer has right to safety against such goods and services which are hazardous to his health, life and property.
- **Right to be Informed:** A consumer has the right that he should be provided with all the information related to quality, purity, potency, standard, date of manufacture, method of use, etc. of the commodity.
- **Right to Choose:** A consumer has the right to buy any goods or services of his choice from among the different goods or services available in the market.
- **Right to be Heard:** A consumer has the right that his complaint be heard.
- **Right to Seek Redressal:** A consumer has the right to seek compensation against unfair trade practices of the seller.
- **Right to Consumer Education:** A consumer has the right to get knowledge about rules, regulations and statutes that can help in protecting his rights and interests.

Consumer Problems:

- **Ignorant Consumers:** In most of the cases consumers are not aware about their rights and responsibilities.
- **Unorganised Consumers:** Consumers are unorganised. A single consumer raising his voice against exploitation is not as effective as the voice of an organised consumers' body can be.
- **Widespread Exploitation:** Due to the above two problems, consumers are being exploited on a large scale.

Unfair Practices:

Some common types of unfair practices are as follow:

- Adulteration in consumer goods
- Inferior quality of goods
- Deficiency in services
- Misleading advertisement
- Spurious Goods
- Overcharging of price
- Avoiding guarantee or warrantee
- Black marketing, etc.

Redressal System under Act:

Three Tier Consumer Grievances Redressal Machinery System:

District Forum	State Commission	National Commission
Set up by State Govt.	Set up by State Govt.	Set up by Central Govt.
Works at District level.	Works at State level.	Works at National level.
Three members including one president.	Three members including one president.	Five members including one president.
Among three one must be a lady.	Among three one must be a lady.	Among five one must be a lady.
The president must have qualification of a District Judge.	The president must have qualification of a High Court Judge.	The president must have qualification of a Supreme Court Judge.
Disputes involving a sum upto Rs.	Disputes involving a sum above Rs.	Disputes involving a sum above Rs. 1

20 Lakhs.	20 Lakhs and upto Rs. 1 Crore.	Creore.
Against its decision one can file an appeal with State Commission within 30 days.	Against its decision one can file an appeal with State Commission within 30 days.	Against its decision one can file an appeal with State Commission within 30 days.

Fee for Filing Complaints:

Forum	Amount Claimed and Compensation (in Rupees)	Fee in Rupees
District Forum	Upto 1 Lakh	100
	Above 1 Lakh and upto 5 Lakhs	200
	Above 5 Lakhs and upto 10 Lakhs	400
	Above 10 Lakhs and upto 20 Lakhs	500
State Commission	Above 20 Lakhs and upto 50 Lakhs	2,000
	Above 50 Lakhs and upto 1 Crore	4,000
	Above 1 Crore	5,000

Relief to Consumers:

On making complain in any of the forum/commission one can expect the following relief:

- Removal of defect in the goods
- Removal of deficiency in the service
- Replacement of goods
- Refund of price
- Compensation for loss
- Discontinuation of unfair practice, etc.

Success Stories:

Following are some cases resolved under Consumer Protection Act, 1986.

1. Marwar Engineering College and Research Centre Vs. Hanwat Singh and another

Case in Brief:

Complainant/Respondent took admission in Petitioner's College in 2005 and deposited fees and examination fees. It is stated that even without declaring result, complainant was given admission in next semesters and fees was charged for those semesters. In the year 2008, Complainant was informed that he was not entitled to appear in B.E, Third Semester because he did not pass all the examinations of First Year. Alleging deficiency in service on the part of OP, he filed complaint before the District Forum. The Complaint was allowed and OP was directed to refund Rs.1,06,250/- with 9% p.a interest and further directed to pay Rs.2,00,000/- for mental agony and Rs.3,000/- towards litigation expenses.

2. The Karnataka Telecom Dept. Employees Co-operative Society Ltd. Vs. Smt. N.B. Thriveni

Case in Brief:

Complainant/Respondent who is a member of OP/Petitioner Society, deposited a total of Rs.6,50,000/- on different dates and OP assured to allot a house site within two years. But the promise was not kept. A Complaint was filed before the District Forum which allowed the complaint and directed the OP to refund Rs.6,50,400/- with 12% p.a. interest and further allowed Rs.3,000/- as costs.

