

CHAPTER 6

Indian Scenario

6.1: Introduction

On 13th March, 2014 Prof. B. B. Bhattacharya, Vice Chancellor of Jawaharlal Neheru University in a National Seminar entitled “Role of Consumer Disputes redressal System in India:- Issues, Challenges, Opportunities” has mentioned “Indian Market Economy is becoming more exploitative, no doubt under globalization they offer wider choices but do not always ensure what they propagate and they show reluctance to protect consumer rights” and further added that unscrupulous traders day in and day out are indulging in most practices causing tremendous harm to AAM CONSUMERS but unfortunately Consumer Forums are not in a position to expeditiously reduce the sufferings of consumers due to certain weaknesses and challenges of piling up in disposing of the cases with rising awareness of the consumers which is a major challenge.

Considering the above expression of our expert of several committees and of his several studies we are confirmed that even after enactment of C. P. Act, 1986 and passing of 28 years of three-tier consumer forums and its activities as protection centre of consumers the fate of the consumers is not protected but violation of Consumer Rights is rampant and Forums at all levels are losing consumer confidence and for which the Unique Consumer Protection Act, 1986 has become like Prevention of Corruption Act, 1988 and no doubt after globalization C. P. Act, 1986 is not properly equipped to combat exploiters so its radius should be increased so as to attract large number items within the definition of service and also to make the execution provision more effective and punitive in nature giving all such positive power to execute the decree / judgment of the Forum by the Forum to give proper relief to the consumers because the change of industrial society caused a change in the legal system and fact remains that interaction between Law and Society has an ultimate relationship and Law is an agent of modernization and social change, so new dimension in the field of Consumer Protection Act is highly felt when major challenge is to save the consumers in the market from the hands of exploiters and to achieve the very

object and to create confidence among the consumers that their interest are being looked after by the Forum against unruly traders as well as powerful public sector undertakings, legislation of C. P. Act is required to be amended.

In this regard it is to be mentioned that in the year 1993 Sec-25 was amended but by that amendment some lacuna could not be cleared and for which in the year 2003 (Vide Act-62 of 2002) further amendment was made (vide Act-62 of 2002) but force of attachment order is for restricted period of three months if order of the Fora is not complied but said restriction of three months should be deleted and in place of that restriction of three months, till full satisfaction of the decree should be substituted to give relief to the consumers.

But as per Sec-25(3) of the C. P. Act, if consumers are directed to go to the certificate Officer for recovery of decretal amount invariably consumers shall be sent to an uncertain future to get decretal amount because the experience of all people of India before Certificate Officer is a worst experience and in fact all over Certificate Officer's office is dead cell of Government administration and said office never perform their duties by office staff and no regular hearing of certificate Case is heard by any such officer who are authorized by District Magistrate and moreover for proper protection of the consumers all executing power civil and criminal should be exclusively given to the Forum otherwise the case of the consumers shall be pending till death of the consumers. So said Sec-25 should be adequately amended by the Parliament.

Similarly, in Sec-25(1) of the C. P. Act in first line "an interim order is made under this Act" should be properly amended by deleting the word "interim" only for covering the effect of all orders passed under this Act and if it is suitably amended in that case for all purposes (interim and first order) the Sec-25(1) of the C. P. Act can be implemented in broader aspect.

In reality till today there is no stringent penalties for contravention of the order and judgment and for non compliance of decree / judgment highest penalty should be imposed by adding such provision in Sec-25 of the C. P. Act though Sec-27 of the C. P. Act has given some criminal power but not to impose stringent penalties for violation of the order and decree of the Forum.

