

## CHAPTER 9

### Conclusions and Recommendations

#### 9.1: Short Summary

Consumer's sovereignty is very much related to globalisation. This is because of the fact that consumer has alternative choices for goods and services available due to globalisation. Globalisation is highly competitive. In the globalised world, there is wide and open prevalence of commodities coming from different corners of the world. So consumer does have a choice for selecting a commodity. It is thus said that 'consumer is the king'. At the same time, consumer has to face a lot of problems while buying a commodity in relation to its quality. This calls for creating consumer awareness. Consumer protection was not thought of in India until its first Act came into being in 1986. Equally, developed nations did not think much of protecting consumer interest. It was in 1962 when the American President John F. Kennedy first presented the consumer Bill of rights. While presenting the Bill Mr. Kennedy mentioned about four specific rights of consumers, i.e., the right to safety, right to choose, right to be heard and right to information. After the execution of this Act in America almost all the countries of the world had to pass the consumer protection Act one after another.

A consumer or a customer is a person who buys goods or hires services with money, i.e., a price is fixed on the purchase of a commodity or hiring a service for a service provider. Consumer pays a price for the commodity he buys or the service he receives. The problem arises when he finds that the good he gets in exchange of a price suffers from defects or it is a low quality product. This certainly makes him a loss-monetary as well as mental.

As India is stepping from a production oriented mixed economy to a consumer society, it is the need of the hour to understand this development and the challenging consumer scene in India when recent trend suggests that there is a slow wave of

consumerism spreading in India due to growing economic impact of Consumer Power of India due to globalization and Foreign direct investment. This fact by itself does not give any special dimensions and at the same time no quick conclusion can be drawn about the vital effect of the Consumer Protection Act, 1986. No doubt partly rising consumerism in India may be due to general context of global tendencies in the market but global diffusion of consumerism has been aided by expansion of multinationals, telecommunications and satellite technology.

In short, this area of investigation is complex and uncertain though extremely promising for which economics, psychology, sociology, marketing and industrial trade are involved in this research work for gaining a better understanding how consumer shall have to make decision to protect his interest but to some extent if the theoretical aspect with a few practical ones are examined for evaluation of the expected outcome of consumer decision to solve the present problems in the market and also in the redressal forums and to ventilate how consumer redressal system in our country is being ineffective and dysfunctional and loss of consumer confidence including inactive attitude of Consumer Association to protect consumer rights and till now consumer rights education and awareness movements are the need of the hour though violation of consumer rights is rampant due to globalisation. So, vital question is how do consumers make their decisions and protect their rights and what the role of Forums in the present situation is.

It is also pointed out that for promoting consumers' prosperity and well-being neither forums nor Consumer Associations has yet taken any such constructive movement to protect the consumers and there is no such law how to save the consumers from exploitation. It is not that we alone have been ventilating the above concern the others have vehemently started commenting about the poor functioning of the Forums day to day due to misguided approach of the Forums at all levels. It is a fact that consumer exploitation is primarily due to unawareness on the part of the consumers about their rights which is being taken full advantage by the manufacturers, trades and sellers by indulging dubious practices but unfortunate picture is no political party of India has taken any initiative to fight for their cause. This is no doubt an undemocratic approach that is one of the grounds for exploitation of the consumers so a consumer movement is needed which is possible only if the consumer is an educated consumer. So, fact remains that the whole object as conceived by the

lawmakers has been totally frustrated resulting in absolutely no tangible benefit to the public (consumers) at large what is evident further from the physical appearance of pending backlog cases and delay in disposal of cases and hapless result of execution cases of the Forums even after fully computerization of the Forums at all levels.

In this presentation it is specifically explored that mere enactment is not sufficient unless it is backed by effective enforcement and strict implementation and in absence of such back up measures the very purpose of the law gets defeated which is justified by showing that for last twelve years out of ten crore of people of West Bengal only eight thousand odd cases are being filed per year which is microscopic figure in nature. So, it can be assumed either existence of the Act, 1986 is not known to the consumers or the redressal machineries have failed to create an impact in the mind of consumers to give tangible relief as per Act to the consumer in inexpensive manner and speedily but it is equally true that law alone cannot protect the consumer, he too has protect his rights by self help and moment if he finds the violation of his rights he must mobilize the machinery of the Consumer Forums.

However, whatever might be the impact of the Consumer Protection Act, 1986 truth is that the system is not yet foolproof. Thus, some tactical amendments are again required for protecting the consumer interest rights in a democratic country which is superstructure, economically and socially.

In this regard, there are a number of factors responsible for the growth of law that cause change in society. Every new decision of any new situation is a development of law (what Lord Denning – observed). Similarly, Justice P.D. Divakar of the Madras High Court has observed that Judges should avoid delay the disposal of cases. Long adjournments kill the spirit of the litigants and therefore, red-tappism should be avoided and so justice delayed is no justice at all and this matter is ventilated for creating wisdom of the President and Members when amendment of C.P. Act, 1986 in the year 2002 is effective on and from 15-03-2003 and only to change the present. Casual approach of the Forums bold attitude to implement the Act in terms of broad perspective and principle should be taken to change the present condition of consumer protection and to enquire into the social needs, object of the consumer society, entire Act should be implemented sociologically because aim of the Act is to build an efficient mechanism to cater consumer offence towards change in society and

sociological jurists confirmed that the present Forum's liability and gravity of legal system are enormous to protect the consumer interest and to curb the offender at any stage and place and as per Roscoe Pound "Law is a social Engineering". So forums should realise the change of economy, sociological, psychological and market strategy and financial imbalance etc. and also the need of the society otherwise in the hands of consumer offenders forum mechanism shall be stuck off and fundamental spirit of Consumer Act, 1986 shall be transformed to Civil Court practice in the hands of retired judges and non-judicial members who are being benefited financially being appointed as President and Members though it is predominant function of the President and Members to bring the changes in the consumer society.

Consumer Affairs Department has been attempting hard to make the Act more vibrant, dynamic and functional to enable it to tackle the emerging challenges of a liberalised market economy while empowering the redressal authorities to render quick justice but chariot of redressal system is found not so strong and at the same time some corruption has been playing a great role in the official administration of the forum and same shall be controlled by the consumer offenders who are most powerful now in the office field of the forum but President and Members are not in a mood to control though boldness, dedication, punctuality, wisdom and removal of bureaucratic mentality and attitude are highly required for making consumer movement a grand success for establishing consumer right in true sense. It may be mentioned that European Law protects a consumer no matter where consumer is in the European Union or in our countries but situation is not such even at forums compound. Consumer is not sure what would be consumer fate and when he shall get the fruits of the decree.

Another most pathetic picture for protection of rights of rural consumer is pointed out that present redressal system is mostly confined to urban areas and for which there is no alternative for the rural consumers' rights prosperity and well-being should be core values of the Act but same is not present in the Consumer Act, 1986. In the present Act, in fact, there is no such provision to declare unfair contract as prohibited but in EU laws to protect the consumer from such sort of abuses, is also ventilated. In fact, due to globalisation and implementation of FDI now many consumer disputes arise but there is no

provision to give proper redressal, if any, one shop across border through network from international market there is need for effective redress for cross border disputes.

It is specifically studied the role of women, youths and children in market and also in the present changing structure of family in new types of shopping environment and high degree of sophistication across different segments when large part of consumers depends on advertising and everyday patterns of consumer behaviour and that is knowledge of this author after gaining knowledge required for this work and studying relevant authenticated books to interpret the theoretical concept the sources of influence on consumer. Similarly, the study also reflects that the legal procedure to fight exploitation is highly expensive, complicated and time consuming which is against the spirit of the Consumer Act, 1986 and similarly, sincerity and honesty of the purpose on the part of business may make a strong consumer protection and build a mutual trust and confidence when consumer is the creator of an opportunity to perform an economic activity for the prosperity of the value but sellers do not hold themselves responsible for the quality of what they sell, what is true in India but even then no effective coordination from any corner is visible against unethical trade practices and various acts of protecting consumers, are found toothless.

In the present work, considering the opening of single and multi-brand retailing as per FDI policy of India, it is proposed to set up an uniform regulatory structure with respect to taxes and duties as regards modern retail sector and national policy to that effect should be for mutated to regulate fiscal and social aspects to allow Indian consumers' access to foreign brands and foreign investors may make a genuine contribution to the development of Indian continent.

Government's effort, plan and programme to bring prosperity in the lives of rural people are there to increase purchasing capacity and remove the imbalance in between rural and urban people but all national programmes are not properly implemented for lack of wider participation of different stakeholders and effective management programmes and further no industry-linkage machinery to create demand based technology, market for rural people (consumer) though rural development in India is of the most challenging aspect for the growth of Indian economy but people's participation is very vital, otherwise poverty alleviation is impossible.

It is important to note that India's choice placing political freedom ahead economic liberalization puts a tap on the progress of development and government policy is a balancing factor in between long term growth needs and short term social benefits and, in fact, without economic freedom balanced economic development in India is destined to fall and so Indian political parties should modify their policies for an economic guiding policy which may recognise true democracy, sustainability and widespread socio-economic development.

On the other hand, of late companies have realised the importance of reaching the consumers at rural market for which they leave attending rural melas (large gathering of people in a place) and Hats (rural markets) for direct marketing as alternative channels.

It is also pointed out that in many cases for Government's step to price control leads to scarcity of such particular daily need goods of the consumer so alternative method for lowering purchasing cost should be followed to avoid any crisis in the market but particularly in medical section some control is highly required for benefit of the consumers to save their life, otherwise Private Medical Hospital and Sectors shall exploit the poorer consumers, so, patient might need for government protection from high prices of treatment and invariably in this regard a consumer regulatory authority should be established after amending the C.P. Act but competition is a better tool than price control for protecting the interest of consumers in most of the sectors.