3. Rajasthan Housing Board Vs. Dhan Raj

Case in Brief:

Complainant/Respondent applied to OP/Petitioner for allotment of Kiosk in auction on the basis of advertisement published in paper. Complainant's bid was the highest but it was rejected. Alleging unfair trade practice and deficiency in service, Complainant approached the District Forum. The Forum allowed the complaint and directed the OP to accept Complainant's offer bid along with compensation of Rs.5,000/- and Rs.3,000/- as litigation expenses. Appeal filed by OP was dismissed by the State Commission vide impugned order against which this revision petition has been filed. Revision Petition allowed. No terms and conditions or judgement in support of the contention of the respondent that the petitioner was bound to accept bid merely on the basis of the bid being highest was placed before the Commission.

No concluded contract came into force between the parties and complainant's offer was only an offer and petitioner had every right to accept or reject the bid.

It was noted that petitioner had reserved the right to reject any bid in the bid advertisement. As per written statement, previous bid for the same kiosk was Rs.90,052/- whereas complainant bi was only Rs.76,151/-. In such circumstances the petitioner had not committed any deficiency in rejecting bid.

Consumer Complaints Filed and Disposed under CPA 1986:

STATISTICS						
Total Number of Consumer Complaints Filed / Disposed since inception Under Consumer Protection Law						
Sl. No.	Name of Agency	Cases filed since inception	Cases disposed of since inception	Cases Pending	% of total Disposal	Remarks
1	National Commission	105916	94270	11646	89.00%	
2	State Commissions	728526	627289	101237	86.10%	
3	District Forums	3853422	3551649	301773	92.17%	
	TOTAL	4687864	4273208	414656	91.15%	

Average Time Taken:

According to the provisions of the Act, a case has to be disposed of within 90 days. But in many cases it takes years to get the justice. Although, there is no accurate data available regarding average time taken by Consumer Courts in India but it can be understood with the statement of the present Consumer affairs minister Ram Vilas Paswan published in an online version of "The Time of India" dated Nov. 24, 2014 that the practice of cases continuing for years must end. "The objective of consumer forums becomes meaningless if, these works like normal courts and people have to wait for 2-3 years for an order."

Challenges:

1. **Awareness:** Even after twenty years of enactment of the act most of the people of our country are not aware about their rights and responsibilities.
2. **Corruption:** Rampant corruptions present in the government bodies as well as in corporate sector are a major hindrance in the way of consumer protection.
3. **Delay:** Quick decision is a big challenge for all councils and agencies for redressal of consumer grievances. It is observed in many cases that even after provision of time bound decisions, one has to wait years to get justice.

III. SUGGESTIONS

1. Number of forums and councils should be increased. One more tier can be included in Three Tier channel in the form of Sub-division or Block level.
2. Fee to file complains should be lowered to promote and motivate consumers for filing complaints. The compensation should be made by way of fine and charges levied on defaulters.
3. There should be more precise rules regarding compensation to aggrieve. In some cases quite different decisions came from different levels of redressal agencies.
4. Consumer education should be included in school curriculum from elementary level to make the coming generations more aware about it.
5. It should be mandatory to all traders to provide receipts or memos for every sale to their customers.
6. A separate vigilance department should be made to take steps own its own by making surprise random visits in markets of different part of the Country.
7. Special programmes should be encouraged at village level (like; Debate, skit, role play, drama etc.) for awareness among people about consumer protection on National and International Consumer Days'.

IV. CONCLUSION

The consumer protection Act, 1986 is the most effective act till date in India to protect the interest of consumers. However, to make it more effective and useful an urgent need is felt to improve some old and to make some new provisions. To aware the consumer at mass level is needed mostly in rural areas and it's a big challenge. The number of dispute settlement bodies also should be increased to meet the requirement. There should be more transparent method to file complaint and proceeding of judgement. Last but not least timely relief is the key of justice. It is said that justice delayed is justice denied. Hope, in near future we will see a more effective form of Consumer Protection Act as the new government seems more conscious about it.

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