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Consumer Protection in India

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ABSTRACT

The objective is to understand the awareness of 'The Consumer Protection Act' and its effective execution to uphold the rights of the consumers amongst the graduate educated masses. Every human being is a 'Consumer'. The consumer impacts and in turn is impacted by every economic decision whether taken by an individual or a group of people. The consumer is representative in every section of society with no distinction of class, caste, sex, profession, business, service etc. The term consumer is an inclusive definition "Since for a living we provide our, services, our entrepreneur skills, to generate products, services that have economic value i.e., demand. This results in generation of revenue resources for ourselves, improves our economic ability to place demand for goods & services that have potential to improve our life style. This ultimately results to Consumerism . This paper provided an outline of the context of the consumer protection in India, along with some significant rulings from the Supreme Court.

Keywords: Consumer, Protection, India, Legal.

I. INTRODUCTION

A consumer is said to be a king in a free market economy. The earlier approach of **caveat emptor**, which means "**Let the buyer beware**", has now been changed to **caveat venditor** which means "**Let the seller beware**". However, with growing competition and in an attempt to increase their sales and market share, manufacturers and service providers may be tempted to engage in unscrupulous, exploitative and unfair trade practices like defective and unsafe products, adulteration, false and misleading advertising, hoarding, black-marketing etc. This means that a consumer might be exposed to risks due to unsafe products, might suffer from bad health due to adulterated food products, might be cheated because of misleading advertisements or sale of spurious products, might have to pay a higher price when sellers engage in overpricing, hoarding or black marketing etc. Thus, there is a need for providing adequate protection to consumers against such practices of the sellers.

II. IMPORTANCE OF CONSUMER PROTECTION

Consumer Protection has a wide agenda. It not only includes educating consumers about their

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rights and responsibilities but also helps in getting their grievances² redressed. It not only requires a judicial machinery for protecting the interests of consumers but also requires the consumers to get together and form themselves into consumer associations for protection and promotion of their interests. At the same time, consumer protection has a special significance for businesses too.

(A) From Consumer's point of view

The importance of consumer protection from the consumer's point of view can be understood from the following points:

(i) Consumer Ignorance: In the light of widespread ignorance of consumers about their rights and reliefs available to them, it becomes necessary to educate them about the same as to achieve consumer awareness.

(ii) Unorganised Consumers: Consumers need to be organised in the form of consumer organisations which would take care of their interests. Though in India, we do have consumer organisations which are working in this direction, adequate protection is required to be given to consumers till these organisations become powerful enough to protect and promote the interests of consumers.

(iii) Widespread Exploitation of Consumers: Consumers might be exploited by unscrupulous³, exploitative and unfair trade practices like defective and unsafe products, adulteration, false and misleading advertising, hoarding, black-marketing etc. Consumers need protection against such malpractices of the sellers.

(B) From the Business point of view

A business must also lay emphasis on protecting the consumers and adequately satisfying them. This is important because of the following reasons:

(i) Long-term Interest of Business: Enlightened businesses realise that it is in their long-term interest to satisfy their customers. Satisfied customers not only lead to repeat sales but also provide good feedback to prospective customers and thus, help in increasing the customer-base of business. Thus, business firms should aim at long-term profit maximisation through customer satisfaction.

(ii) Social Responsibility: A business has social responsibilities towards various interest groups. Business organisations make money by selling goods and providing services to

² A real or imagined cause for complaint, especially unfair treatment.

³ Having or showing no moral principles; not honest or fair.

consumers. Thus, consumers form an important group among the many stakeholders of business and like other stakeholders, their interest has to be well taken care of.

(iii) Government Intervention: A business engaging in any form of exploitative trade practices would invite government intervention or action. This can impair and tarnish the image of the company. Thus, it is advisable that business organisations voluntarily resort to such practices where the customers' needs and interests will well be taken care of. In view of the above, the government of India has enacted several regulations designed to provide adequate protection to consumers.

III. LEGAL PROTECTION TO CONSUMERS

The Indian legal framework consists of a number of regulations which provide protection to consumers. Some of these regulations are as under.