In this regard Rockoff's view is that "one would expect that as markets grew, producing a smoother flow of information the need for regulation would have decreased". So, Government should take such techniques to get a low price for certain goods and services without disrupting the competitive market.

It is evident from this dissertation that the frustrating experiences the consumers undergo in the forums do not foretell well in spite of many success stories in their credit after enactment of the C.P. Act, 1986.

In the case of protection of Indian consumers, the example of protection in small country like Japan may be worthwhile and living testimony to all developing countries like India.

It is no doubt evident from the above discussion that the society is changing with time and no doubt the enactment of Consumer Protection Act, 1986 was a great step towards the change in society as social legislation to give protection to the consumers by adopting simple procedure but due to day to day change of society and when law is not static further amendment of the said Act is highly needed for protecting the interest of consumers in different fields when marketing scope develops day to day and these developments carry special significance for service sector also.

The scope of the study is to know the marketing strategies adopted by manufacturing companies, traders and different types of service providers due to globalisation and for targeting the rural consumers in different ways, the difference between rural and urban markets and consumers including steady rise of purchasing power of rural people and consumers and their psychology in their purchasing behaviour and need based choice etc. and also the present position of the consumers in respect of their rights and protection under the Act and its total effect to exploiter traders and service providers and what impact has been created during last 28 years of enactment of the Consumer Protection Act.

The efforts have been made to effectively point out different factors of consumer economy and related subject and theoretical analysis of consumer psychology, sociological aspect of consumer, consumer behaviour and also the Act to formulate an appropriate element of protecting the rights and interests of consumers of India by specifically pointing out the need of change of outlook the redressal machineries, consumer organizations and also the consumers and for their change of old ideas and casual approach in protecting the every right and interest of the consumers.

In the present situation, outlook of the forum machineries should be upgraded by providing them time to time reorientation course to acquire knowledge of the economic and social change of the society including industrial economy, marketing economy, psychology and behaviour of the consumers that is a compact subject of consumer science. So, need of the hour is to search out an alternative solution and that is nothing but every consumer has a social obligation to direct the debate in a constructive manner by organising a continuous mass movement and civil disobedience at all places where consumer rights and protection are not properly looked into and also against exploiters and that will give an impulse to the “law and change in society” and for protecting uniform consumer rights and protection and

when there shall be no other alternative on the part of the forums at all levels to take a bold attitude to implement the Act in true spirit.

## **9.2: Overall Conclusions**

Consumer is an important part and parcel of every economic system. In an economy there exists the producers, the government and the consumers and in between the producers and the consumers there are intermediaries who work as agent and whose main motive is to take part in the activity of transaction of goods and services from one economic agent (say, for example, from the producers to the consumers) to the other. Consumers raise demand for a good or service and accordingly producers produce. Consumer expects a quality product which can be effectively consumed. This is because he has sacrificed the utility of money in the expectation of getting the utility of the commodity he bought. In the barter economy, consumer could not rightly claim about the quality of the good. Every time consumers were exploited by the producers. Consumers could have no choice any kind of protection that we may seek today for this purpose.

The discovery of the coin and paper currency and weights and measures replace the system of barter economy. With the increase in people's demand and desire for goods and services and population explosion, trade and commerce also expanded. The market became vast and it crossed its internal boundary. In every economic activity we found consumer was given prime importance. But in today's world, consumers are facing plethora of problems in respect of quality and price of the product. Black marketing, misleading and manipulative advertisement, hoarding, short weighting, exorbitant credit charges and monopoly and restrictive trade practices etc. have multiplied consumers' helplessness curtailing their sovereignty.

Our research investigation point out several factors of consumer disputes redressal mechanism, consumer movement in India and abroad, consumer protection acts during the British regime and at present. We have also discussed consumer protection that existed in ancient and Mughal India. We have analysed state-wise cases filed and settled on consumer disputes. Also the performance of district consumer forums, State Commission and National Commission has been exhibited with supportive quantitative data.

The main findings of our research endeavor are shown below in short.

- i. We have found that it takes longer period to settle the dispute in the district consumer courts. This is due to frequent adjournments. This should be stopped unless justified.
- ii. Due to complex and technical procedure of consumer dispute-settling mechanism, the disposal of cases becomes so slow in the district forums.
- iii. Vacancy of judges in the districts barely remains vacant. All the district forums are whole time. The staff position in all the district forums is not uniform. Some forums have adequate number of staff, while the others do not. It is required to maintain a uniform staff pattern in the district forums of West Bengal.
- iv. Our data analysis shows that consumers are not satisfied with their grievances in terms of settlement of complaints filed in the district forums.
- v. The filing of cases in the district forums becomes time consuming, complex and expensive. All these go against the Consumer Right Act,1986. It becomes more complex task to the complainants who are illiterate or less-educated, many of whom live in the remote rural areas.
- vi. Our research findings show that more than 80 percent consumers lodge complaints before the consumer courts with the help of advocates. The opposite parties(OPs) also take help of advocates. This makes the system more complex and expensive.
- vii. The settlement of cases is really a time consuming in the district forums. As a result, only a few cases are settled within stipulated time.
- viii. Many of the consumers are not aware about the consumer protection rights or act. Only a few have just general awareness about it. This is because of illiteracy and lack of information about consumer protection legislations. State agencies, print and electronic media and voluntary consumer agencies have a major role to play in educating consumers about the rights. This needs to improve general knowledge/awareness among the consumers through concerted efforts from all the concerned sections associated with consumer movement.

- ix. It is a fact that the lot of average consumer in India is most deplorable and for ages he has remained helpless and dumb victim of those who are involved in the channels of production and distribution of goods and services and he is made to pay exorbitant prices of essential goods by unscrupulous manufacturers as well as middlemen for whom profit making seems to be sole motive and the sovereignty of the consumer in the market is no more than a myth at least in Indian situation and he is the king in name without any power and privilege and sellers do not hold himself responsible for the quality of what he sells.
- x. Our study shows that smaller rank of c.v is more consistent than the higher one. According to ranking as shown in tables- 7.23 and 7.24 regarding cases filed and disposed during 2002-2013, Howrah district is better than other districts. This may perhaps be due to better infrastructural facilities available in Howrah district and in some other district(s) than the others.

### **9.3: Recommendations**

On the basis of our analysis and the conclusions drawn on consumer redressal mechanisms we put forward the following recommendations.

- i. Like all other countries, Indian consumers have access over goods and services available due to the impact of liberalisation, privatisation and globalisation (LPG). Our consumers have wide and open access to variety of goods because of internet facilities. They can buy a good produced by a company from any country of the world. Consumers can avail the opportunity of buying a commodity at a price fixed by the producer and also can buy it at a discount rate. Not only this, consumer can get the feedback about the quality of the product through the internet. In many a case, the purchase is held through e-commerce, e-shop, e-business, e-stores, e-banking etc. There is no problem in buying goods and services through the Internet system. Problem crops up when it is found that the goods/services is bought from West Bengal, for example, by a person but his residence is not in West Bengal. In that case, if the quality of good or service is found not up to the satisfaction, then the buyer's complaint will not be entertained by the respective consumer forum. This is because of the fact that according to section 11 of Consumer Protection Act,

1986 (Section 11(2a), a consumer may file a complaint if the Opposite Parties (OPs) actually and voluntarily reside and carry on business in a particular address and if the address is within the jurisdiction of a particular forum. In that case, the forum after thorough scrutiny and obeying the relevant Act considers that the complaint may not be possible to maintain in a proper way and is thus being rejected by the State Commission or by the forum. In this context, it is necessary to change the section 11 of Consumer Protection Act, 1986 and suitably a provision needs to be included in this section to the effect that the case may be filed by the said consumer who is the user of the service on his house which is within the jurisdiction of the State Commission or District Consumer Court.

We thus plead for amending this section (Section 11 (a) in such a form that a complainant may invariably lodge complaint even if the opposite party's residence is outside the jurisdiction.

(ii) There is also a problem with the Section-24 of the Consumer Protection Act, 1986. This Section states that the opposite party can appeal against any judgment. In that case, the judgement of lower forum is not final. Therefore, any execution case filed by the decree holder shall be infructuous. At the same time appeals are being admitted before the State Commission in a very casual manner without taking any scrutiny from the judgment debtor. Moreover, no condition is imposed for passing any stay order against the judgment debtor. We can see that under such a situation the judgment debtor gets the benefit to linger the appeal before the State Commission. Thus, the spirit of the consumer Protection Act, 1986 is being followed properly and unnecessarily the appeal hearing is delayed without valid and legal reason. Thus for proper protection and safeguard of the decree holder the Section-24 of the Act needs to be amended.

(iii) Section 27A (2) of Consumer Protection Act, 1986, needs to be amended in order to protect the interest of decree of consumer complaint. This section empowers the consumer forum to start proceeding against the judgment debtor and if the judgment debtor is convicted and sentenced to fine or imprisonment only in that case appeal may be filed by the judgment debtor. In most of the cases the execution cases are being stayed by the State Commission without directing the judgment debtor to deposit at least 50 percent of the decretal amount. Naturally, the judgment debtor gets liberal order from the respective forum. This also goes against the spirit of the consumer Protection Act. Considering the

whole purpose of social legislation it needs a suitable amendment of Section-27 A (2) of the Act.

(iv) All the consumer forums starting from the district level up to the National Commission have been formed with the help of retired judges and justices. Due to shortage of members and presidents there has been huge piling up of unsettled/pending cases with different consumer courts. This gives rise to sufferings of consumers waiting for the redressal of long pending cases.

