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Aman CHATTERJEE, Sheetal SAHOO

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Consumer Protection: Problems and Prospects

Aman CHATTERJEE ¹

Sheetal SAHOO ²

Abstract:

The contemporary era is marked as the era of consumers. No country can knowingly or unknowingly disregard the interest of the consumers. This can be argued on the basis of fast enactment of consumer protection laws in almost all part of the world. Apart from the consumer protection laws in developed world, we could find the accelerated rate of lawmaking for consumers in developing countries like Thailand, Sri Lanka, Korea, Mongolia, Philippines, Mauritius, China, Taiwan, Nepal, Indonesia, Malaysia and other countries. India is not an exception to this rule. The Consumer Protection Act, 1986, is one of the examples that is to be treated as a milestone in the history of socio-economic legislation to protect the interests of the consumers in India.

The main objective of the Consumer Protection Act is to ensure the better protection of consumers. Unlike existing laws which are punitive or preventive in nature, the provisions of this Act are compensatory in nature. The Act is also intended to provide simple, speedy and inexpensive redressal to the consumers' grievances, and relief of a specific nature and award of compensation wherever appropriate to the consumer. The act has been amended in 1993 both to extend its coverage and scope and to enhance the powers of the redressal machinery.

Keywords:

consumer, protection, future, prospects

¹ Aman CHATTERJEE - KIIT University - KIIT Law School, PATIA, P.O. KIIT, Bhubaneswar, OR 751024, India, Email Address: aman.chat@gmail.com

² Sheetal SAHOO - KIIT University - KIIT Law School, PATIA, P.O. KIIT, Bhubaneswar, OR 751024, India, Email Address: sahoo30@gmail.com

The contemporary era is marked as the era of consumers. No country can knowingly or unknowingly disregard the interest of the consumers. This can be argued on the basis of fast enactment of consumer protection laws in almost all part of the world. Apart from the consumer protection laws in developed world, we could find the accelerated rate of lawmaking for consumers in developing countries like Thailand, Sri Lanka , Korea, Mongolia, Philippines, Mauritius , China, Taiwan, Nepal, Indonesia, Malaysia and other countries. India is not an exception to this rule. The Consumer Protection Act, 1986 is one of the examples that is to be treated as a milestone in the history of socio-economic legislation to protect the interests of the consumers in India. The legislation to protect and advance the interest of consumers in India was finally materialized after in-depth study of consumer protection laws operating in other countries and in consultation with representatives of consumers, trade and industrial segments of India and abroad. In order to better serve the interests of the consumer and to settle their disputes, Consumer Council and other authoritative mechanism are also being established.

It is to be argued that much talked about concept of ‘consumer protection’ centers around the problems of buyers in a world of sellers. The technological developments have multiplied the need of consumers and have changed the tradition that guided our living in the past. The rapid industrial development has not only brought new innovations and products into common use but has also affected the mode and outlook of our living. The simple goods which were catering our needs have been replaced by complex and complicated goods. In view of the socio – economic changes which have taken place in the lives of the people it is imperative to build up a strong and broad based consumer movement which may give impetus and bring about socio- legal measures necessary for consumer protection. This study aims to project and suggest not only the ways and means to manufacturers, distributors, traders and all those engaged in serving the consumer but also evolve balanced viewpoint between the buyers and sellers within socio- economic and legal framework of the society.

The main objective of the Consumer Protection Act is to ensure the better protection of consumers. Unlike existing laws which are punitive or preventive in nature, the provisions of this Act are compensatory in nature. The Act is also intended to provide simple,

speedy and inexpensive redressal to the consumers' grievances, and relief of a specific nature and award of compensation wherever appropriate to the consumer. The act has been amended in 1993 both to extend its coverage and scope and to enhance the powers of the redressal machinery.

The salient features of the Act can be summed up as:

- The Act applies to all goods and services unless specifically exempted by the Central Government.
- It covers all the sectors whether private, public or cooperative.
- The provisions of the Act are compensatory in nature.
- It enshrines the following rights of consumers:
- Right to be protected against the marketing of goods and services which are hazardous to life and property of the people;
- Right to be informed about the quality, quantity, potency, purity, standard and price of goods or services so as to protect the consumer against unfair trade practices;
- Right to be assured, wherever possible, access to a variety of goods and services at competitive prices;
- Right to be heard and to be assured that consumers' interests will receive due consideration at appropriate forums;
- Right to seek redressal against unfair trade practices unscrupulous exploitation of consumers; and
- Right to consumer education.