In fact as per 11 of the C.P. Act and particularly as per provision of Section 11(2a) only the consumer may file complaint if the OPs actually and voluntarily resides and carries on business or as a branch office or person who works for gain in a particular address and if same is found within the jurisdiction of a particular Forum or Commission the complainant may file such complaint. No doubt many times it is found that transaction is made by e-commerce, e-stores, e-banking etc. that is through internet and in that case in all the cases it is found that a consumer of West Bengal has purchased something through e-shop, e-commerce, e-business, e-banking etc. but the sellers address is at the outside the jurisdiction of the West Bengal when any complaint is filed within the West Bengal, this complaint is found not maintainable and is being rejected by the State Commission or by the Forum. No doubt our outlook is very rigid in legal conception but the very object of the Act must go to the door of the relief seekers and at the same due to change of pattern of business transaction and for total transaction system being run by software system then invariably the very section of 11 of C.P. Act should be changed and suitably a provision shall be included in the said Section 11 to the effect that the case may be filed by such consumer who is the user or enjoyer of such service on his house or his residence which is within the jurisdiction of the State Commission or District Forum. Complainant may file complaint even if it is found OP's address is outside the jurisdiction and if such a protection manner is not included for the protection of the consumer then in near future it would not be possible to get justice by the consumer even after purchasing any article by internet system. It is the intention of the Government to protect the interest of the consumers and Government has always asking the consumers to purchase articles directly from the marketing section of the manufacturer through internet when the consumer shall get benefit in all respect of the price as discount. Many people are enjoying this process but when any defect is found they are stopped to file any complaint before the Forum in view of the fact seller or trader's address is outside the jurisdiction. It is being continued from many years but for lack of any thought of the administration or the Fore or any Government Authority consumers are facing trouble because it is not possible for them to file their case at Chennai or at Punjab or at Uttar Pradesh or at Bangalore because sellers are of that State and there is shop or service centre within the jurisdiction of any State is not. So, invariably this Section should be moderately amended to the extent by adding such provision so that the consumer who had enjoyed the service of any goods or any article or any other thing at his residence or place and he faces

any difficulty in respect of that goods or article or faults to get any service of purchased article in that case the cause of action may arise from that place where the goods and articles failed to give proper service to the consumer and if in such a manner Section 11 is not amended in that case it can safely be said that this Section 11 was drafted by the legislative authority at the dictation of the traders and industrialist and for their interest.

So some other provisions should be inserted in Sec-25 of C. P. Act when role of Consumer Forum is not over only after passing judgment.

Moreover, Section-24 of the C. P. Act is very liberal in view of the fact if any appeal is filed by the opposite party against any judgment, in that case, judgment of lower Fora in that case the judgment of lower forums is not final and so any execution case is filed by the decree holder shall be infructuous. At the same time before State Commission in very casual manner appeals are being admitted without taking any security from the judgment debtor and no condition is imposed for passing any stay order against judgment debtor so judgment debtor gets benefit to linger the appeal before State Commission and at the same time State Commissions do not follow the spirit of C. P. Act and appeal hearing is delayed for one to two years without any valid and legal reason though there are five members in the State Commissions.

In the above situation, for proper protection of the decree holder, the said Sec-24 should be amended.

Moreover, Sec-27 of the C. P. Act, 1986 has empowered forums to start proceeding against judgment debtor and if judgment debtor is convicted and sentenced to fine or imprisonment only in that case Appeal may only be filed by such judgment debtor but not for any other order but after appeal U/S 27A of C. P. Act is filed from sentence awarded / passed by the lower Forums and most of the execution cases are being stayed by the State Commission without directing judgment debtor to deposit at least 50 percent of the decreetal amount and for which judgment debtors are getting liberal order from the State Commission which is completely against the spirit of the C. P. Act and in fact Sub Section-2 of Section-27A of the C. P. Act is badly interpreted and misused by the State Commission which is apparently proved from the fact that National Commission in such sort of Appeal always passes such stay order subject to payment 50 percent of decreetal amount to the

Forum but State Commissions are reluctant to follow the process as adopted by the National Commission.

So in view of the above position of Sec.-27A (2) of C. P. Act, said provision should be amended suitably to protect the interest of the decree otherwise the fate of the decree of consumer complaint shall be like Civil Court decree and ultimately whole purpose of social legislation shall be frustrated and exploiters shall control the Forums in future show LTI to the legislation.

Similarly, in Section-12 it is mentioned by whom the complaint is to be filed but in this Section there is no such provision to file complaint by the agent of the complainant and same is also not included in West Bengal Consumer Protection Rules and there is no definition of Agent in the main Act, 1986 also but only definition of Agent is included in the Consumer Protection Rules, 1987 but said definition U/S-2(b) of the C. P. Rules is applicable in respect of any proceeding and appeal before national Commission only. For which for giving proper relief to all consumers as per C. P. Act, 1986 to file complaint before Forum and appeal and complaint before State Commission. The definition Agent should be included in Section-2 of the Act and in 12 of the Act. Filing of complain before District Forum a through complainant's agent should be included for giving benefit of the consumer to file complaint through Agent before District Forum and State Commission but this factor is not at all looked into by drafters of the two amendments of the C. P. Act, 1986.