(v) Indian consumers have experienced about 29 years of the impact of enactment of three-tier consumer law. Since globalisation, the market has become a global concept. It has crossed the local, regional and national boundary. As a result, the Consumer Protection Act, 1986 is not fully equipped to combat exploiters. Naturally, the radius of this Act should be expanded in order to attract large number of items within the definition of service and also to make the execution provision more effective and punitive in nature. Because of globalisation there has been a change in the industrial society. This in fact has caused a change in the legal system.

It is a fact that law is an agent of modernisation and social change. In this context, a new dimension in the field of consumer act is highly felt when the major challenge is to save the consumers from the heads of dishonest traders and businesses. Considering all these the Section-25 of Consumer Act, 1986 was amended in 1993. But there were a number of lacunas in this amendment. Naturally, again in 2003 (Vide Act 62 of 2002) further amendment was made. But the force of attachment order is restricted for a period of three months. If the order of the forum is not complied the said restriction of three months should be deleted. In place of that restriction of three months, till the full satisfaction of the decree should be substituted to give full relief to the consumers.

But as per Section-25 (3) of the Consumer Protection Act, 1986, if any consumer is directed to go to the certificate officer for recovery of decretal amount the consumer shall invariably be sent to an uncertain future to get the decretal amount. For a proper protection of the consumers and save them from harassment all the executing power, civil and criminal, should be exclusively given to the forum. If it is not done, then almost majority of

cases should remain unsettled. We thus plead for the amendment of Section-25 by the Parliament.

(vi) The Consumer Protection Act, 1986 defines 'consumer' a person who buys a commodity or service for his own consumption or for his family consumption. It does not include a person who purchases the goods for resale or for commercial purpose. What would happen if a product is bought by a person and used for commercial purpose to maintain the family? It needs a clear cut definition of the term 'Consumer'. The National Consumer Dispute Redressal Commission in *Sapna Photostat v. Excel Marketing Corpn. and Anr.* dealt with a case where the person who had a complaint was an old lady who was engaged in a Photostat work for her livelihood in her home in Shimla, Himachal Pradesh. She bought a Photostat copier which was defective. She immediately lodged a complaint before the State Commission against the company for selling the defective machine (CTJ Journal, P-85, Vol.19, No. VI, June, 2011). But her complaint was rejected because of the fact that she was not a 'consumer' but a service provider, a petty trader. But the National Commission on revision gave a judgment on 7.04.2011 (reported at 2011 CTJ 620(CP)) stating that if a person indulges in commercial activity for the purpose of his livelihood through self employment then he continues to be a 'Consumer'. Obviously he can lodge a complaint as a consumer. It needs a clear-cut definition of the term 'Consumer' and for this purpose, an amendment is required to be met. This would save the consumers who are the petty traders or like that who run small business activity for maintaining their livelihood.

(vii) It is a fact that most of the states have not put consumer affairs on priority. The ministry that deals with consumer also looks into public distribution and civil supplies. States give priority on public distribution and civil supplies and thus consumer affairs get least priority. State Commissions suffer from funding which is distributed by the centre as well as the respective state government. The centre provides periodic grants, to states. In most of cases, centre provides a per court amount. When special schemes are run, additional funds are disbursed to the National Commission. Many critics say that centre can use the Consumer Welfare Fund to help in paying salary. This fund, it is said, remains under-utilised.

(viii) There are various initiatives under way to strengthen consumer rights and make companies more accountable. But the fact is that they do not have statutory powers.

The National Consumer Helpline (NCH) is one such instance. This organisation records consumer complaints and forwards them to companies. Also there are the Consumer Councils that work to protect the rights of the consumers. They also create awareness among the consumers through organising seminars, symposia, workshops, awareness campaigns etc. But since these initiatives do not have legal powers they cannot put their efforts in full strength.

(ix) Judging the number of cases filed, cases settled, and the number of judges and members appointed in the district consumer Courts we see that consumer Courts do not have enough benches to hear case. Not only this, the existing ones are not occupied right now. 'Appointments' are low priority for the Status. Despite recommendations of the P.D. Shenoy Committee in 2008, the Members are poorly paid. But Judges are better paid. These respective state governments should take care of all these issues and let the consumer courts perform better.

(x) Judges in consumer Courts who are mostly the retired district judges or lawyers eligible to be district judges approach cases with a legal mindset. They don't put serious thought on consumer issues or a consumer state of mind. Lawyers from the company's side very often prolong the case by taking adjournments on flimsy ground complicating issues. Also due to leave taken by the Judges verdict cannot be given in due course of time.

## **APPENDICES**

### **Appendix-A**

#### **The Consumer Protection Act, 1986**

**(68 of 1986)**

*24th December; 1986*

An Act to provide for better protection of the interests of consumers and for that purpose to make provision for the establishment of consumer councils and other authorities for the settlement of consumers' disputes and for matters connected therewith.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

#### **PRELIMINARY**

#### **CONSUMER PROTECTION COUNCILS**

#### **CONSUMER DISPUTES REDRESSAL AGENCIES**

#### **MISCELLANEOUS**

## CHAPTER I

### PRELIMINARY

- 1. Short title, extent, commencement and application.** — (1) This Act may be called the Consumer Protection Act, 1986.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification, appoint and different dates may be appointed for different States and for different provisions of this Act.
- (4) Save as otherwise expressly provided by the Central Government by notification, this Act shall apply to all goods and services.
- 2. Definitions.** - (1) In this Act, unless the context otherwise requires, —
- (a) "appropriate laboratory" means a laboratory or organisation—
- (i) recognised by the Central Government;
  - (ii) recognised by a State Government, subject to such guidelines as may be prescribed by the Central Government in this behalf; or
  - (iii) any such laboratory or organisation established by or under any law for the time being in force, which is maintained, financed or aided by the Central Government or a State Government for carrying out analysis or test of any goods with a view to determining whether such goods suffer from any defect;
- (aa) "branch office" means—
- (i) any establishment described as a branch by the opposite party; or
  - (ii) any establishment carrying on either the same or substantially the same activity as that carried on by the head office of the establishment;

(b) "complainant" means—

- (i) a consumer; or
- (ii) any voluntary consumer association registered under the Companies Act, 1956 (1 of 1956) or under any other law for the time being in force; or
- (iii) the Central Government or any State Government,
- (iv) one or more consumers, where there are numerous consumers having the same interest;
- (v) in case of death of a consumer, his legal heir or representative; who or which makes a complaint;

(c) "complaint" means any allegation in writing made by a complainant that—

- (i) an unfair trade practice or a restrictive trade practice has been adopted by any trader **or service provider**;
- (ii) the goods bought by him or agreed to be bought by him; suffer from one or more defects;
- (iii) the services hired or availed of or agreed to be hired or availed of by him suffer from deficiency in any respect;
- (iv) **a trader or service provider, as the case may be, has charged for the goods or for the service mentioned in the complaint a price in excess of the price –**

*(a) fixed by or under any law for the time being in force*

*(b) displayed on the goods or any package containing such goods ;*

*(c) displayed on the price list exhibited by him by or under any law for the time being in force;*

*<!--[if !supportLists]--> (d) <!--[endif]-->agreed between the parties;*

(v) **goods which will be hazardous to life and safety when used or being offered for sale to the public,--**

*(A) in contravention of any standards relating to safety of such goods as required to be complied with, by or under any law for the time being in force;*

*<!--[if !supportLists]--> (B) <!--[endif]--> if the trader could have known with due diligence that the goods so offered are unsafe to the public;*

(vi) services which are hazardous or likely to be hazardous to life and safety of the public when used, are being offered by the service provider which such person could have known with due diligence to be injurious to life and safety;”;

(d) "consumer" means any person who—

(i) buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or

(ii) hires or avails of any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person **but does not include a person who avails of such services for any commercial purposes;**

*Explanation.—* For the purposes of this clause, “commercial purpose” does not include use by a person of goods bought and used by him and services availed by

him exclusively for the purposes of earning his livelihood by means of self-employment;

(e) "consumer dispute" means a dispute where the person against whom a complaint has been made, denies or disputes the allegations contained in the complaint.

(f) "defect" means any fault, imperfection or shortcoming in the quality, quantity, potency, purity or standard which is required to be maintained by or under any law for the time being in force under any contract, express or implied or as is claimed by the trader in any manner whatsoever in relation to any goods;

<!--[if !supportLists]--> (g) <!--[endif]-->"deficiency" means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service;

<!--[if !supportLists]--> (h) <!--[endif]-->"District Forum" means a Consumer Disputes Redressal Forum established under clause (a) of section 9;

<!--[if !supportLists]--> (i) <!--[endif]-->"goods" means goods as defined in the Sale of Goods Act, 1930 (3 of 1930);

<!--[if !supportLists]--> (j) <!--[endif]-->"***manufacturer***" means a person who—

***(i) makes or manufactures any goods or part thereof; or***

***(ii) does not make or manufacture any goods but assembles parts thereof made or manufactured by others; or***

***(iii) puts or causes to be put his own mark on any goods made or manufactured by any other manufacturer;***

*Explanation.* — Where a manufacturer dispatches any goods or part thereof to any branch office maintained by him, such branch office shall not be deemed to be the manufacturer even though the parts so dispatched to it are assembled at such branch office and are sold or distributed from such branch office;

