

Working and Performance of Three Tire Quasi Judicial Mechanism for Redressal of Greviances of Consumers in India

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Abstract

The issue relating to consumer welfare affects the entire population since everyone is a consumer in one way or the other. To ensure the rights of consumers Consumer Protection Act 1986 has been enacted this act provides for speedy and inexpensive redressal to the grievances of the consumers and provide him relief and award compensation where appropriate the most important feature of the act is provision for setting up a three tire quasi judicial machinery popularly known as consumer courts at district state and national levels the purpose of this article is to make the reader aware of the judicial mechanism working for the redressal of the grievances of consumers in India.

Introduction

In Kautilaya's Arthshastra, there are references to the concept of consumer protection against exploitation by the trader and industry, short weight and measures adulteration and punishment for these offences. However, there was no organized and systematic movement actually safeguarding the interest of consumers. Prior to Independence main laws under which consumer interest were considered were IPC, Grading and Marketing Act 1937, Drugs and Cosmetic Act 1940 etc. Even though different parts of India exhibited different levels of awareness, in general, the level of awareness was pretty low.

The Indian legal system experienced a revolution with the enactment of CPA, 1986, which was specifically designed to protect the consumers interest. The act extends to whole of India except the state of J & K section 1 clause (2).

Consumer Protection Act defines consumer as one who purchases goods and services for his or her use. The user of such goods and services with the permission of buyer is also a consumer. However, a person is not a consumer if he purchases goods and services for resale purpose.

The special feature of this act is to:

1. Provide speedy and inexpensive redressal to the grievances of the consumer and provide him relief of specific nature and award compensation where appropriate.
2. To ensure the rights of the consumer, viz, the right of choice, safety, information rederssal public hearing and consumer education.

The most important feature of the act under section 9 is the provision for setting up a three tire Quasi Judicial Machinery popularly known as "Consumer Courts" at District, State and National Levels.

The Quasi Judicial machinery is required to observe the principle of natural justice. They are empowered:

- a) To give relief of specific nature
- b) To award wherever appropriate compensation to consumers. Non compliance of orders of these bodies is subject to Penalties.

Establishment of Consumer Disputes Redressal Agencies:

There shall be established for the purposes of this Act, the following agencies, namely:—

- a) Consumer Disputes Redressal Forum to be known as the "District Forum" established by the State Government in each district of the State by notification:

Provided that the State Government may, if it deems fit, establish more than one District Forum in a district.

- b) Consumer Disputes Redressal Commission to be known as the "State Commission" established by the State Government in the State by notification; and
- c) National Consumer Disputes Redressal Commission established by the Central Government by notification.

District Forum

Section 10 (1): Composition of the District Forum

Each District Forum shall consist of,—

- (a) a person who is, or has been, or is qualified to be a District Judge, who shall be its President;
- (b) two other members, one of whom shall be a woman, who shall have the following qualifications, namely:—
 - (i) be not less than thirty-five years of age,
 - (ii) possess a bachelor's degree from a recognized university,
 - (iii) be persons of ability, integrity and standing, and have adequate knowledge and experience of at least ten years in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration:

Section 11: Jurisdiction of the District Forum

Pecuniary Jurisdiction of the District Forum:

The District Forum shall have jurisdiction to entertain complaints where the value of the goods or services and the compensation, if any, claimed "does not exceed rupees twenty lakhs.

Territorial Jurisdiction:

A complaint shall be instituted in a District Forum within the local limits of whose jurisdiction:

- (a) The opposite party or each of the opposite parties, where there are more than one, at the time of the institution of the complaint, actually and voluntarily resides or carries on business or has a branch office or personally works for gain, or
- (b) The cause of action, wholly or in part, arises.

State Commission

Section 16: Composition of the State Commission

- (a) A person who is or has been a Judge of a High Court, appointed by the State Government, who shall be its President:
- (b) There shall be not less than two, and not more than such number of members, as may be prescribed, and one of whom shall be a woman, who shall have the following qualifications, namely:—
 - (i) be not less than thirty-five years of age;
 - (ii) possess a bachelor's degree from a recognised university; and
 - (iii) be persons of ability, integrity and standing, and have adequate knowledge and experience of at least ten years in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration:

Section 17: Jurisdiction of the State Commission

A) Monetary Jurisdiction

To entertain the complaints where the value of the goods or services and compensation, if any, claimed exceeds rupees twenty lakhs but does not exceed rupees one crore;

B) Appellate Jurisdiction

Appeals against the orders of any District Forum within the State but no appeal by the person who has been required to pay any amount by an order of District Forum shall be entertained unless he has deposited 50% of the amount or Rs 25000/- which ever is less.

C) Supervisory Or Revisional Jurisdiction

To call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any District Forum within the State, where it appears to the State Commission that such District Forum has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested or has acted in exercise of its jurisdiction illegally or with material irregularity.

Section 17A Transfer of cases

On the application of the complainant or of its own motion, the State Commission may, at any stage of the proceeding, transfer any complaint pending before the District Forum to another District Forum within the State if the interest of justice so requires.