So said section should be revised accordingly for giving the consumers to file complaint and / or appeal, revision before the district Forum and State Commission and to conduct cases through consumer agent other than the Ld. Lawyers etc.

No doubt after two amendments of the year 1993 and 2002 some lacunas are overcome but even then new problems are being faced by the consumers and decree holders of Consumer Forum's decree because the financial crisis that began in year 2007 is still being continued when immediate future of global economy activity is not promising due to lack of Government policy coordination that facilitated the macroeconomic imbalances which leads to crisis but past experience and present crisis show that domestic political support is prerequisite of meaningful international economic affairs but due to globalization it is highly required to find new pattern of economic growth after facing domestic economic

and political problems but for the national interest and to get benefit of international cooperation Government should communicate to all the parties and their constituencies the benefit of open market, trade and globalization and the need of substantive cooperation of the public for substantial participation of global co-operative enterprises. But anyhow consumers are too difficult to organize and too weak to influence public policy which is generally determined by interest of industrial strength players but a welfare policy should be taken by the Government to make a comprehensive Consumer Protection Act by suitable amendment to protect the root of consumers and in this regard political support for movement in this direction is highly required but that is completely absent. Mere enactment and its minor amendments twice are not sufficient unless it is backed by effective enforcement and strict implementation and in absence of such backup measures the very purpose of the Law gets defeated. Thus an effective measure should be taken by the Central Ministry of Consumer Affairs to take such step to collect such thoughtful recommendation from renowned experts in the field of Economics, Commerce, Trade, Industry, Market Economy, Public Affairs and Administration about proposed amendment for giving teeth in the C. P. Act for properly controlling the traders, service providers and exploiters in the present globalized economy in India.

All such expert opinions along with proposals of amendment should be sent to Law Commission of India for approval so that a self-contained Consumer Protection Act with tooth and nail may be introduced by such amendment for combating exploiters, traders and service providers of globalized market which has changed the market strategies of the producers and from the risks and disappointments of the market.

In order to achieve the effective enforcement and strict implementation and the existence of the Act must be known by the people at large and redressal mechanism be more accessible and more speedy and promotion of the consumers at large further amendment of the Act is the need of the day when rural economy is target of global traders and service providers.

6.2: Consumer Complaints Made and Cases Settled (All-India)

We will now try to present below the all-India picture of the consumer complaints made/cases filed, cases disposed in major states of India in the following sections.

Table-6.1 shows the status of cases filed and disposed in major states of India (as on 2014) in National Commission, State Commissions, and District Forums. Records show that the percentage of disposal through the National Commission was 88.74 percent, 86.73 percent through State Commissions, and 92.37 percent through the District forums. In terms of percentage, the performance of district forums is better if compared with national and state commissions.

Total number of consumer complaints filed and disposed (updated on 10.03.2015) in the district forums has been displayed in table -6.2. Percentage of disposal is more than 95 percent in Punjab (98.05), and Andhra Pradesh (97.42). It is more than 90 percent and up to 95 percent in Rajasthan (90.55), Maharashtra (91.78), Madhya Pradesh (92.20), Tamil Nadu (93.01), Karnataka (93.50), Gujarat (93.93), Delhi (94.08), Haryana (94.63), Kerala (94.92), and Andhra Pradesh (97.42). Table-6.3 displays cases filed and disposed in the National and state commissions (as on 10.03.2015).

Table-6.1: No. of Cases Filed, Disposed and Cases Pending in National Commission, State Commission and District Forums in India as a Whole (Update on 10.03.2015)

	Name of Agency	Cases filed since inception	Cases disposed of since inception	Cases Pending	% of Disposal	Remarks
1	National Commission	93860	83294	10566	88.74%	
2	State Commission	673118	583766	89352	86.73%	
3	District Forums	3534155	3264421	269734	92.37%	
	TOTAL	4301133	3931481	369652	91.41%	

Fig-6.1: No. of Cases Filed, Disposed and Cases Pending in National Commission, State Commissions and District Forums in India as a Whole (Update on 10.03.2015)