- (jj) "member" includes the President and a member of the National Commission or a State Commission or a District Forum, as the case may be;
- (k) "National Commission" means the National Consumer Disputes Redressal Commission established under clause (c) of section 9;
- (l) "notification" means a notification published in the Official Gazette;
- (m) "person" includes,—
- (i) a firm whether registered or not;
  - (ii) a Hindu undivided family;
  - (iii) a co-operative society;
  - (iv) every other association of persons whether registered under the Societies Registration Act, 1860 (21 of 1860) or not;
- (n) "prescribed" means prescribed by rules made by the State Government, or as the case may be, by the Central Government under this Act;
- (nn) "regulation" means the regulations made by the National Commission under this Act;***
- (nnn) "restrictive trade practice" means a trade practice which tends to bring about manipulation of price or conditions of delivery or to affect flow of supplies in the market relating to goods or services in such a manner as to impose on the consumers unjustified costs or restrictions and shall include—***
- (a) delay beyond the period agreed to by a trader in supply of such goods or in providing the services which has led or is likely to lead to rise in the price;***
  - (b) any trade practice which requires a consumer to buy, hire or avail of any goods or, as the case may be, services as condition precedent to buying, hiring or availing of other goods or services;

(o) "service" means service of any description which is made available to potential users and includes, but not limited to, the provision of facilities in connection with banking, financing insurance, transport, processing, supply of electrical or other energy, board or lodging or both, housing construction, entertainment, amusement or the purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service;

(oo) ***“spurious goods and services” mean such goods and services which are claimed to be genuine but they are actually not so;***

(p) "State Commission" means a Consumer Disputes Redressal Commission established in a State under clause (b) of section 9;

<!--[if !supportLists]--> (q) <!--[endif]-->"trader" in relation to any goods means a person who sells or distributes any goods for sale and includes the manufacturer thereof, and where such goods are sold or distributed in package form, includes the packer thereof;

<!--[if !supportLists]--> (r) <!--[endif]-->"unfair trade practice" means a trade practice which, for the purpose of promoting the sale, use or supply of any goods or for the provision of any service, adopts any unfair method or unfair or deceptive practice including any of the following practices, namely;—

(1) the practice of making any statement, whether orally or in writing or by visible representation which,—

(i) falsely represents that the goods are of a particular standard, quality, quantity, grade, composition, style or model;

(ii) falsely represents that the services are of a particular standard, quality or grade;

(iii) falsely represents any re-built, second-hand, renovated, reconditioned or old goods as new goods;

- (iv) represents that the goods or services have sponsorship, approval, performance, characteristics, accessories, uses or benefits which such goods or services do not have;
- (v) represents that the seller or the supplier has a sponsorship or approval or affiliation which such seller or supplier does not have;
- (vi) makes a false or misleading representation concerning the need for, or the usefulness of, any goods or services;
- (vii) gives to the public any warranty or guarantee of the performance, efficacy or length of life of a product or of any goods that is not based on an adequate or proper test thereof;

Provided that where a defence is raised to the effect that such warranty or guarantee is based on adequate or proper test, the burden of proof of such defence shall lie on the person raising such defence;

(viii) makes to the public a representation in a form that purports to be—

- (i) a warranty or guarantee of a product or of any goods or services; or
- (ii) a promise to replace, maintain or repair an article or any part thereof or to repeat or continue a service until it has achieved a specified result, if such purported warranty or guarantee or promise is materially misleading or if there is no reasonable prospect that such warranty, guarantee or promise will be carried out;
- (ix) materially misleads the public concerning the price at which a product or like products or goods or services, have been or are, ordinarily sold or provided, and, for this purpose, a representation as to price shall be deemed to refer to the price at which the product or goods or services has or have been sold by sellers or provided by suppliers generally in the relevant market unless it is clearly specified to be the price at which the product has been sold or services have been provided by the person by whom or on whose behalf the representation is made;

- (x) gives false or misleading facts disparaging the goods, services or trade of another person.

*Explanation.* - For the purposes of clause (1), a statement that is—

(a) expressed on an article offered or displayed for sale, or on its wrapper or container; or

<!--[if !supportLists]--> (b) <!--[endif]-->expressed on anything attached to, inserted in, or accompanying, an article offered or displayed for sale, or on anything on which the article is mounted for display or sale; or

<!--[if !supportLists]--> (c) <!--[endif]-->contained in or on anything that is sold, sent, delivered, transmitted or in any other manner whatsoever made available to a member of the public, shall be deemed to be a statement made to the public by, and only by, the person who had caused the statement to be so expressed, made or contained;

- (2) permits the publication of any advertisement whether in any newspaper or otherwise, for the sale or supply at a bargain price, of goods or services that are not intended to be offered for sale or supply at the bargain price, or for a period that is, and in quantities that are, reasonable, having regard to the nature of the market in which the business is carried on, the nature and size of business, and the nature of the advertisement.

*Explanation .*—For the purpose of clause (2), "bargaining price" means—

<!--[if !supportLists]--> (a) <!--[endif]-->a price that is stated in any advertisement to be a bargain price, by reference to an ordinary price or otherwise, or

<!--[if !supportLists]--> (b) <!--[endif]-->a price that a person who reads, hears or sees the advertisement, would reasonably understand to be a bargain price having regard to the prices at which the product advertised or like products are ordinarily sold;

- (3) permits—

<!--[if !supportLists]--> (a) <!--[endif]-->the offering of gifts, prizes or other items with the intention of not providing them as offered or creating impression that something is being given or offered free of charge when it is fully or partly covered by the amount charged in the transaction as a whole;

<!--[if !supportLists]--> (b) <!--[endif]-->the conduct of any contest, lottery, game of chance or skill, for the purpose of promoting, directly or indirectly, the sale, use or supply of any product or any business interest;

**(3A) withholding from the participants of any scheme offering gifts, prizes or other items free of charge, on its closure the information about final results of the scheme.**

*Explanation. — For the purposes of this sub-clause, the participants of a scheme shall be deemed to have been informed of the final results of the scheme where such results are within a reasonable time, published, prominently in the same newspapers in which the scheme was originally advertised;*

(4) permits the sale or supply of goods intended to be used, or are of a kind likely to be used, by consumers, knowing or having reason to believe that the goods do not comply with the standards prescribed by competent authority relating to performance, composition, contents, design, constructions, finishing or packaging as are necessary to prevent or reduce the risk of injury to the person using the goods;

(5) permits the hoarding or destruction of goods, or refuses to sell the goods or to make them available for sale or to provide any service, if such hoarding or destruction or refusal raises or tends to raise or is intended to raise, the cost of those or other similar goods or services.

**(6) manufacture of spurious goods or offering such goods for sale or adopts deceptive practices in the provision of services.**

(2) Any reference in this Act to any other Act or provision thereof which is not in force in any area to which this Act applies shall be construed to have a reference to the corresponding Act or provision thereof in force in such area.

**3. Act not in derogation of any other law.**— The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

## CHAPTER II

### CONSUMER PROTECTION COUNCILS

**4. The Central Consumer Protection Council.**— (1) The Central Government *shall*, by notification, establish with effect from such date as it may specify in such notification, a Council to be known as the Central Consumer Protection Council (hereinafter referred to as the Central Council).

(2) The Central Council shall consist of the following members, namely:—

<!--[if !supportLists]--> (a) <!--[endif]-->the Minister in charge of the consumer affairs in the Central Government, who shall be its Chairman, and

<!--[if !supportLists]--> (b) <!--[endif]-->such number of other official or non-official members representing such interests as may be prescribed.

**5. Procedure for meetings of the Central Council.**— (1) The Central Council shall meet as and when necessary, but at least one meeting of the Council shall be held every year.

(2) The Central Council shall meet at such time and place as the Chairman may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed.

**6. Objects of the Central Council.**— The objects of the Central Council shall be to promote and protect the rights of the consumers such as,—

<!--[if !supportLists]--> (a) <!--[endif]-->the right to be protected against the marketing of goods and services which are hazardous to life and property;

<!--[if !supportLists]--> (b) <!--[endif]--> the right to be informed about the quality, quantity, potency, purity, standard and price of goods or services, as the case may be so as to protect the consumer against unfair trade practices;

<!--[if !supportLists]--> (c) <!--[endif]-->the right to be assured, wherever possible, access to a variety of goods and services at competitive prices;

<!--[if !supportLists]--> (d) <!--[endif]-->the right to be heard and to be assured that consumer's interests will receive due consideration at appropriate forums;

<!--[if !supportLists]--> (e) <!--[endif]-->the right to seek redressal against unfair trade practices or restrictive trade practices or unscrupulous exploitation of consumers; and

<!--[if !supportLists]--> (f) <!--[endif]-->the right to consumer education.

**7. The State Consumer Protection Councils.-** (1) The State Government shall, by notification, establish with effect from such date as it may specify in such notification, a Council to be known as the Consumer Protection Council for..... (hereinafter referred to as the State Council).

(2) The State Council shall consist of the following members, namely:—

<!--[if !supportLists]--> (a) <!--[endif]-->the Minister incharge of consumer affairs in the State Government who shall be its Chairman;

<!--[if !supportLists]--> (b) <!--[endif]-->such number of other official or non-official members representing such interests as may be prescribed by the State Government.

<!--[if !supportLists]--> (c) <!--[endif]-->***such number of other official or non-official members, not exceeding ten, as may be nominated by the Central Government.***

(3) The State Council shall meet as and when necessary but not less than two meetings shall be held every year.

(4) The State Council shall meet at such time and place as the Chairman may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed by the State Government.

**8. Objects of the State Council.** — The objects of every State Council shall be to promote and protect within the State the rights of the consumers laid down in clauses (a) to (f) of section 6.