What is important to note is that the Act also envisages establishment of Consumer Protection Councils at the Central and State levels, whose main objects will be to promote and protect the rights of the consumers. One of the main objectives of consumer protection is to defend the genuine rights of the consumer from unfair and deceptive trade and marketing practices. In this regard consumerists have been thinking and seeking new legal means to enable consumers to protect their legitimate rights from false and deceptive trade practices.

There is urgent necessity on the part of the government to enforce laws that could effectively and vigorously check consumer frauds such as malpractices, adulteration, production of sub standard goods etc. so as to bring the violators to the book to ensure adequate protection to consumer. The real challenge for any developing economy is to develop

products and marketing practices which is nothing but propounds and advocating consumerism. Consumerism is inevitable to safeguard the interest of the consumer at large. Consumerism is a social movement in transatlantic world to safeguard the rights and powers of the consumers at large in relation to sellers.

India is today one of the six fastest growing economies of the world. The country ranked fourth in terms of Purchasing Power Parity (PPP) in 2001. Revolution in the field of manufactured goods coupled with opening up the economy to the globalised market forces, has led to the influx of various consumer goods into the Indian market to cater to the needs of consumers and a variety of services such as banking, financing, insurance, transport, housing construction, entertainment are being made available to consumers. At the same time, the consumers are also assured of adulterated food, lack of clean and potable drinking water, primary health care and adequate and well constructed housing and minimum clothing.

We can trace the Indian tradition of protecting consumer interest from its historical past. We can find the references of consumer protection against exploitation by the trade and industry, short weight and measures, adulteration and punishment for these offences in Kautilya's *Arthashastra*. Prior to independence, the main laws under which the consumer interests were considered were the Indian Penal Code, Agriculture Production, Grading and Marketing Act, 1937, Drugs and Cosmetics Act, 1940. Consumer Rights and their Effectiveness in India Eight rights are incorporated in the United Nations Guidelines for Consumer Protection (UNGCP). These are: right to safety, right to information, right to choice, right to be heard, right to redress, right to education, right to basic needs, and right to healthy environment. The Government of India also included the above rights in its Twenty-Point Programme. The Consumer Rights No. 1 to 6 is also enshrined in the Consumer Protection Act, 1986.

I. Right to Safety

This right means right to be protected against the marketing of goods and services, which are hazardous to life and property. The purchased goods and services availed should not only meet their immediate needs, but also fulfill long term interests.

Nightmare Come True

- The Bhopal gas tragedy that took place in 1984 due to accidental release of 40 tonnes of a poisonous gas Methyl Isocyanate, is another instance challenging the right to safety. As many as 3000 people died immediately and 15,000 other died due to related illness.
- 83 children were killed in a major fire raged through a school in Kumbakonam Town's Thanjavur district on July 16, 2004. Lack of proper testing facilities, bureaucratic intransigence, lack of funds and lack of consumer awareness are all reasons that militate against the proper implementation of the body of legislation and existing mechanisms. While there is an elaborate system of granting ISI marks, periodic upgrading etc., products with fake ISI marks are often found in the market.

II. Right to be informed

This right means right to be informed about the quality, quantity, potency, purity, Standard and price of goods so as to protect the consumer against unfair trade practices (UTPs). The key aspects are:

- The right to be given the facts needed to make an informed choice, to be protected against misleading advertising or labeling.
- The responsibility to search out and use available information.
- To read and follow labels and research before purchase.

Consumer should insist on getting all the information about the product or service before making a choice or a decision. This will enable him to act wisely and responsibly and also to desist from falling prey to high-pressure selling techniques. Without information on quality, quantity, potency, purity, standard and price of goods and services, consumers would not be able make the right decisions and protect themselves from abusive practices. Various interpretations of Article 19 (2) of fundamental rights clearly state that there should be a definite policy or uniform guidelines on the part of the state to help consumers make “informed choice”. Moreover, provisions regarding the right to information are provided under:

- The Consumer Protection Act, 1986;
- The Standards of Weights and Measures Act, 1976;

- The Bureau of Indian Standards Act, 1986; and
- Competition Act 2002 etc.