1. The Consumer Protection Act, 1986: The Consumer Protection Act, 1986 seeks to protect and promote the interests of consumers. The Act provides safeguards to consumers against defective goods, deficient services, unfair trade practices, and other forms of their exploitation. The Act provides for the setting up of a three-tier machinery, consisting of District Forums, State Commissions and the National Commission. It also provides for the formation of consumer protection councils in every District and State, and at the apex level.

2. The Contract Act, 1872: The Act lays down the conditions in which the promises made by parties to a contract will be binding on each other. The Act also specifies the remedies⁴ available to parties in case of breach of contract.

3. The Sale of Goods Act, 1930: The Act provides some safeguards and reliefs to the buyers of the goods in case the goods purchased do not comply with express or implied conditions or warranties.

4. The Essential Commodities Act, 1955: The Act aims at controlling production, supply and distribution of essential commodities, checking inflationary trend in their prices and ensuring equal distribution of essential commodities. The Act also provides for action against anti-social activities of profiteers, hoarders and black-marketers.

5. The Agricultural Produce (Grading and Marking) Act, 1937: The Act prescribes grade standards for agricultural commodities and livestock products. The Act stipulates the conditions which govern the use of standards and lays down the procedure for grading, marking and packing of agricultural produce. The quality mark provided under the Act is known as

⁴ A medicine or treatment for a disease or injury.

AGMARK, an acronym for Agricultural Marketing.

6. The Prevention of Food Adulteration Act, 1954: The Act aims to check adulteration⁵ of food articles and ensure their purity so as to maintain public health.

7. The Standards of Weights and Measures Act, 1976: The provisions of this Act are applicable in case of those goods which are sold or distributed by weight, measure or number. It provides protection to consumers against the malpractice⁶ of under-weight or under-measure.

8. The Trade Marks Act, 1999: This Act has repealed and replaced the Trade and Merchandise Marks Act, 1958. The Act prevents the use of fraudulent⁷ marks on products and thus, provides protection to the consumers against such products.

9. The Competition Act, 2002: This Act has repealed and replaced the Monopolies and Restrictive Trade Practices Act, 1969. The Act provides protection to the consumers in case of practices adopted by business firms which hamper competition in the market.

10. The Bureau of Indian Standards Act, 1986: The Bureau of Indian Standards has been set up under the Act. The Bureau has two major activities: formulation of quality standards for goods and their certification through the BIS certification scheme. Manufacturers are permitted to use the ISI mark on their products only after ensuring that the goods conform to the prescribed quality standards. The Bureau has also setup a grievance cell where consumers can make a complaint about the quality of products carrying the ISI mark. The most important of these regulations is the Consumer Protection Act which provides for six consumer rights and helps consumers in getting their grievances redressed for any shortcoming in the goods purchased or services availed.

IV. THE CONSUMER PROTECTION ACT, 1986

The Consumer Protection Act seeks to protect and promote the consumer's interest through speedy and inexpensive redressal of their grievances. The scope of the Act is very wide. It is applicable to all types of undertakings, big and small, whether in the private or public sector, or in the co-operative sector, whether a manufacturer or a trader, and whether supplying goods or providing services. The Act confers certain rights to consumers with a view to empowering them and to protect their interest.

V. CONSUMER RIGHTS

⁵ The action of making something poorer in quality by the addition of another substance.

⁶ Improper, illegal, or negligent professional behavior.

⁷ Obtained, done by, or involving deception, especially criminal deception.

The Consumer Protection Act provides for six rights of consumers. The consumer protection council is set up under the Act are intended to promote and protect the various rights of consumers. These rights include the following:

1. Right to Safety: The consumer has a right to be protected against goods and services which are hazardous to life and health. For instance, electrical appliances which are manufactured with substandard products or do not conform to the safety norms might cause serious injury. Thus, consumers are educated that they should use electrical appliances which are ISI marked as this would be an assurance⁸ of such products meeting quality specifications.

2. Right to be informed: The consumer has a right to have complete information about the product he intends to buy including its ingredients, date of manufacture, price, quantity, directions for use, etc. It is because of this reason that the legal framework in India requires the manufactures to provide such information on the package and label of the product.