**8A. (1)** *The State Government shall establish for every district, by notification, a council to be known as the District Consumer Protection Council with effect from such date as it may specify in such notification.*

**(2)** *The District Consumer Protection Council (hereinafter referred to as the District Council) shall consist of the following members, namely:—*

*<!--[if !supportLists]--> (a) <!--[endif]-->the Collector of the district (by whatever name called), who shall be its Chairman; and*

*<!--[if !supportLists]--> (b) <!--[endif]-->such number of other official and non-official members representing such interests as may be prescribed by the State Government.*

**(3)** *The District Council shall meet as and when necessary but not less than two meetings shall be held every year.*

**(4)** *The District Council shall meet at such time and place within the district as the Chairman may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed by the State Government.*

**8B.** The objects of every District Council shall be to promote and protect within the district the rights of the consumers laid down in clauses (a) to (f) of section 6.

## CHAPTER III

### CONSUMER DISPUTES REDRESSAL AGENCIES

**9. Establishment of Consumer Disputes Redressal Agencies.** - There shall be established for the purposes of this Act, the following agencies, namely:—

(a) 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) a Consumer Disputes Redressal Commission to be known as the "State Commission" established by the State Government in the State by notification; and

(c) a National Consumer Disputes Redressal Commission established by the Central Government by notification.

**10. Composition of the District Forum.** — (1) 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 recognised 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:*

*Provided that a person shall be disqualified for appointment as a member if he—*

- (a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the state Government involves moral turpitude; or*
- (b) is an undischarged insolvent; or*
- (c) is of unsound mind and stands so declared by a competent court; or*
- (d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or*
- (e) has, in the opinion of the state Government, such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member; or*
- (f) has such other disqualifications as may be prescribed by the State Government;*

(1A) Every appointment under sub-section (I) shall be made by the State Government on the recommendation of a selection committee consisting of the following, namely:—

- (i) the President of the State Commission — Chairman.
- (ii) Secretary, Law Department of the State — Member.
- (iii) Secretary incharge of the Department dealing with  
consumer affairs in the State — Member.

*Provided that where the President of the State Commission is, by reason of absence or otherwise, unable to act as Chairman of the Selection Committee, the State Government may refer the matter to the Chief Justice of the High Court for nominating a sitting Judge of that High Court to act as Chairman.*

(2) *Every member of the District Forum shall hold office for a term of five years or up to the age of sixty-five years, whichever is earlier:*

*Provided that a member shall be eligible for re-appointment for another term of five years or up to the age of sixty-five years, whichever is earlier, subject to*

*the condition that he fulfills the qualifications and other conditions for appointment mentioned in clause (b) of sub-section (1) and such re-appointment is also made on the basis of the recommendation of the Selection Committee:*

*Provided further that a member may resign his office in writing under his hand addressed to the State Government and on such resignation being accepted, his office shall become vacant and may be filled by appointment of a person possessing any of the qualifications mentioned in sub-section (1) in relation to the category of the member who is required to be appointed under the provisions of sub-section (1A) in place of the person who has resigned:*

*Provided also that a person appointed as the President or as a member, before the commencement of the Consumer Protection (Amendment) Act, 2002, shall continue to hold such office as President or member, as the case may be, till the completion of his term.*

(3) The salary or honorarium and other allowances payable to, and the other terms and conditions of service of the members of the District Forum shall be such as may be prescribed by the State Government.

*Provided that the appointment of a member on whole-time basis shall be made by the State Government on the recommendation of the President of the State Commission taking into consideration such factors as may be prescribed including the work load of the District Forum.*

**11. Jurisdiction of the District Forum.**— (1) Subject to the other provisions of this Act, 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.

(2) A complaint shall be instituted in a District Forum within the local limits of whose jurisdiction,—

<!--[if !supportLists]--> (a) <!--[endif]-->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

<!--[if !supportLists]--> (b) <!--[endif]-->any 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, provided that in such case either the permission of the District Forum is given, or the opposite parties who do not reside, or carry on business or have a branch office, or personally work for gain, as the case may be, acquiesce in such institution; or

<!--[if !supportLists]--> (c) <!--[endif]-->the cause of action, wholly or in part, arises.

**12. Manner in which complaint shall be made.**— (1) A complaint in relation to any goods sold or delivered or agreed to be sold or delivered or any service provided or agreed to be provided may be filed with a District Forum by –

*(a) the consumer to whom such goods are sold or delivered or agreed to be sold or delivered or such service provided or agreed to be provided;*

*(b) any recognised consumer association whether the consumer to whom the goods sold or delivered or agreed to be sold or delivered or service provided or agreed to be provided is a member of such association or not;*

*(c) one or more consumers, where there are numerous consumers having the same interest, with the permission of the District Forum, on behalf of, or for the benefit of, all consumers so interested; or*

*(d) the Central Government or the State Government, as the case may be, either in its individual capacity or as a representative of interests of the consumers in general.*

(2) *Every complaint filed under sub-section (1) shall be accompanied with such amount of fee and payable in such manner as may be prescribed.*

(3) *On receipt of a complaint made under sub-section (1), the District Forum may, by order, allow the complaint to be proceeded with or rejected:*

*Provided that a complaint shall not be rejected under this section unless an opportunity of being heard has been given to the complainant:*

*Provided further that the admissibility of the complaint shall ordinarily be decided within twenty-one days from the date on which the complaint was received.*

(4) *Where a complaint is allowed to be proceeded with under sub-section (3), the District Forum may proceed with the complaint in the manner provided under this Act:*

*Provided that where a complaint has been admitted by the District Forum, it shall not be transferred to any other court or tribunal or any authority set up by or under any other law for the time being in force.*

*Explanation. - For the purpose of this section “recognised consumer association” means any voluntary consumer association registered under the Companies Act, 1956 or any other law for the time being in force”.*

**13. Procedure on admission of complaint. — (1) The District Forum shall, on admission of a complaint, if it relates to any goods,—**

**(a)** *refer a copy of the admitted complaint, within twenty-one days from the date of its admission to the opposite party mentioned in the complaint directing him to give his version of the case within a period of thirty days or such extended period not exceeding fifteen days as may be granted by the District Forum;*

**(b)** *where the opposite party on receipt of a complaint referred to him under clause (a) denies or disputes the allegations*

contained in the complaint, or omits or fails to take any action to represent his case within the time given by the District Forum, the District Forum shall proceed to settle the consumer dispute in the manner specified in clauses (c) to (g);

<!--[if !supportLists]--> (c) <!--[endif]-->where the complaint alleges a defect in the goods which cannot be determined without proper analysis or test of the goods, the District Forum shall obtain a sample of the goods from the complainant, seal it and authenticate it in the manner prescribed and refer the sample so sealed to the appropriate laboratory along with a direction that such laboratory make an analysis or test, whichever may be necessary, with a view to finding out whether such goods suffer from any defect alleged in the complaint or from any other defect and to report its findings thereon to the District Forum within a period of forty-five days of the receipt of the reference or within such extended period as may be granted by the District Forum;

<!--[if !supportLists]--> (d) <!--[endif]-->before any sample of the goods is referred to any appropriate laboratory under clause (c), the District Forum may require the complainant to deposit to the credit of the Forum such fees as may be specified, for payment to the appropriate laboratory for carrying out the necessary analysis or test in relation to the goods in question;

<!--[if !supportLists]--> (e) <!--[endif]-->the District Forum shall remit the amount deposited to its credit under clause (d) to the appropriate laboratory to enable it to carry out the analysis or test mentioned in clause (c) and on receipt of the report from the appropriate laboratory, the District Forum shall forward a copy of the report along with such remarks as the District Forum may feel appropriate to the opposite party;

<!--[if !supportLists]--> (f) <!--[endif]-->if any of the parties disputes the correctness of the findings of the appropriate laboratory, or disputes the correctness of the methods of analysis or test adopted by the appropriate laboratory, the District Forum shall require the opposite party or the complainant to submit in writing his objections in regard to the report made by the appropriate laboratory;

<!--[if !supportLists]--> (g) <!--[endif]-->the District Forum shall thereafter give a reasonable opportunity to the complainant as well as the opposite party of being heard as to the correctness or otherwise of the report made by the appropriate laboratory and also as to the objection made in relation thereto under clause (/) and issue an appropriate order under section 14.

**(2) the District Forum shall, if the complaint admitted by it under section 12 relates to goods in respect of which the procedure specified in sub-section (1) cannot be followed, or if the complaint relates to any services,—**

<!--[if !supportLists]--> (a) <!--[endif]-->refer a copy of such complaint to the opposite party directing him to give his version of the case within a period of thirty days or such extended period not exceeding fifteen days as may be granted by the District Forum;

<!--[if !supportLists]--> (b) <!--[endif]-->where the opposite party, on receipt of a copy of the complaint, referred to him under clause (a) denies or disputes the allegations contained in the complaint, or omits or fails to take any action to represent his case within the time given by the District Forum, the District Forum shall proceed to settle the consumer dispute,—

(i) on the basis of evidence brought to its notice by the complainant and the opposite party, where the opposite party denies or disputes the allegations contained in the complaint, or

**(ii) ex parte on the basis of evidence brought to its notice by the complainant where the opposite party omits or fails to take any action to represent his case within the time given by the Forum.**

**(c) where the complainant fails to appear on the date of hearing before the District Forum, the District Forum may either dismiss the complaint for default or decide it on merits.**

(3) No proceedings complying with the procedure laid down in subsections [1] and [2] shall be called in question in any court on the ground that the principles of natural justice have not been complied with.