The new Right to Information (RTI) Act is expected to have far-reaching implications for the right to information of the consumer. After many deliberations over the years, the RTI

Right to Information is a key enabler of good governance, and a tool to ensure transparency and accountability in the government. It also helps ensure participation of public in governance, eliminate corruption and empower the people. It gives the citizen the right to seek information and makes it binding on the officials to store and make the information easily available to the consumers.

III. Right to Choose

This right means right to be assured, wherever possible of access to variety of goods and services at competitive prices. In case of monopolies, it means right to be assured of satisfactory quality and service at a fair price. It also includes right to basic goods and services. This is because unrestricted right of the minority to choose can mean a denial for the majority of its fair share. This right can be better exercised in a competitive market where a variety of goods are available at competitive prices. The key elements of this right are:

- The right to choose products and services at competitive prices with an assurance of satisfactory quality.
- The responsibility to make informed and responsible choices.

In spite of a fair amount of legislation and other safeguards, the right to choice of the Indian consumer is far from realized. At the micro level, the individual is duped each and every day by dishonest traders, forced to buy items s/he does not require as part of tied- selling, and cheated by wrong weights and poor quality. Consumers in many parts of the country are deprived of supply of electricity, good roads, proper transport and other public services and utilities.

IV. Right to be heard/represented

This right means that consumer's interests will receive due consideration at appropriate forums. It also includes right to be represented in various forums formed to consider the consumer's welfare. The main aspects of the right are:

- The right to express consumer interests in the making of decisions.
- The responsibility to make opinions known.
- To join an association such as the Consumer Council to make their voice heard and to encourage others to participate. Effective consumer representation ensures that the needs of all people are taken into consideration in policy formulation that directly affects their lives. By magnifying the voice of the individual, representation contributes to good governance and the achievement of social justice. It affords better and more durable decisions. Consumer associations have used these guidelines to promote legislation enabling them to seek representation in the courts, in the law-making process, and in the implementation of regulatory regimes. Some of the consumer organizations are actively participating at policy making platforms through websites, consultations and meetings. However, despite the existence of a number of administrative as well as organizational tools, the implementation of consumer's right to representation faces several drawbacks.

The consumer movement in the country has not developed to the size and reach, which is required to serve the vast country and its huge population. Furthermore, a majority of consumer organizations are mostly confined to cities and urban areas. They are not being able to penetrate deep into society where the majority of poor, low-income and disadvantaged consumers live.

V. Right to Redress

This right means right to seek redressal against UTPs or unscrupulous exploitation of consumers. It also includes right to fair settlement of the genuine grievances of the consumer. Consumers must make complaint for their genuine grievances. Many a times, their complaint may be of small value but its impact on the society, as a whole, may be very large. The key aspects are:

- The right to be compensated for misrepresentation, shoddy goods or unsatisfactory services.
- The responsibility to fight for the quality that should be provided.

- To complaint effectively and refusing to accept shoddy workmanship.

The right to seek redress is set out in the Preamble to the Constitution of India, wherein it has been declared that people has the right to strive for justice, social, economic and political and equality of opportunity. The Act has come as a panacea for consumers all over the country and has assumed the shape of practically the most important legislation enacted in the country during the last few years. It has become the vehicle for enabling people to secure speedy and in-expensive redressal of their grievances. The first and the foremost problem is that most state governments do not evince requisite enthusiasm and attention in promptly implementing the provisions of the Act by establishing properly functioning District Forums and State Commission. Secondly, the consumer forums are becoming like civil courts with presidents (judicial members) asking for a more formal approach. Sometimes, these forums have asked complainants to engage lawyers, even when it is not really required. Such systemic problems are resulting in inordinate delays. In the past, members were appointed on the basis of their connections rather than merit. Now the system has improved substantially due to an amendment in the law requiring a selection committee to appoint them. However, there is a lackadaisical approach in selecting people for such positions. One major reason is the general apathy and absence of proper knowledge and fear of exploitation by lawyers. An average Indian consumer is noted for her patience and tolerance. Perhaps because of these two traditional traits, she considers the receipt of defective goods and services as an act of fate or unfavorable planetary position in her horoscope. It is rather paradoxical that the customer is advertised as the "king" by the seller and service provider; but, in actual practice, treated as a slave or servant.