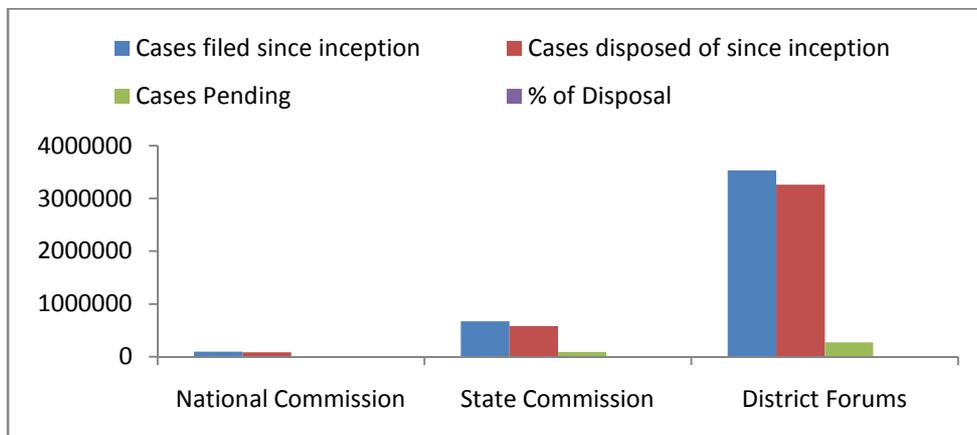
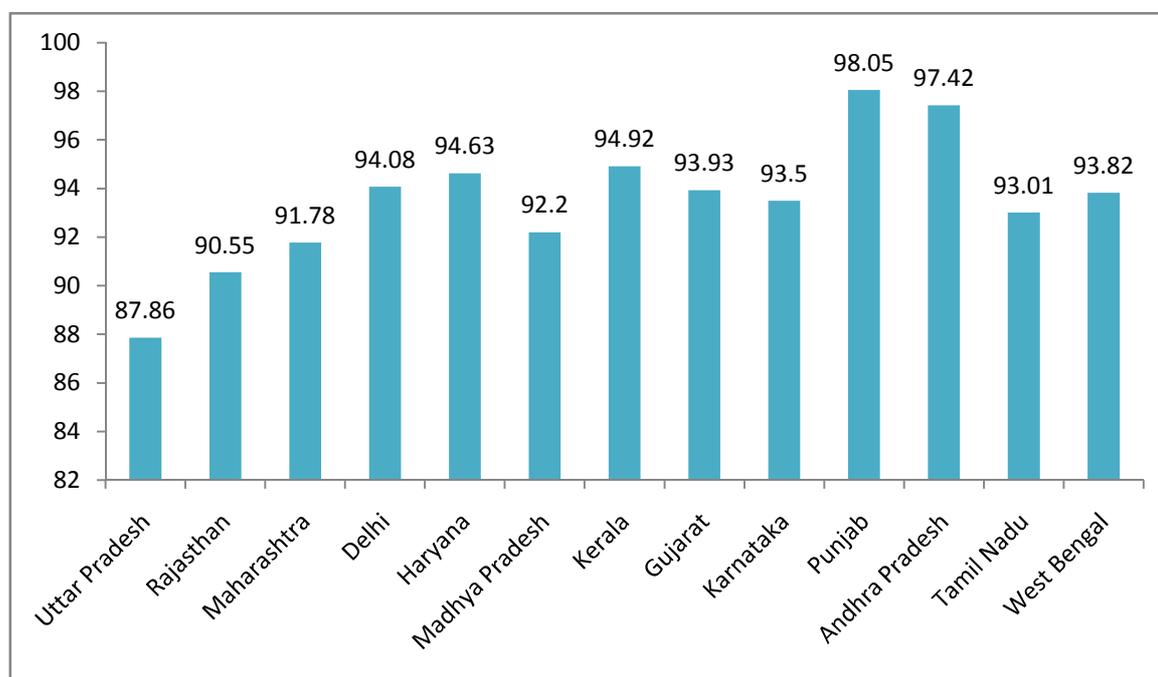


Table-6.2: No. of Cases Filed/Disposed in Major States of India (Update on 10.03.2015)
(District Fora)