*(3A) Every complaint shall be heard as expeditiously as possible and endeavour shall be made to decide the complaint within a period of three months from the date of receipt of notice by opposite party where the complaint does not require analysis or testing of commodities and within five months if it requires analysis or testing of commodities:*

*Provided that no adjournment shall be ordinarily granted by the District Forum unless sufficient cause is shown and the reasons for grant of adjournment have been recorded in writing by the Forum:*

*Provided further that the District Forum shall make such orders as to the costs occasioned by the adjournment as may be provided in the regulations made under this Act.*

*Provided also that in the event of a complaint being disposed of after the period so specified, the District Forum shall record in writing, the reasons for the same at the time of disposing of the said complaint.*

(3B) Where during the pendency of any proceeding before the District Forum, it appears to it necessary, it may pass such interim order as is just and proper in the facts and circumstances of the case.

(4) For the purposes of this section, the District Forum shall have the same powers as are vested in a civil court under Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:—

- (i) the summoning and enforcing the attendance of any defendant or witness and examining the witness on oath;
- (ii) the discovery and production of any document or other material object producible as evidence;

- (iii) the reception of evidence on affidavits;
  - (iv) the requisitioning of the report of the concerned analysis or test from the appropriate laboratory or from any other relevant source;
  - (v) issuing of any commission for the examination of any witness, and
  - (vi) any other matter which may be prescribed.
- (5) Every proceeding before the District Forum shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Code (45 of 1860), and the District Forum shall be deemed to be a civil court for the purposes of section 195, and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).
- (6) Where the complainant is a consumer referred to in sub-clause (iv) of clause (b) of sub-section (1) of section 2, the provisions of rule 8 of Order I of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908) shall apply subject to the modification that every reference therein to a suit or decree shall be construed as a reference to a complaint or the order of the District Forum thereon.
- (7) In the event of death of a complainant who is a consumer or of the opposite party against whom the complaint has been filed, the provisions of Order XXII of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908) shall apply subject to the modification that every reference therein to the plaintiff and the defendant shall be construed as reference to a complainant or the opposite party, as the case may be.

**14. Finding of the District Forum.** — (1) If, after the proceeding conducted under section 13, the District Forum is satisfied that 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, it 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;

<!--[if !supportLists]--> (b) <!--[endif]-->to replace the goods with new goods of similar description which shall be free from any defect;

<!--[if !supportLists]--> (c) <!--[endif]-->to return to the complainant the price, or, as the case may be, the charges paid by the complainant;

<!--[if !supportLists]--> (d) <!--[endif]-->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.

***Provided that the District Forum shall have the power to grant punitive damages in such circumstances as it deems fit;***

<!--[if !supportLists]--> (e) <!--[endif]-->to remove the defects **in goods** or deficiencies in the services in question;

<!--[if !supportLists]--> (f) <!--[endif]-->to discontinue the unfair trade practice or the restrictive trade practice or not to repeat it;

<!--[if !supportLists]--> (g) <!--[endif]-->not to offer the hazardous goods for sale;

<!--[if !supportLists]--> (h) <!--[endif]-->to withdraw the hazardous goods from being offered for sale;

***(ha)to cease manufacture of hazardous goods and to desist from offering services which are hazardous in nature;***

***(hb)to pay such sum as may be determined by it if it is of the opinion that loss or injury has been suffered by a large number of consumers who are not identifiable conveniently:***

***Provided that the minimum amount of sum so payable shall not be less than five per cent. of the value of such defective goods sold or service provided, as the case may be, to such consumers:***

***Provided further that the amount so obtained shall be credited in favour of such person and utilized in such manner as may be prescribed;***

*(hc)to issue corrective advertisement to neutralize the effect of misleading advertisement at the cost of the opposite party responsible for issuing such misleading advertisement;*

(i) to provide for adequate costs to parties.

(2) Every proceeding referred to in sub-section (1) shall be conducted by the President of the District Forum and at least one member thereof sitting together:

*Provided that where a member, for any reason, is unable to conduct a proceeding till it is completed, the President and the other member shall continue the proceeding from the stage at which it was last heard by the previous member.*

(2A) Every order made by the District Forum under sub-section (1) shall be signed by its President and the member or members who conducted the proceeding:

Provided that where the proceeding is conducted by the President and one member and they differ on any point or points, they shall state the point or points on which they differ and refer the same to the other member for hearing on such point or points and the opinion of the majority shall be the order of the District Forum.

(3) Subject to the foregoing provisions, the procedure relating to the conduct of the meetings of the District Forum, its sittings and other matters shall be such as may be prescribed by the State Government.

**15. Appeal.** — 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 finding 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:*

**16. Composition of the State Commission.** — (1) Each State Commission shall consist of—

(a) a person who is or has been a Judge of a High Court, appointed by the State Government, who shall be its President:

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

(b) *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:*

*Provided that not more than fifty per cent. of the members shall be from amongst persons having a judicial background.*

*Explanation.* — *For the purposes of this clause, the expression "persons having judicial background" shall mean persons having knowledge and experience for at least a period of ten years as a presiding officer at the district level court or any tribunal at equivalent level:*

*Provided further that a person shall be disqualified for appointment as a member if he—*

(a) *has been convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude; or*

*(b) is an undischarged insolvent; or*

*(c) is of unsound mind and stands so declared by a competent court; or*

*(d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or*

*(e) has, in the opinion of the State Government, such financial or other interest, as is likely to affect prejudicially the discharge by him of his functions as a member; or*

*(f) has such other disqualifications as may be prescribed by the State Government.*

*(1A) Every appointment under sub-section (1) shall be made by the State Government on the recommendation of a Selection Committee consisting of the following members, namely:—*

*(i) President of the State Commission -- Chairman;*

*(ii) Secretary of the Law Department of the State -- Member;*

*(iii) Secretary incharge of the Department dealing*

*with Consumer Affairs in the State -- Member:*

*Provided that where the President of the State Commission is, by reason of absence or otherwise, unable to act as Chairman of the Selection Committee, the State Government may refer the matter to the Chief Justice of the High Court for nominating a sitting Judge of that High Court to act as Chairman.*

*(1B)(i) The jurisdiction, powers and authority of the State Commission may be exercised by Benches thereof.*

*(ii) A Bench may be constituted by the President with one or more members as the President may deem fit.*

*(iii) If the members of a Bench differ in opinion on any point, the points shall be decided according to the opinion of the majority, if there is a majority, but if the Members are equally divided, they shall state the point or points on which they differ, and make a reference to the President who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more or the other members and such point or points shall be decided according to the opinion of the majority of the members who have heard the case, including those who first heard it.*

(2) The salary or honorarium and other allowances payable to, and the other terms and conditions of service of, the members of the State Commission shall be such as may be prescribed by the State Government.

*Provided that the appointment of a member on whole-time basis shall be made by the State Government on the recommendation of the President of the State Commission taking into consideration such factors as may be prescribed including the work load of the State Commission.*

*(3) Every member of the State Commission shall hold office for a term of five years or up to the age of sixty-seven years, whichever is earlier:*

*Provided that a member shall be eligible for re-appointment for another term of five years or up to the age of sixty-seven years, whichever is earlier, subject to the condition that he fulfills the qualifications and other conditions for appointment mentioned in clause (b) of sub-section (1) and such re-appointment is made on the basis of the recommendation of the Selection Committee:*

*Provided further that a person appointed as a President of the State Commission shall also be eligible for re-appointment in the manner provided in clause (a) of sub-section (1) of this section:*

*Provided also that a member may resign his office in writing under his hand addressed to the State Government and on such resignation being accepted, his office shall become vacant and may be filled by appointment of a person possessing any of the qualifications mentioned in sub-section (1) in relation to the*

*category of the member who is required to be appointed under the provisions of sub-section (1A) in place of the person who has resigned.*

*(4) Notwithstanding anything contained in sub-section (3), a person appointed as the President or as a member, before the commencement of the Consumer Protection (Amendment) Act, 2002, shall continue to hold such office as President or member, as the case may be, till the completion of his term.*

**17. Jurisdiction of the State Commission.** — (1) Subject to the other provisions of this Act, the State Commission shall have jurisdiction—

(a) to entertain—

(i) 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; and

(ii) appeals against the orders of any District Forum within the State; and

(b) 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.

(2) *A complaint shall be instituted in a State Commission within the 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) any 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, provided that in such case either the permission of the State Commission is given or the*

*opposite parties who do not reside or carry on business or have a branch office or personally work for gain, as the case may be, acquiesce in such institution; or*

*(c) the cause of action, wholly or in part, arises.*

**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.*

**17B. Circuit Benches.**-*The State Commission shall ordinarily function in the State Capital but may perform its functions at such other place as the State Government may, in consultation with the State Commission, notify in the Official Gazette, from time to time.*

**18. Procedure applicable to State Commissions.**—The provisions of Sections 12, 13 and 14 and the rules made thereunder for the disposal of complaints by the District Forum shall, with such modifications as may be necessary, be applicable to the disposal of disputes by the State Commission.