VI. Right to Consumer Education

This right contains the provision to acquire knowledge and skills needed to make informed, confident choices about goods and services, while being aware of basic consumer rights and responsibilities and how to act on them.

- The right to acquire the knowledge and skills necessary to be an informed consumer.

- The responsibility to take advantage of consumer opportunities. Take action by attending seminars and workshops, work to ensure consumer education takes place in schools.

Consumer awareness and education is meant to ensure that the consumers have easy access to the knowledge and skills to be an informed consumer. Thus, the right to consumer education envisages the right to knowledge and skills needed for taking actions to influence factors, which affect consumers' decisions.

There is no legal framework establishing the right to consumer education nor are there guarantees in the Constitution. The Union and state governments, however, have accepted the introduction of consumer education in school curriculum and progress has been made in some states.

Furthermore, the Government of India, through the Consumer Welfare Fund (CWF), supports consumer educational programmes undertaken by consumer groups or state governments. The Consumer Club scheme was launched in the year 2002, with funding from CWF, has the objective to educate children about the rights of the consumers, protection of their rights, and to strengthen the consumer movement in the country. The media has also been playing an important role in this context. Consumer education faces the universal problem of matching limited resources against an infinite need. Moreover, in a large country like India, with multiplicity of languages, the problem is of larger dimensions.

VII. Right to Basic Needs

All consumers have the right to basic goods and services such as adequate food, drinking water, shelter, clothing, health care, electricity and education. These rights lay a foundation to lead a life with dignity and, therefore, give a meaning to citizen's rights.

The key aspects are as follows:

- The right to basic goods and services, which guarantee survival.
- The responsibility to use these goods and services appropriately.
- To take action to ensure that basic needs are available.

The following eight needs constitute the inalienable right to basic needs: food; clothing; healthcare; drinking water and sanitation; shelter; education; energy; and transportation. Basic needs are important for everyone's survival and access to a decent standard of life. This is more important for a country like India, which has a history of the systematic denial of access to basic needs and services to the majority of its people.

The United Nations' Guidelines do not explicitly mention the right to basic needs, but expect governments to take appropriate measures so that essential goods and services could be easily accessible to the consumers.

Everyone has the right to have access to adequate clothing, housing, education, primary health etc. In addition, everyone requires pure air and water, safe and responsible waste disposal, the preservation of natural resources, and effective conservation measures. However, much remains to be done in terms of reaching out to the poorest of poor and the remote areas of the country to avail the consumers of basic needs.

VIII. Right to a Healthy Environment

To live and work in an environment, which is non-threatening to the well-being of present and future generations. The right contains the following elements:

- The right to live and work in an environment that is neither threatening nor dangerous and which permits a life of dignity and well-being.
- The responsibility to minimize environmental damage through careful choice and use of consumer goods and services.
- To reduce waste, reuse products and to recycle whenever possible.

The United Nations' Guidelines contain governments, which in partnership with business and relevant organisations of civil society, should develop and implement strategies to promote sustainable consumption through a mix of policies that could include regulations; economic and social instruments; sectoral policies in such areas as land use, transport, energy and housing; information programmes to raise awareness of the impact of consumption patterns; removal of subsidies that promote unsustainable patterns of consumption and production;

and promotion of sector-specific environmental- management best practices.

As far as the issue of a healthy environment is concerned, Article 21 of the Indian Constitution requires the State, inter alia, to protect life, which is construed as including the right to a healthy and safe environment. A healthy and safe environment is inalienably linked with sustainability and promotion of sustainable consumption. Moreover, the Directive Principles of State Policy direct the state to endeavor to protect and improve the environment, forests and wild life. Consumer protection in India thus has dual dimensions. It first has to ensure availability and access to basic needs of life to one section of the society; on the other hand, those with the purchasing power need to be protected against violation of their other rights. The consumer policy should strive to cover and address the interests of both the have-nots and haves.