National Commission

Section 20: Composition of the National Commission

The National Commission shall consist of : —

- (a) a person who is or has been a Judge of the Supreme Court, to be appointed by the Central Government, who shall be its President;

Provided that no appointment under this clause shall be made except after consultation with the Chief Justice of India;

- (b) There shall be not less than four, and not more than such number of members, as may be prescribed, possessing, the qualifications as are prescribed for the member of the state commission.

Jurisdiction of the National Commission

Monetary Jurisdiction

To entertain complaints where the value of the goods or services and compensation, if any, claimed exceeds Rupees one crore

Appellate Jurisdiction

It can entertain the appeals against the orders of any State Commission but no appeal by the person who has been required to pay any amount by an order of State Commission shall be entertained unless he has deposited 50% or the amount of Rs 35000/- which ever is less.

Supervisory Or Revisional Jurisdiction

To call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any State Commission where it appears to the National Commission that such State Commission has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity.

Section 15: Appeal to State Commission

Any person aggrieved by an order made by the District Forum may prefer an appeal against such order to the State Commission within a period of thirty days from the date of the order, in such form and manner as may be prescribed:

Provided that the State Commission may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

Provided further that no appeal by a person, who is required to pay any amount in terms of an order of the District Forum, shall be entertained by the State Commission unless the appellant has deposited in the prescribed manner fifty per cent. of that amount or twenty-five thousand rupees, whichever is less:

Section 19: Appeal to National Commission

Any person aggrieved by an order made by the State Commission in exercise of its powers conferred by sub-clause (i) of clause (a) of section 17 may prefer an appeal against such order to the National Commission within a period of thirty days from the date of the order in such form and manner as may be prescribed:

Provided that the National Commission may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

Provided further that no appeal by a person, who is required to pay any amount in terms of an order of the State Commission, shall be entertained by the National Commission unless the appellant has deposited in the prescribed manner fifty per cent. of the amount or rupees thirty-five thousand, whichever is less:

Section 23: Appeal to Supreme court of India

Any person, aggrieved by an order made by the National Commission in exercise of its powers conferred by sub-clause (i) of clause (a) of section 21, may prefer an appeal against such order of the Supreme Court within a period of thirty days from the date of the order:

Provided that the Supreme Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

Provided further that no appeal by a person who is required to pay any amount in terms of an order of the National Commission shall be entertained by the Supreme Court unless that person has deposited in the prescribed manner fifty per cent. of that amount or rupees fifty thousand, whichever is less.

Section 24: Finality of orders

Every order of a District Forum, the State Commission or the National Commission shall, if no appeal has been preferred against such order under the provisions of this Act, be final.

Section 24-A: Limitation period

The District Forum, the State Commission or the National Commission shall not admit a complaint unless it is filed within two years from the date on which the cause of action has arisen.

Provided that a complaint may be entertained after the specific period, if the complainant satisfies the District Forum, the State Commission or the National Commission, as the case may be, that he had sufficient cause for not filing the complaint within such period:

Provided that no such complaint shall be entertained unless the National Commission, the State Commission or the District Forum, as the case may be, records its reasons for condoning such delay

Section 27: Penalties

Where a trader or a person against whom a complaint is made or the complainant fails or omits to comply with any order made by the District Forum, the State Commission or the National Commission, as the case may be, such trader or person or complainant shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to three years, or with fine which shall not be less than two thousands rupees but which may extend to ten thousand rupees, or with both.

Section 14: Nature of Remedies Under the Act

In case of the goods complained against suffer from any of the defects specified in the complaint or that any of the allegations contained in the complaint about the services are proved, the District/ State / National Commission shall issue an order to the opposite party directing him to do one or more of the following things, namely:

- (a) to remove the defect pointed out by the appropriate laboratory from the goods in question;
- (b) to replace the goods with new goods of similar description which shall be free from any defect;
- (c) to return to the complainant the price, or, as the case may be, the charges paid by the complainant;
- (d) to pay such amount as may be awarded by it as compensation to the consumer for any loss or injury suffered by the consumer due to the negligence of the opposite party.
- (e) to remove the defects in goods or deficiencies in the services in question;
- (f) to discontinue the unfair trade practice or the restrictive trade practice or not to repeat it;
- (g) not to offer the hazardous goods for sale;
- (h) to withdraw the hazardous goods from being offered for sale;
- (i) to provide for adequate costs to parties

Conclusion

The success of consumer movement mainly depends on the level of consumer awareness generated in the country by educating the consumers about their rights and responsibilities. These are coupled with effective functioning of consumer Forums throughout the country where the consumers can ultimately assert their rights in seeking redressal. Where the literacy rate is high and social awareness is greater, the consumers cannot be easily exploited. Some of the important measures taken by the Govt. to generate consumer awareness Jago Grahak Jago weekly radio program, Video Programmes Grahak Dost, Quarterly magazine Upbhokta Jagaran, Newspaper Advertisements etc.

In spite, of the enactment of various Laws for protecting the consumer, there has been no effective deterrent against the production and sale of spurious goods which continue to flood the markets. The greatest weapon in the hands of consumers is the mass media newspapers Televisions radios are playing the supportive role in making the consumer movement a success. it is hope that in years to come the consumer movement in country which is young would gather the desired movement and strength . To reiterate, it the consumer who has to play the predominant role. The state and mass media can play only a supportive role.

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