**( 18A. Omitted )**

**19. Appeals.**—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:*

**19A. Hearing of Appeal** - *An appeal filed before the State Commission or the National Commission shall be heard as expeditiously as possible and an endeavour shall be made to finally dispose of the appeal within a period of ninety days from the date of its admission:*

*Provided that no adjournment shall be ordinarily granted by the State Commission or the National Commission, as the case may be, unless sufficient cause is shown and the reasons for grant of adjournment have been recorded in writing by such Commission:*

*Provided further that the State Commission or the National Commission, as the case may be, shall make such orders as to the costs occasioned by the adjournment as may be provided in the regulations made under this Act.*

*Provided also that in the event of an appeal being disposed of after the period so specified, the State Commission or, the National Commission, as the case may be, shall record in writing the reasons for the same at the time of disposing of the said appeal.*

**20. Composition of the National Commission.**— (1) 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) *not less than four, 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:*

*Provided that not more than fifty per cent. of the members shall be from amongst the persons having a judicial background.*

*Explanation. — For the purposes of this clause, the expression "persons having judicial background" shall mean persons having knowledge and experience for at least a period of ten years as a presiding officer at the district level court or any tribunal at equivalent level:*

*Provided further that a person shall be disqualified for appointment if he—*

*<!--[if !supportLists]--> (a) <!--[endif]--> has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude; or*

*<!--[if !supportLists]--> (b) <!--[endif]--> is an undischarged insolvent; or*

*<!--[if !supportLists]--> (c) <!--[endif]--> is of unsound mind and stands so declared by a competent court; or*

*<!--[if !supportLists]--> (d) <!--[endif]--> has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or*

*<!--[if !supportLists]--> (e) <!--[endif]--> has in the opinion of the Central Government such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member; or*

*<!--[if !supportLists]--> (f) <!--[endif]--> has such other disqualifications as may be prescribed by the Central Government :*

*Provided also that every appointment under this clause shall be made by the Central Government on the recommendation of a selection committee consisting of the following, namely:—*

*(a) a person who is a Judge of the Supreme Court, — Chairman;*  
*to be nominated by the Chief Justice of India*

*(b) the Secretary in the Department of Legal Affairs — Member;*  
*in the Government of India*

*(c) Secretary of the Department dealing with consumer — Member.;*  
*affairs in the Government of India*

*(1A)(i) The jurisdiction, powers and authority of the National Commission may be exercised by Benches thereof.*

*(ii) A Bench may be constituted by the President with one or more members as the President may deem fit.*

*(iii) if the Members of a Bench differ in opinion on any point, the points shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ, and make a reference to the President who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more or the other Members and such point or points shall be decided according to the opinion of the majority of the Members who have heard the case, including those who first heard it.*

*(2) The salary or honorarium and other allowances payable to and the other terms and conditions of service of the members of the National Commission shall be such as may be prescribed by the Central Government.*

*(3) Every member of the National Commission shall hold office for a term of five years or up to the age of seventy years, whichever is earlier:*

*Provided that a member shall be eligible for re-appointment for another term of five years or up to the age of seventy years, whichever is earlier, subject to the condition that he fulfills the qualifications and other conditions for appointment*

*mentioned in clause (b) of sub-section (1) and such re-appointment is made on the basis of the recommendation of the Selection Committee:*

*Provided further that a person appointed as a President of the National Commission shall also be eligible for re-appointment in the manner provided in clause (a) of sub-section (1) :*

*Provided also that a member may resign his office in writing under his hand addressed to the Central Government and on such resignation being accepted, his office shall become vacant and may be filled by appointment of a person possessing any of the qualifications mentioned in sub-section (1) in relation to the category of the member who is required to be appointed under the provisions of sub-section (1A) in place of the person who has resigned.*

*(4) Notwithstanding anything contained in sub-section (3), a person appointed as a President or as a member before the commencement of the Consumer Protection (Amendment) Act, 2002 shall continue to hold such office as President or member, as the case may be, till the completion of his term.*

**21. Jurisdiction of the National Commission.** — Subject to the other provisions of this Act, the National Commission shall have jurisdiction—

(a) to entertain—

(i) complaints where the value of the goods or services and compensation, if any, claimed exceeds rupees one crore; and

(ii) appeals against the orders of any State Commission; and

(b) 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.

**22. Power of and procedure applicable to the National Commission.** — (1) *The provisions of sections 12, 13 and 14 and the rules made thereunder for the disposal of complaints by the District Forum shall, with such modifications as may be considered necessary by the Commission, be applicable to the disposal of disputes by the National Commission.*

(2) *Without prejudice to the provisions contained in sub-section (1), the National Commission shall have the power to review any order made by it, when there is an error apparent on the face of record.*

**22A. Power to set aside ex parte orders.** - *Where an order is passed by the National Commission ex parte against the opposite party or a complainant, as the case may be, the aggrieved party may apply to the Commission to set aside the said order in the interest of justice.*

**22B. Transfer of cases** - *On the application of the complainant or of its own motion, the National Commission may, at any stage of the proceeding, in the interest of justice, transfer any complaint pending before the District Forum of one State to a District Forum of another State or before one State Commission to another State Commission.*

**22C. Circuit Benches** - *The National Commission shall ordinarily function at New Delhi and perform its functions at such other place as the Central Government may, in consultation with the National Commission, notify in the Official Gazette, from time to time.*

**22D. Vacancy in the Office of the President** - *When the office of President of a District Forum, State Commission, or of the National Commission, as the case may be, is vacant or a person occupying such office is, by reason of absence or otherwise, unable to perform the duties of his office, these shall be performed by the senior-most member of the District Forum, the State Commission or of the National Commission, as the case may be:*

*Provided that where a retired Judge of a High Court is a member of the National Commission, such member or where the number of such members is more than one, the*

*senior-most person among such members, shall preside over the National Commission in the absence of President of that Commission.*

**23. Appeal.** — 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.

**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.

**24A. Limitation period.** - (1) 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.

(2) Notwithstanding anything contained in sub-section (1), a complaint may be entertained after the period specified in sub-section (1), 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.

**24B. Administrative Control.**—(1) The National Commission shall have administrative control over all the State Commissions in the following matters, namely:—

- (i) calling for periodical return regarding the institution, disposal pendency of cases;
  - (ii) issuance of instructions regarding adoption of uniform procedure in the hearing of matters, prior service of copies of documents produced by one party to the opposite parties, furnishing of English translation of judgments written in any language, speedy grant of copies of documents;
  - (iii) generally overseeing the functioning of the State Commissions or the District Fora to ensure that the objects and purposes of the Act are best served without in any way interfering with their *quasi-judicial* freedom.
- (2) The State Commission shall have administrative control over all the District Fora within its jurisdiction in all matters referred to in sub-section (1).

**25. Enforcement of orders of the District Forum, the State Commission or the National Commission.** — (1) *Where an interim order made under this Act, is not complied with the District Forum or the State Commission or the National Commission, as the case may be, may order the property of the person, not complying with such order to be attached.*

- (2) No attachment made under sub-section (1) shall remain in force for more than three months at the end of which, if the non-compliance continues, the property attached may be sold and out of the proceeds thereof, the District Forum or the State Commission or the National Commission may award such damages as it thinks fit to the complainant and shall pay the balance, if any, to the party entitled thereto.
- (3) Where any amount is due from any person under an order made by a District Forum, State Commission or the National Commission, as the case may be, the person entitled to the amount may make an application to the District Forum, the State Commission or the National Commission, as the case may be, and such District Forum or the State Commission or the National Commission may issue a certificate for the said amount to the Collector of the district (by whatever name called) and the Collector shall proceed to recover the amount in the same manner as arrears of land revenue.

**26. Dismissal of frivolous or vexatious complaints.** — Where a complaint instituted before the District Forum, the State Commission or as the case may be, the National Commission, is found to be frivolous or vexatious, it shall, for reasons to be recorded in writing, dismiss the complaint and make an order that the complainant shall pay to the opposite party such cost, not exceeding ten thousand rupees, as may be specified in the order

**27. Penalties.** — (1) 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:

(2) *Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (2 of 1974), the District Forum or the State Commission or the National Commission, as the case may be, shall have the power of a Judicial Magistrate of the first class for the trial of offences under this Act, and on such conferment of powers, the District Forum or the State Commission or the National Commission, as the case may be, on whom the powers are so conferred, shall be deemed to be a Judicial Magistrate of the first class for the purpose of the Code of Criminal Procedure, 1973 (2 of 1974).*

(3) *All offences under this Act may be tried summarily by the District Forum or the State Commission or the National Commission, as the case may be.*

**27A. Appeal against order passed under section 27 -** (1) *Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an appeal under section 27, both on facts and on law, shall lie from -*

<!--[if !supportLists]--> (a) <!--[endif]--> *the order made by the District Forum to the State Commission ;*

<!--[if !supportLists]--> (b) <!--[endif]--> *the order made by the State Commission to the National Commission; and*

<!--[if !supportLists]--> (c) <!--[endif]--> *the order made by the National Commission to the Supreme Court.*

*(2) Except as aforesaid, no appeal shall lie to any court from any order of a District Forum or a State Commission or the National Commission.*

*(3) Every appeal under this section shall be preferred within a period of thirty days from the date of an order of a District Forum or a State Commission or, as the case may be, the National Commission :*

*Provided that the State Commission or the National Commission or the Supreme Court, as the case may be, may entertain an appeal after the expiry of the said period of thirty days, if, it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days.*

## CHAPTER IV

### MISCELLANEOUS

**28. Protection of action taken in good faith.** — No suit, prosecution or other legal proceedings shall lie against the members of the District Forum, the State Commission or the National Commission or any officer or person acting under the direction of the District Forum, the State Commission or the National Commission for executing any order made by it or in respect of anything which is in good faith done or intended to be done by such member, officer or person under this Act or under any rule or order made thereunder.