The challenge is in the strengthening of the administrative mechanisms in implementing such measures, with incentives for the enforcement officials so that they perform their duties without being influenced or handicapped due to lack of resources. The government has been successful in opening up the economy to private players, domestic as well as foreign, leading to increased efficiency, creation of jobs and an enticing market. This has, in turn, resulted in booming consumer spending. The increased consumer spending requires adequate safety nets to ensure that their rights are not violated. This can be achieved by striking a balance between the health of the economy and that of the consumers. The onus lays on the stakeholders, in particular the government and CSOs to create awareness about the existence of the redressal mechanisms and laws protecting consumer interests. This will not only empower the consumers, but would also smoothen the process of policy implementation.

An appropriate framework is required to keep a check on the effective functioning of these laws. Various laws governing consumer interest are dealt with under different ministries and often left

Hand does not know what the right hand is doing. Like a human body, which functions in synchronization with various organs aligned under the central nervous system, consumer laws would function to the best of their efficiency, if imbibed less than one department.

There are many provisions and Acts available to protect the consumers in India. In the following discourse, we intend to discuss the important of those provisions and Acts which are directly relevant for the present study.

THE CONSTITUTIONAL PERSPECTIVE

The Constitution of India in Articles 38, 39, 42, 43, 46 and 47 provides that the state shall strive to secure a social order for the promotion of welfare of the people; it shall direct its policies in such a way that operation of economic system does not result in the concentration of wealth and means of production to the common detriment, it shall make provision for securing just and humane conditions of work and for maternity relief; it should endeavor to build an economic organization or to make suitable legislation to ensure a decent standard of life to all the workers who constitute the bulk of the consumers; it should promote educational and economic interests of schedule castes, scheduled tribes and other weaker sections and it shall also raise the level of nutrition and standard of living and to improve public health.

Article 46 of the Indian constitution provides that state shall endeavor to protect the economic interest of the weaker section of its population and also protect them from social injustice and all forms of exploitation which means all kinds of harassments and frauds in the market place. This also includes people should be entitled to unadulterated stuff injurious to public health and safety. This principle amply reflects the inclusion of the philosophy of the concept of consumerism in article 47 of the Indian Constitution.

THE INDIAN PENAL CODE, 1860

It is the foremost penal law of the country which contains the substantive law of crime. It caters to the needs of the consumer in some manner. However, sections 264 to 267 of the Indian penal code relate to fraudulent use of false instrument for weighing, fraudulent use of false weight and measures, anyone in possession of false weight or measure respectively. The penal code further provides sections 269 to 271 on spreading of infections and in sections 272 to 276 on adulteration of food or drink, adulteration of drugs, sale of adulterated drugs and sale of

drugs as a different drug or preparation are punishable with imprisonment or with both.

THE DANGEROUS DRUGS ACT, 1930

In the area of drugs control the Dangerous drugs Act, 1930 is an important central legislation which empowers the central government to control certain operations relating to dangerous drugs. It further empowers to increase and render uniform penalties for offences relating to operations of dangerous act.

THE SALE OF GOODS ACT, 1930

Some spirit of concept of consumerism is also evident in the Sale of Goods Act, 1930. Before this enactment the situation was uncertain with regard to “sale of goods or movables, the law on the subject was not only uniform throughout British India but was also outside the limits of the original jurisdiction of the high court, extremely uncertain in its application.”

The Sale of Goods Act contains the spirit of the concept of consumer protection in several provisions in several provisions which include contract of sale, conditions and warranties in the sale, transfer of property between seller and buyer, duties of seller and buyers, right of unpaid sellers against the goods and suits for the breach of the contract.

THE DRUGS AND COSMETICS ACT, 1940

In order to defend the cause of consumer in the area of drugs and cosmetic industries in India, Drugs and cosmetic act of 1940 was enacted so as to regulate the airport, distribution and sale of drugs.

In pursuance to the recommendations the pharmaceutical enquiry committee appointed by the Government of India, the drugs and cosmetics act, 1940 empowers the central government to control the manufacture of drugs, to appoint inspectors for inspecting manufacturing premises and taking samples of drugs, to appoint government analysts to whom samples drawn by such inspectors could be sent for analysis and to issue the state government for carrying into any of the provisions of the Act.

THE DRUGS (CONTROL) ACT, 1950

In 1950 the Drugs (Control) Act was passed which also provides for the control of the sale, supply and distribution of drugs. This Act briefly provides for fixing of maximum prices and maximum quantities which may be held or sold, general limitation on quantity which may be possessed at any one time, duty to declare possession of excess stocks, marking of prices and exhibiting list of prices and stocks.