Name of the State	Cases filed	Cases disposed	Cases Pending	% of Disposal	As on
Uttar Pradesh	6,17,264	5,42,321	74,943	87.86	31.12.2014
Rajasthan	3,25,804	2,95,031	30773	90.55	31.12.2014
Maharashtra	2,83,626	2,60,315	23,311	91.78	31.12.2014
Delhi	2,49,505	2,34,740	14,765	94.08	31.12.2012
Haryana	2,35,524	2,22,869	12655	94.63	31.01.2015
Madhya Pradesh	2,05,473	1,89,437	16036	92.20	31.02.2015
Kerala	1,93,774	1,83,925	9849	94.92	31.01.2015
Gujarat	1,93,187	1,81,470	11717	93.93	31.01.2015
Karnataka	1,74,537	1,63,200	11337	93.50	31.01.2015
Punjab	1,70,464	1,67,146	3,318	98.05	31.12.2014
Andhra Pradesh	1,13,918	1,10,975	2943	97.42	31.01.2015
Tamil Nadu	1,09,266	1,01,626	7640	93.01	31.12.2014
West Bengal	98,401	92,318	6083	93.82	31.12.2014

Fig-6.2: Percentage of Disposal in Major States of India (Update on 10.03.2015)



6.3: Cases Filed and Disposed since Inception and updated on 10.03.2015 in Major States of India (National Commission and State Commissions)

Name of the State	Cases filed	Cases disposed	Cases Pending	% of Disposal	As on
Uttar Pradesh	73,828	46,975	26,853	63.63	31.12.2014
Maharashtra	64,295	53,350	10945	82.98	31.12.2014
Rajasthan	56,655	51091	5564	90.18	31.12.2014
Gujarat	50,531	46,341	4190	91.71	31.01.2015
Karnataka	48,603	44,037	4566	90.61	31.01.2015
Madhya Pradesh	47,164	39,714	7450	84.20	31.01.2015
Haryana	45,329	44455	874	98.07	31.01.2015
Delhi	44,796	44083	713	98.41	30.09.2015
Andhra Pradesh	31,408	30,942	466	98.52	31.01.2015
Kerala	27,487	25,644	1823	93.37	31.01.2015
Tamil Nadu	26,012	23,723	2289	91.20	31.12.2014
Odisha	23,430	16,755	6675	71.51	31.12.2014
West Bengal	22,648	19124	3524	84.44	31.12.2014

Fig-6.3: Percentage of disposal since Inception and updated on 10.03.2015 in Major States of India (National Commission and State Commissions)

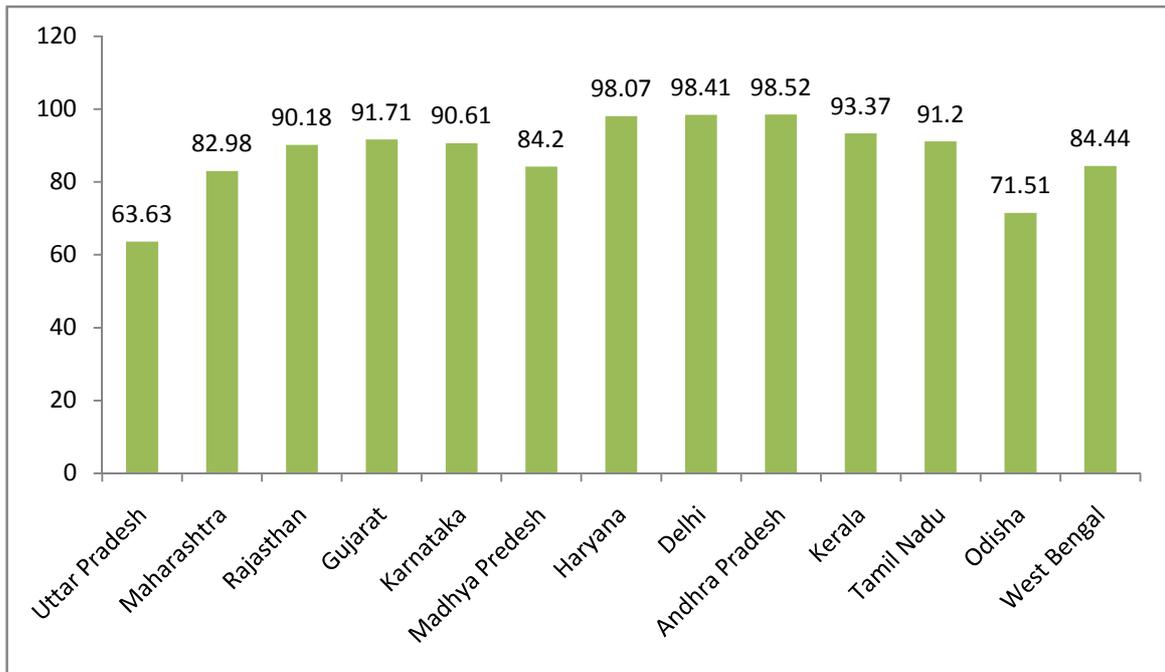


Table-6.4: Cases Filed, Disposed, and Pending in 35 States of India (National and State Commissions)