3. Right to Choose: The consumer has the freedom to choose from a variety of products at competitive prices. This implies that the marketers should offer a wide variety of products in terms of quality, brand, prices, size, etc. and allow the consumer to make a choice from amongst these.

4. Right to be heard: The consumer has a right to file a complaint and to be heard in case of dissatisfaction with a good or a service. It is because of this reason that many enlightened⁹ business firms have set up their own consumer service and grievance cells. Many consumer organisations are also working towards this direction and helping consumers in redressal of their grievances.

5. Right to seek Redressal: The consumer has a right to get relief in case the product or service falls short of his expectations. The Consumer Protection Act provides a number of reliefs to the consumers including replacement of the product, removal of defect in the product, compensation paid for any loss or injury suffered by the consumer, etc.

6. Right to Consumer Education: The consumer has a right to acquire knowledge and to be a well-informed consumer throughout life. He should be aware about his rights and the reliefs available to him in case of a product or service falling short of his expectations. Many consumer organisations and some enlightened businesses are taking an active part in educating consumers in this respect. The Consumer Protection Act by conferring these rights on the consumers empowers them to fight against any unscrupulous, exploitative and unfair trade practices

⁸ A positive declaration intended to give confidence; a promise.

⁹ Having or showing a rational, modern, and well-informed outlook.

adopted by sellers. The Box on East Delhi eatery shows how a restaurant owner was fined for overpricing bottled water.

VI. CONSUMER RESPONSIBILITIES

A consumer should keep in mind the following responsibilities while purchasing, using and consuming goods and services.

Be aware about various goods and services available in the market so that an intelligent and wise choice can be made.

Buy only standardised goods as they provide quality assurance. Thus, look for ISI mark on electrical goods, FPO mark on food products, Hallmark on jewellery etc.

Learn about the risks associated with products and services, follow manufacturer's instructions and use the products safely.

Read labels carefully so as to have information about prices, net weight, manufacturing and expiry dates, etc.

Be honest in your dealings. Choose only from legal goods and services and discourage unscrupulous practices like black-marketing, hoarding etc.

Ask for a cash memo¹⁰ on purchase of goods or services. This would serve as a proof of the purchase made.

VII. WAYS AND MEANS OF CONSUMER PROTECTION

1. Self-Regulation by Business: Enlightened business firms realise that it is in their long-term interest to serve the customers well. Socially responsible firms follow ethical standards and practices in dealing with their customers. Many firms have set up their customer service and grievance cells to redress the problems and grievances of their consumers.

2. Business Associations: The associations of trade, commerce and business-like Federation of Indian Chambers of Commerce of India (FICCI) and Confederation of Indian Industries (CII) have laid down their code of conduct which lay down for their members the guidelines in their dealings with the customers.

3. Consumer Awareness: A consumer, who is well informed about his rights and the reliefs available to him, would be in a position to raise his voice against any unfair trade practices or unscrupulous exploitation. In addition to this, an understanding of his responsibilities would

¹⁰ A memorandum.

also enable a consumer to safeguard his interests.

4. Consumer Organisations: Consumer organisations play an important role in educating consumers about their rights and providing protection to them. These organisations can force business firms to avoid malpractices and exploitation of consumers.

5. Government: The government can protect the interests of the consumers by enacting various legislations¹¹. The legal framework in India encompasses various legislations which provide protection to consumers. The most important of these regulations is the Consumer Protection Act, 1986. The Act provides for a three-tier machinery at the district, state and national levels for redressal of consumer grievances. The redressal mechanism under this three-tier machinery has been explained hereunder.

VIII. REDRESSAL AGENCIES UNDER THE CONSUMER PROTECTION ACT

For the redressal of consumer grievances, the Consumer Protection Act provides for setting up of a three-tier enforcement machinery at the District, State, and the National levels, known as the District Consumer Dispute Redressal Forum, State Consumer Disputes Redressal Commission, and the National Consumer Disputes Redressal Commission. They are briefly referred to as the 'District Forum', 'State Commission', and the 'National Commission', respectively. While the National Commission is set up by the Central Government, the State Commissions and the District Forums are set up, in each State and District, respectively, by the State Government concerned. The Figure on redressal agencies shows the hierarchical structure of this three-tier machinery. Before studying the set-up and functioning of these redressal agencies. The Consumer Protection Act defines a consumer and who can file a complaint under the Consumer Protection Act.