THE INDUSTRIES (DEVELOPMENT AND REGULATION) ACT, 1951

Industries (Development and Regulation) Act, 1951 is another example on the part of the union government to make some attempts in implementing the objectives of consumerism. The act provides for the development and regulations of certain industries. The Act specifically deals with the central government's power to control supply, distributing price etc of certain articles.

THE INDIAN STANDARDS INSTITUTIONS (CERTIFICATION MARKS) ACT, 1952 The Act provides for the standardization and marking of goods which is a prerequisite to the establishment of a healthy trade and to compare favorably with the established makes of foreign products.

The Act has been amended in 1961 and 1976 to make more effective in order to achieve its objectives.

THE DRUGS AND MAGIC REMEDIES (OBJECTIONABLE ADVERTISEMENTS) ACT, 1954

The Act in brief provides for prohibition of advertisement of certain drugs for treatment of certain diseases and disorders. It further imposes curb on misleading advertisements relating to drugs, magic remedies for treatment and regulation of certain advertisements of Indian imports and exports. There is also provision for punishment for those guilty of contravention of the law.

THE PREVENTION OF FOOD ADULTERATION ACT, 1954

The Act, keeping in view the menace of adulteration to the society and to make the machinery provided under it more effective to curb the increasing tendencies in adulteration, was amended in 1964. The

amendment provides that for the proper enforcement of the provision of the Act that the central government also should have power to appoint food inspectors.

THE MONOPOLIES AND RESTRICTIVE TRADE PRACTICES ACT, 1969

The one of the most important steps taken by central government to protect the interest of consuming public is the enactment of the monopolies and restrictive Trade practices Act of 1969. the object of this Act is to provide that the operation of economic system does not result in the concentration of economic power to common detriment. It also provides for controlling the monopolies and prohibition of monopolistic and restrictive trade practices.

THE CODE OF CRIMINAL PROCEDURE, 1973

Nevertheless, the criminal laws of the country do protect the consumer in some degree or so. In this regard section 153 of the code empowers a station- house officer of a police station without warrant to enter any place within the limits of such station for the purpose of inspecting or searching for any weights or measures or instruments for weighing, used or kept and whenever there is reason to believe that in such place weights, measures or instruments for weighing or false.

PRESENT SITUATION:

We all are consumers in one form or another. But in the present socio economic scenario we find that the consumer is a victim of many unfair and unethical tactics adopted in the market place. The untrained consumer is no match for the businessman marketing goods and services on an organized basis and by trained professionals. He is very often cheated in the quality, quantity and price of the goods or services. The consumer who was once the 'king of the market' has become the victim of it. The modern economic industrial and social developments have made the notion of 'freedom of contract' largely a matter of fiction and an empty slogan so far as many consumers are concerned. With globalization and development in the International Trade and Commerce there has been substantial increase of business and trade, which resulted in a variety of consumer goods and services to cater to the needs of the consumers. In recent years, there has been a greater public concern over

the consumer protection issues all over the world. Taking into account the interest and needs of the consumers in all countries, particularly those in developing countries, the consumer protection measures should essentially be concerned with – (i) the protection from hazards to health and safety; (ii) the promotion and protection of economic interests; (iii) access to adequate information; (iv) control on misleading advertisements and deceptive representation; (v) consumer education and (vi) effective consumer redress. The consumer deserves to get what he pays for in real quantity and true quality. In every society, consumer remains the centre of gravity of all business and industrial activity. He needs protection from the manufacturer, producer, supplier, wholesaler and retailer.

In the early law, the doctrine of *caveat emptor* (let the buyer beware) was the philosophy of the law of sales. Today it has been replaced by “let the seller beware”. As a result of this change of legal philosophy, business is heavily regulated on behalf of the consuming public. Many corporations today have a department of consumer affairs. Product liability suits are already a part of tort law.