Sl. No.	Name of State	Cases filed since inception	Cases disposed of since inception	Cases Pending	% of Disposal	As On
	National Commission	93860	83294	10566	88.74	28.02.2015
1	Addhra Predesh	31408	30942	466	98.52	31.01.2015
2	A & N Island	42	38	4	90.48	31.01.2008
3	Arunachal Predesh	70	67	3	95.71	31.10.2014
4	Assam	2748	2428	320	88.36	31.01.2015
5	Bihar	17568	12291	5277	69.96	31.05.2014
6	Chandigarh	13751	13649	102	99.26	30.09.2014
7	Chattisgarh	10159	9463	696	93.15	31.01.2015
8	Daman & Diu and DNH	25	20	5	80.00	31.03.2011
9	Delhi	44796	44083	713	98.41	30.09.2014
10	Goa	2613	2564	49	98.12	31.01.2015
11	Gujarat	50531	46341	4190	91.71	31.01.2015
12	Haryana	45329	44455	874	98.07	31.01.2015
13	Himachal Predesh	8785	8669	116	98.68	31.01.2015
14	Jammu & Kashmir	6727	6170	557	91.72	31.03.2013
15	Jharkhand	5302	4824	478	90.98	31.03.2014
16	Karnataka	48603	44037	4566	90.61	31.01.2015
17	Kerala	27487	25664	1823	93.37	31.01.2015
18	Lakshadweep	18	16	2	88.89	31.12.2014
19	Madhya Predesh	47164	39714	7450	84.20	31.01.2015
20	Maharashtra	64295	53350	10945	82.98	31.12.2014
21	Manipur	139	96	43	69.06	30.09.2008
22	Meghalaya	262	175	87	66.79	31.10.2012
23	Mizoram	211	204	7	96.68	31.10.2014
24	Nagaland	156	93	63	59.62	31.12.2014
25	Odisha	23430	16755	6675	71.51	30.11.2014
26	Puducherry	1000	968	32	96.80	28.02.2015
27	Punjab	33155	29819	3336	89.94	31.12.2014
28	Rajasthan	56655	51091	5564	90.18	31.12.2014
29	Sikkim	55	53	2	96.36	31.12.2014
30	Tamil Nadu	26012	23723	2289	91.20	31.12.2014
31	Telangana	1148	0	1148	0.00	31.01.2015
32	Tripura	1639	1589	50	96.95	31.01.2015
33	Uttar Predesh	73828	46975	26853	63.63	31.12.2014
34	Uttrakhand	5359	4316	1043	80.54	31.12.2014
35	West Bengal	22648	19124	3524	84.44	31.12.2014
	Total	673118	583766	89352	86.73	

Table-6.5: Statement of Cases Filed / Disposed of/ Pending in District Forums (Update on 10.03.2015)