Consumer: A 'consumer' is generally understood as a person who uses or consumes goods or avails of any service. Under the Consumer Protection Act, a consumer is defined as:

(a) Any person who buys any goods for a consideration, which has been paid or promised, or partly paid and partly promised, or under any scheme of deferred payment. It includes any user of such goods, when such use is made with the approval of the buyer, but does not include a person who obtains goods for re-sale or any commercial purpose.

(b) Any person who hires or avails of any service, for a consideration which has been paid or promised, or partly paid and partly promised, or under any system of deferred payment. It

¹¹ Laws, considered collectively.

includes any beneficiary¹² of services when such services are availed of with the approval of the person concerned, but does not include a person who avails of such services for any commercial purpose.

Who can file a complaint?

- (i) Any consumer
- (ii) Any registered consumer's association
- (iii) The Central Government or any State Government
- (iv) One or more consumers, on behalf of numerous consumers having the same interest
- (v) A legal heir or representative of a deceased consumer.

The consumer grievances are redressed by the three tier machinery under the Consumer Protection Act.

1. District Forum: The District Forum consists of a President and two other members, one of whom should be a woman. They all are appointed by the State Government concerned. A complaint can be made to the appropriate District Forum when the value of the goods or services in question, along with the compensation claimed, does not exceed Rs. 20 lakhs. On receiving the complaint, the District Forum shall refer the complaint to the party against whom the complaint is filed. If required, the goods or a sample thereof, shall be sent for testing in a laboratory. The District Forum shall pass an order after considering the test report from the laboratory and hearing to the party against whom the complaint is filed. In case the aggrieved party is not satisfied with the order of the District Forum, he can appeal before the State Commission within 30 days of the passing of the order.

2. State Commission: Each State Commission consists of a President and not less than two other members, one of whom should be a woman. They are appointed by the State Government concerned. A complaint can be made to the appropriate State Commission when the value of the goods or services in question, along with the compensation¹³ claimed, exceeds Rs. 20 lakhs but does not exceed Rs. 1 crore. The appeals against the orders of a District Forum can also be filed before the State Commission. On receiving the complaint, the State Commission shall refer the complaint to the party against whom the complaint is filed. If required, the goods or a sample thereof, shall be sent for testing in a laboratory. The State Commission shall pass an order after considering the test report from the laboratory and hearing to the party against whom

¹² A person who derives advantage from something, especially a trust, will, or life insurance policy.

¹³ Something, typically money, awarded to someone in recognition of loss, suffering, or injury.

the complaint is filed. In case the aggrieved¹⁴ party is not satisfied with the order of the State Commission, he can appeal before the National Commission within 30 days of the passing of the order.

3. National Commission: The National Commission consists of a President and at least four other members, one of whom should be a woman. They are appointed by the Central Government. A complaint can be made to the National Commission when the value of the goods or services in question, along with the compensation claimed, exceeds Rs. 1 crore. The appeals against the orders of a State Commission can also be filed before the National Commission. On receiving the complaint, the National Commission shall refer the complaint to the party against whom the complaint is filed. If required, the goods or a sample thereof, shall be sent for testing in a laboratory. The National Commission shall pass an order after considering the test report from the laboratory and hearing to the party against whom the complaint is filed. An order passed by the National Commission in a matter of its original jurisdiction¹⁵ is appealable before the Supreme Court. This means that only those appeals where the value of goods and services in question, along with the compensation claimed, exceeded Rs. 1 crore and where the aggrieved party was not satisfied with the order of the National Commission, can be taken to the Supreme Court of India. Moreover, in a case decided by the District Forum, the appeal can be filed before the State Commission and, thereafter, the order of the State Commission can be challenged before the National Commission and no further.

Relief Available

If the consumer court is satisfied about the genuineness of the complaint, it can issue one or more of the following directions to the opposite party

To remove the defect in goods or deficiency¹⁶ in service.