But the situation in India is altogether different. The consumers are confronted invariably with the non-availability of effective and speedy machinery for redressal of their grievances in the marketplace. It is imperative to consider consumers’ problems and their scope and nature of grievances. However some remedies can be suggested which the consumers confront various kinds of problems in the market place which have serious repercussions on their self- respect, self image and also on their decision making processes. The consumer often experience in the market place frustration and sometimes humiliation too, due to the arrogant behavior of the sellers, which is the product of the prevailing scarcity conditions of articles and cancerous tendency of hoarding in India. The consumer’s problems are created in the market place from range of frauds and deception to outright rejection of their just protest and right to information about goods. Whatever the remedies which are available in India for the protection of the consumers in the marketplace are by no means sufficient and the consumer find themselves helpless due to ineffective legal machinery for redressal of grievances. If a consumer experiences that he has been cheated owing to the high pressure sales pitch or by scarcity of commodities or reductive advertisement techniques, or any other

commercial means of exploitation, he may still remain passive suffer in spite of knowing that he has not received the value of his money for the commodity he paid. So to say, the consumer is powerless to assert his rights and to compel a solution of his grievances in the marketplace.

There is no doubt that the legal system in India provides some remedies for the consumers' problems. Equality before the law is not only a constitutional right but it is an essential ingredient for making a state into just and welfare state. A just legal system has to operate in the defence of their citizens and also ultimately for the establishment of an egalitarian society. The position today that except for law suit in which substantial amounts of money are involved, the law courts have not proved to be an effective or even feasible mechanism geared to serve the needs of harassed and troubled consumers.

The Background of the 1993 Amendments

On July 24, 1991 the Government Of India in its Statement on New Industrial Policy observed – with the growing complexity of industrial structure and the need for achieving economies of scale for ensuring higher productivity and competitive advantage in the international market, the interference of the government through the Monopolies and Restrictive Trade Practices Act in investment decision of large companies has become deleterious in its effects of Indian Industrial growth. The pre entry scrutiny of investment decisions by so called monopolies and restrictive trade practices companies will no longer be required. Instead, emphasis will be on controlling and regulating monopolistic, restrictive and unfair trade practices rather than making it necessary for the monopoly houses to obtain prior approval of the central government for expansion, establishment of new undertakings, merger, amalgamation and take over and appointment of certain directors. The thrust of the policy will be more on controlling unfair or restrictive business practices. The newly empowered MRTP Commission will be encouraged to require investigation *suo moto* or on complaints received from individuals' consumers or classes of consumers.

Despite these positive improvements, the Act failed to fulfill the expectations of consumer activists as it ignored the important recommendation that some services like health services in hospitals run by government and local bodies and the services provided on mandatory

basis but local bodies should be brought within the purview of the act as they affect the lives of the citizens.

Background of the 2002 Amendment:

Although the Consumer Dispute Redressal Agencies established under the Consumer Protection Act, 1986 have to a considerable extent, served the purpose for which they were created, the disposal of cases has not been fast enough. Several bottlenecks and shortcomings have also come to light in the implementations of various provisions of the act. With the view to achieving quicker disposal of consumer complaints by the consumer disputes redressal agencies, securing effective implementation of their orders, widening the scope of some of the provisions of the act to make it more effective, removing various lacunae in the act and streamlining the procedure, several amendments have been made in the act by the Consumer Protection (amendment) Act 2002.

Act No.62 of 2002 seeks to substitute section 25 to provide for attachment by the District Forums, State Commission or National Commission, as the case may be, of the property of the person of a person not complying with an interim order. It also seeks to provide that on application from any person entitled to receive any amount from another person under an order made by a District Forum, State Commission and National Commission which remains due, the District Forum, State Commission and National Commission as the case may be, may issue a certificate to the collector for recovery of the amount as arrears of land revenue. These

Usually with any new enactment in India, one applauds the efforts of the minds that enacted this legislation. It is an effort towards efficiency and does away with many lacunae in the law. It also leaves ample scope for the courts to interpret and add meaning. What worries us is the enforcement. Will the judges be eager to give reasoned orders for adjournment or will they, in the spirit of the Act refuse to be lenient? How far will the consumers claim their rights and be informed of them? Will the voluntary organizations jump into the fray and become more proactive than before? Much depends on the individual and collective agencies of society.

FUTURE PROSPECTS:

The Consumer Protection Act has aroused enormous expectation amongst the masses for redressal of their grievances. These expectations can be realised only when the redressal machinery laid down in the Act is made functional. However, the pace of establishment of redressal machinery under the Act has been slow. The State Governments did not evince sufficient interest in establishing District Forums and the State Commissions. In fact, the District Forum is the fulcrum of the entire Consumer Disputes Redressal Machinery because a large number of cases are to be covered within the jurisdiction for the District forum. The appeals against the orders of the District Forum are to go to the State Commission and against the orders of the State Commission to the National Commission.