Sl. No.	Name of State	Cases filed since inception	Cases disposed of since inception	Cases Pending	% of Disposal	As On
1	Addhra Predesh	113918	110975	2943	97.42	31.01.2015
2	A & N Island	330	301	29	91.21	31.03.2006
3	Arunachal Predesh	411	378	33	91.97	31.10.2014
4	Assam	13704	11976	1728	87.39	31.08.2010
5	Bihar	95540	81712	13828	85.53	31.05.2014
6	Chandigarh	50435	49273	1162	97.70	30.09.2014
7	Chattisgarh	41424	37819	3605	91.30	31.01.2015
8	Daman & Diu and DNH	162	144	18	88.89	31.03.2011
9	Delhi	249505	234740	14765	94.08	31.12.2012
10	Goa	6799	6395	404	94.06	31.01.2015
11	Gujarat	193187	181470	11717	93.93	31.01.2015
12	Haryana	235524	222869	12655	94.63	31.01.2015
13	Himachal Predesh	60932	57931	3001	95.07	31.01.2015
14	Jammu & Kashmir	20792	18855	1937	90.68	31.12.2007
15	Jharkhand	36076	32203	3873	89.26	31.05.2014
16	Karnataka	174537	163200	11337	93.50	31.01.2015
17	Kerala	193774	183925	9849	94.92	31.01.2015
18	Lakshadweep	77	65	12	84.42	31.12.2014
19	Madhya Predesh	205473	189437	16036	92.20	31.01.2015
20	Maharashtra	283626	260315	23311	91.78	31.12.2014
21	Manipur	1037	1012	25	97.59	30.09.2008
22	Meghalaya	847	750	97	88.55	31.10.2012
23	Mizoram	3466	2819	647	81.33	31.12.2010
24	Nagaland	624	575	49	92.15	31.12.2014
25	Odisha	100217	93071	7146	92.87	30.11.2014
26	Puducherry	3066	2846	220	92.82	28.02.2015
27	Punjab	170464	167146	3318	98.05	31.12.2014
28	Rajasthan	325804	295031	30773	90.55	31.12.2014
29	Sikkim	335	316	19	94.33	31.12.2014
30	Tamil Nadu	109266	101626	7640	93.01	31.12.2014
31	Telangana	86321	82777	3544	95.89	31.01.2015
32	Tripura	3204	3075	129	95.97	31.01.2015
33	Uttar Predesh	617264	542321	74943	87.86	31.12.2014
34	Uttrakhand	37613	34755	2858	92.40	31.12.2014
35	West Bengal	98401	92318	6083	93.82	31.12.2014
	Total	3534155	3264421	269734	92.37	

Whether the state commissions and district forums are functional or non-functional has been portrayed in table-6.6. In all the 35 states all the state commissions are functional. As regards there are three out of 13 district forums are non-functional. Out of 21, two of the national forums are non-functional. In Bihar and Chhattisgarh 5 and 9 district consumer

courts are non-functional out of 33 and 18 courts respectively. In Nagaland out of 11, 3 are non-functional. In Tamil Nadu, four out of 26 district courts are non-functional. In West Bengal no court has been found non-performing.

Fig-6.4: Percentage of disposal in District Forums (Update on 10.03.2015)