To replace the defective product with a new one, free from any defect.

To refund the price paid for the product, or the charges paid for the service.

To pay a reasonable amount of compensation for any loss or injury suffered by the consumer due to the negligence¹⁷ of the opposite party.

To pay punitive damages in appropriate circumstances.

¹⁴ Feeling resentment at having been unfairly treated.

¹⁵ The official power to make legal decisions and judgements.

¹⁶ A lack or shortage.

¹⁷ Failure to take proper care over something.

IX. UNDER CONSUMER PROTECTION ACT CASES

In Jose Philip Mampillil vs. M/s Premier automobiles Ltd.

A diesel car purchased by the appellant¹⁸ (consumer) was found defective. The defects in the car were not removed by the defendants (manufacturer and dealer). The Commissioner appointed by the District Forum found a large number of defects in the car. Consequently, the District Forum directed repair of car free of cost and replacement of engine. The order was upheld by the State Commission except for the direction for replacement of engine.

In Shashikant Krishnani Dole vs. Shikshan Prasarak Mandali

The National Commission held that failure to amount basic safeguards in the swimming pool amounts to deficiency in service. A school owned a swimming pool and offered swimming facilities to the public on payment of a fee. The school conducted winter and summer training camps to train boys in swimming and for this purpose engaged a coach. The plaintiffs enrolled their only son for learning swimming under the guidance of the coach. It was alleged that due to the negligence of the coach, the boy drowned and died. The school denied any responsibility on its part. The coach claimed that he had considerable experience in coaching young boys in swimming. When the deceased was found to have been drowned, the coach immediately took him out of the water and removed the water from his stomach and gave him artificial respiration and thereafter took him to a doctor. The doctor advised that the boy be taken to the nearest hospital where the boy died. The State Commission held the school and the coach deficient in rendering service to the deceased. On appeal, the order was upheld by the National Commission.

X. ROLE OF CONSUMER ORGANISATIONS AND NGOS

In India, several consumer organisations and non-governmental organisations (NGOs) have been set up for the protection and promotion of consumers' interests. Nongovernmental organisations are non-profit organisations which aim at promoting the welfare of people. They have a constitution of their own and are free from government interference¹⁹. Consumer organisations and NGOs perform several functions for the protection and promotion of interest of consumers. These include:

- (i) Educating the general public about consumer rights by organising training programmes, seminars and workshops.
- (ii) Publishing periodicals and other publications to impart knowledge about consumer

¹⁸ A person who applies to a higher court for a reversal of the decision of a lower court.

¹⁹ The action of interfering or the process of being interfered with.

problems, legal reporting, reliefs available and other matters of interest.

(iii) Carrying out comparative testing of consumer products in accredited laboratories to test relative qualities of competing brands and publishing the test results for the benefit of consumers.

(iv) Encouraging consumers to strongly protest and take an action against unscrupulous, exploitative and unfair trade practices of sellers.

Providing legal assistance to consumers by way of providing aid, legal advice etc. in seeking legal remedy.

Important Consumer Organisations and NGOs engaged in protecting and promoting Consumers' interests include the following:

Consumer Coordination Council, Delhi

Common Cause, Delhi

Voluntary Organisation in Interest of Consumer Education (VOICE), Delhi

Consumer Education and Research Centre (CERC), Ahmedabad

Consumer Protection Council (CPC), Ahmedabad.

XI. CONCLUSION

Consumer protection law designed to ensure the fair competition and the free flow to truthful information in the market place.

The law designed to prevent the business that engages in fraud or specified unfair trade practices from gaining an advantage over competitors and way providing additional protection for the weak and those unable to take care of themselves. undoubtedly consumer protection act is benevolent²⁰ piece social legislation, which protect large member of consumers from exploitation. The people in this country are very much aware that consumer's courts are helping the needy and delivering speedy justice²¹ to them. The consumer court are less expensive. People have now started feeling that they are in a position to declare "sellers be aware", whereas earlier consumers were at the receiving end and were told "Buyers Beware".

²⁰ Well-meaning and kindly.

²¹ Just behavior or treatment.

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