The working of the State Commissions and the National Commission will remain diluted unless the District Forums are set up in all the Districts as envisaged in the Act. These delays and defaults on the part of the State Government brought to the attention of the Supreme Court in a *Common Cause v. Union of India*, where the Court issued directions that all States and Union Territories to constitute all the District Forums and the State Commissions within six weeks. It appears that the State Government has paid scant regard to this statutory obligation. This is the most unfortunate state of affairs, for they betrayed total lack of concern for the constitution and functioning of the District Forums and State Commissions. There is no reason as to why the State Government could not establish necessary redressal machinery in accordance with the requirements of the Act. Such delay is highly undesirable and inexplicable and may shake the confidence of the public in such legislation.

RECOMMENDATION:

This paper attempts to explore and identify consumer awareness regarding consumer, responsibilities and Consumer Protection Act, 1986. It is patently obvious that consumers are not only the largest economic group but also the pivots of all the economic activities. It is also true that the very consumers are the most unaware or voiceless group in most of the countries of the world. There are plethora of laws and other mechanism to ensure the welfare of consumers, yet they have no power to order where he can make his purchase at will. Instead,

whenever he turns he sees only a seller's market. The seller's attitude towards consumer is also of "take it or leave it." The Indian consumer is well aware that all is not well with its world today. Food adulteration is graving fast. He is never sure that he receives correct weights and measures, so many and so ingenuous are the ways used to cheat him. Prices keep rising and in times of shortage, profiteering takes place. As for rations, they are also of low Quality. Every individual is a consumer and he affects and is affected by almost every private and public economic decision. Modern business is described as consumer oriented and business-men study the needs and preferences of consumer to produce and supply goods according to their changing demands. Yet the consumer finds himself subjected to all kinds of exploitation. Consumers are constantly afflicted by shortages of essential items, adulterated products, manifold problems associated with a public utility services and variety of deceptive practices adopted by our business. However, they do not find voices rising in protest but continue to suffer in silence. Hence a heavy responsibility rests on the government on one side and Industry on the other. The industry and business circles should realize that consumer preferences are already appearing on the horizon in many of the metropolitan areas and it may not be very far into the future before consumer bodies in India gain the same level of strength as in other countries, to control the quality, reliability and durability of the various products in the market. Before such development hits the manufacturers of substandard goods affecting their existence, they should take timely action to protect them. The first and foremost step for every manufacturer is to incorporate the concept of quality right from the stage of research and development, carrying it forward into design and engineering and all further stages till the product is finally tested and marketed. As in the other countries, design concept should cover quality, round operation, easy maintenance, safety of the user as well as the equipment, utility, convenience in handling, economy appearance and good-looks. In other words, the design should essentially be consumer oriented with a view to give full satisfaction. Consumer Protection Act, 1986 i.e. an act to provide for better protection of the interest of consumers and for that purpose to make provisions for the establishment of consume councils and other authorities for the settlement of consumer's disputes and for matters connected therewith. But no respondent was fully aware about the contents, benefits and

protection provided by the act, to safeguard their interest; they only knew that the act was incorporated to protect them from the authorities of shopkeeper, trader or manufacturers. We can conclude that very few consumers were fully aware about the rights, responsibilities and Consumer Protection Act. Hence, it is necessary to educate them on their rights and responsibilities as consumers, to make them vigilant, rational and aware buyers.

SUGGESTION

Educate consumers to develop an understanding about their responsibilities as consumers.

Consumer should organize together to develop the strength and influence to promote and protect their own interest.

Government should make and implement rules of punishment more harsh so that manufacturer and shopkeeper think twice before adopting fraudulent practices.

A campaign should be set in motion to involve each and every consumer for making them more conscious and aware of their right and responsibilities.

Government and other consumer agencies should make efforts in the direction of propaganda and publicity of district forum, state and national judiciary established for consumer protection so as to make more and more consumer aware about machinery for their greater involvement and to seek justice in case of grievances.

Redress procedure should be made more logical, easy enough to be understood by a large number of consumers. Further procedures shall so designed as to have easy handling and quick disposal of cases.

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