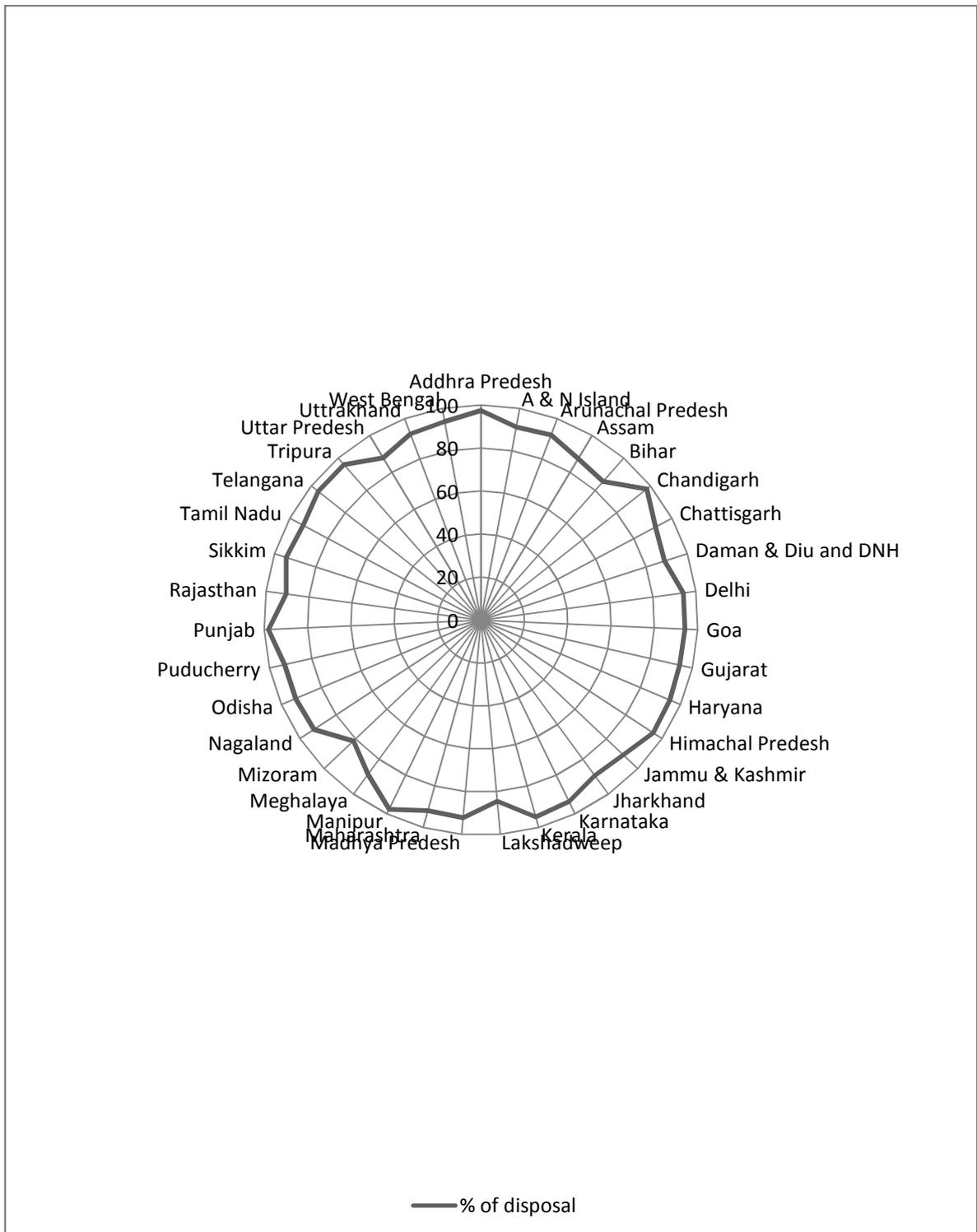


Table-6.6: Information Regarding Functional / Non-Functional (State Commission / District Forums) (Update on 10.03.2015)

Sl. No.	Name of State	whether SC Functional or Non-functional	No. of District For a	Functional	Non-functional	As On
1	Addhra Predesh	Yes	17	17	0	31.12.2014
2	A & N Island	Yes	1	1	0	31.03.2006
3	Arunachal Predesh	Yes	16	13	3	30.09.2014
4	Assam	Yes	23	21	2	31.03.2014
5	Bihar	Yes	38	33	5	30.06.2014
6	Chandigarh	Yes	2	2	0	30.09.2014
7	Chattisgarh	Yes	27	18	9	31.12.2014
8	Daman & Diu	Yes	2	2	0	31.03.2011
9	Dadra & Nagar Haveli	Yes	1	1	0	31.03.2011
10	Delhi	Yes	10	10	0	30.06.2014
11	Goa	Yes	2	2	0	31.12.2014
12	Gujarat	Yes	30	30	0	31.08.2013
13	Haryana	Yes	21	21	0	31.01.2015
14	Himachal Predesh	Yes	12	12	0	31.12.2014
15	Jammu & Kashmir	Yes	2	2	0	31.03.2009
16	Jharkhand	Yes	22	22	0	30.06.2014
17	Karnataka	Yes	31	31	0	31.12.2014
18	Kerala	Yes	14	14	0	31.12.2010
19	Lakshadweep	Yes	1	1	0	31.12.2014
20	Madhya Predesh	Yes	48	48	0	31.12.2014
21	Maharashtra	Yes	40	40	0	31.12.2014
22	Manipur	Yes	9	9	0	31.12.2008
23	Meghalaya	Yes	7	7	0	31.10.2012
24	Mizoram	Yes	8	8	0	30.06.2014
25	Nagaland	Yes	11	8	3	31.12.2014
26	Odisha	Yes	31	31	0	30.09.2013
27	Puducherry	Yes	1	1	0	31.12.2014
28	Punjab	Yes	20	20	0	31.12.2014
29	Rajasthan	Yes	37	37	0	31.12.2014
30	Sikkim	Yes	4	4	0	30.06.2014
31	Tamil Nadu	Yes	30	26	4	31.12.2014
32	Telangana	Yes	12	12	0	31.01.2015
33	Tripura	Yes	4	4	0	31.12.2014
34	Uttar Predesh	Yes	79	79	0	31.12.2014
35	Uttrakhand	Yes	13	12	1	31.01.2015
36	West Bengal	Yes	21	21	0	30.09.2014
	Total		647	620	27	

6.3: Conclusion

Data represented in tables from 6.1 to 6.6 show an all-India picture of cases filed and disposed in the district forums, state commissions and national commission. This does not clearly tell about the real picture of the consumer grievances. There are innumerable numbers of consumers many of whom live in the remote rural areas who do not know the system of how to lodge complaints in the consumer courts at different levels and whether redressal can be attained from there.