**28A. Service of notice, etc.** - *(1) All notices required by this Act to be served shall be served in the manner hereinafter mentioned in sub-section (2).*

*(2) The service of notices may be made by delivering or transmitting a copy thereof by registered post acknowledgment due addressed to opposite party against whom complaint is made or to the complainant by speed post or by such courier service as are approved by the District Forum, the State Commission or the National Commission, as the case may be, or by any other means of transmission of documents (including FAX message).*

*(3) When an acknowledgment or any other receipt purporting to be signed by the opposite party or his agent or by the complainant is received by the District Forum, the State Commission or the National Commission, as the case may be, or postal article containing the notice is received back by such District Forum, State Commission or the National Commission, with an endorsement purporting to have been made by a postal employee or by any person authorized by the courier service to the effect that the opposite party or his agent or complainant had refused to take delivery of the postal article containing the notice or had refused to accept the notice by any other means specified in sub-section (2) when tendered or transmitted to him, the District Forum or the State Commission or the National Commission, as*

*the case may be, shall declare that the notice had been duly served on the opposite party or to the complainant :*

*Provided that where the notice was properly addressed, pre-paid and duly sent by registered post acknowledgment due, a declaration referred to in this sub-section shall be made notwithstanding the fact that the acknowledgment has been lost or mislaid, or for any other reason, has not been received by the District Forum, the State Commission or the National Commission, as the case may be, within thirty days from the date of issue of notice.*

*(4) All notices required to be served on an opposite party or to complainant shall be deemed to be sufficiently served, if addressed in the case of the opposite party to the place where business or profession is carried and in case of complainant, the place where such person actually and voluntarily resides.*

**29. Power to remove difficulties.**— (1) If any difficulty arises in giving effect to the provisions of this Act, the (Central Government may, by order in the official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty :

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act

(2) Every order made under this section shall, as soon as may be after it is made be laid before each House of Parliament

(3) *If any difficulty arises in giving effect to the provisions of the Consumer Protection (Amendment) Act, 2002, the Central Government may, by order, do anything not inconsistent with such provisions for the purpose of removing the difficulty:*

*Provided that no such order shall be made after the expiry of a period of two years from the commencement of the Consumer Protection (Amendment) Act, 2002.*

(4) *Every order made under sub-section (3) shall be laid before each House of Parliament.*

**29A. Vacancies or defects in appointment not to invalidate orders.**— No act or proceeding of the District Forum, the State Commission or the National Commission shall be invalid by reason only of the existence of any vacancy amongst its member or any defect in the constitution thereof.

**30. Power to make rules.** - (1) *The Central Government may, by notification, make rules for carrying out the provisions contained in clause (a) of sub-section (1) of section 2, clause (b) of sub-section (2) of section 4, sub-section (2) of section 5, sub-section (2) of section 12, clause (vi) of sub-section (4) of section 13, clause (hb) of sub-section (1) of section 14, section 19, clause (b) of sub-section (1) and sub-section (2) of section 20, section 22 and section 23 of this Act.*

(2) The State Government may, by notification, make rules for carrying out the provisions contained in clause (b) of sub-section (2) and sub-section (4) of section 7, clause (b) of sub-section (2) and sub-section (4) of section 8A, clause (b) of sub-section (1) and sub-section (3) of section 10, clause (c) of sub-section (1) of section 13 clause (hb) of sub-section (1) and sub-section (3) of section 14, section 15 and clause (b) of sub-section (1) and sub-section (2) of section 16 of this Act.

**30A. Power of the National Commission to make regulations** - (1) *The National Commission may, with the previous approval of the Central Government, by notification, make regulations not inconsistent with this Act to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.*

(2) *In particular and without prejudice to the generality of the foregoing power, such regulations may make provisions for the cost of adjournment of any proceeding before the District Forum, the State Commission or the National Commission, as the case may be, which a party may be ordered to pay.*

**31. Rules and regulations to be laid before each House of Parliament** - (1) *Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive*

*sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.*

*(2) Every rule made by a State Government under this Act shall be laid as soon as may be after it is made, before the State Legislature.*

## APPENDIX-B

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113 Globalization and Consumer Rights Protection in West Bengal Asoke Kr. Chanda 1 Nibedita Chakraborty (Mukherjee) 2 Anil Bhumali 3 Abstract Consumer movement in India is not a new concept. It is as old as trade and commerce. Kautilya, for example, in his Arthashastra had discussed the issue of consumer protection. In Kautilya's writing we find references of corruption and malpractices of traders and business enterprises against the consumers. The issue of consumers 'protection against such corrupt practices had been discussed elaborately by Kautilya. This document gives us an insight into the problems and difficulties faced by the consumer communities even during the old golden days of India. We can find some similarity of this sought of plights suffered by the consumers with the present day consumers. The present paper deals with the evaluation of consumer protection in India, issue of consumer protection legislation with respect to globalization and liberalization processes. In this context also we will review consumer awareness through consumer groups, and improving their awareness through technology and media. Introduction Consumer buys goods and services at a price and derives the utility from their uses. Every consumer thus shows his fascination towards buying a commodity as per his choice and preference. Consumer rights protection is an extremely important issue in the context of globalization and liberalization. Consumer protection becomes counter-productive when an economy faces huge business taxation, strict business laws and the laws relating to the protection of environment. Developed countries have developed stricter public opinions and the governments have framed laws to protect the interest of consumers. Literature shows that some developing economies have consciously avoided the consumer protection issues in order to attract foreign investors and multinational organizations (MNCs). The present paper deals with the issue of consumer protection rights in India with respect to globalization and liberalization. In this context also we will review the existing

legislations relating to consumer rights protection. 1 Research Scholar, Department of Economics, University of North Bengal, District: Darjeeling, 734013, West Bengal 2 Associate Professor, Department of History Suri Vidyasagar College, Birbhum, West Bengal 3 Professor of Economics, University of North Bengal, District: Darjeeling, 734013

114 For long the developed economies and their respective Central banks and the international financial organizations such as World Bank, International Monetary Organisation and the World Trade Organisation (WTO) have neglected the promotion of consumer protection legislations in the developing and less developed countries simply because of expansion of global trade with the help of MNCs. However, due to global effect of R&D, rising productivity through the world over, the impact of the Internet, outsourcing and the shifting of production points from most advanced nations to advanced and ultimately to developing world have brought a new global market promoting fast economic growth. This calls for wider application of consumer protection legislations that ultimately ensure quality products and services. The Background of Consumer Protection Legislation and the First Act Consumer movement in India is not a new concept. It is as old as trade and commerce. Kautilya, for example, in his Arthashastra had discussed the issue of consumer protection. In Kautilya's writing we find references of corruption and malpractices of traders and business enterprises against the consumers. The issue of consumers 'protection against such corrupt practices had been discussed elaborately by Kautilya. This document gives us an insight into the problems and difficulties faced by the consumer communities even during the old golden days of India. We can find some similiarity of this sought of plights suffered by the then consumers with the present day consumers. March 15, 1962 is a very remarkable day in the history of the movement for the protection of consumer rights. On this day the Bill for Consumer Rights was placed in the US Congress. In the presidential address John F. Kennedy had made a beautiful speech on consumer rights and in this speech he equated the rights of the ordinary American consumer with national interest. He rightly remarked: "If a consumer is offered inferior products, if prices are exorbitant if drugs are unsafe or worthless, if the consumer is unable to choose on an informed lairs, basis then his dollar is wasted, his death and safety may be threatened, and national interest suffers". President Kennedy thought four basic rights for protecting the American consumers. These are the right to safety, the right to choose, the right to information and the right to be heard. Later on President Gerald Ford felt that the four basic rights of the consumers were

inadequate for a situation where most consumers are not educated enough to make the right choices. Thus, he added right to Consumer Education. The right to consumer education will ensure all the consumers not to be exploited so easily. The Consumers International (CI) formerly known as International Organization of Consumer Unions (IOCU) expanded the charter of consumers rights contained in the US Bill to eight, i.e. (i) basic needs, (ii) safety (iii) information (iv) choice (v) representation, (vi) redress, (vii) consumer education and (viii) healthy environment. The Consumer International, since 1983 has been observing the day of 15th March as 115 the World Consumer Rights Day. India also observes the day as the National Consumer's Day. Mahatma Gandhi gave high esteem to consumers and considered them our great friends. Regarding their rights once Mahatma said: "A consumer is the most important visitor on our premises. He is not dependent on us. We are dependent on him. He is not an interruption in our work - he is the purpose of it. We are not doing him favours by serving him. He is doing us a favour by giving us the opportunity to serve him." The right to redress led to the passing of the Consumer Protection Act (COPRA) in 1986 in India. It recognizes only six of the eight rights, i.e., safety, information choice, representation, redress and consumer education. Evaluation of Consumer Protection in West Bengal After enactment of the Consumer Protection Act, 1986 it was thought that the Act is remembered as revolutionary change in the society for curbing Economic crimes and for last 28 years, all sorts of benefits derived by the consumers have been highlighted. Educated and urban people, no doubt, are getting advantage of the legislation but rural people are completely left out of the impact of the legislation. Recent years India has become a big market for multinational and Indian companies for FDI and globalization and for which consumer sovereignty is a vital factor when consumption is the sole purpose of all production and alternatively consumers keep the economy going by generating demand of goods and services and regarding the view it is generally viewed that consumption is something that benefits individual. From this perspective consumer as source of demand is central mechanism for making the economic system run. To protect the consumers' excessive strict provisions would be comfortable with the protection of the consumers for their welfare but in reality the spirit of this Act has failed to give full advantage of the legislation particularly to the rural people. To ventilate the above poor picture after collecting statement of cases filed and disposed for the year 2002 to 2013 of twenty two Consumer Forums including State Commission of West Bengal from the Consumer Affairs

Department, Govt. of W.B, it is found that in an overpopulated state like West Bengal total population at present is over eight crore whereas total filing and disposal of cases is very less. This is shown below in table-1. Table-1: Cases filed and disposed for the year 2002 to 2013

Year	Total Cases Filed	Total Cases Disposed of	Total Cases Pending
2002	5535	5594	Not Available
2003	5109	5300	DO
2004	4349	4379	DO
2005	4161	4027	5411
2006	4234	4395	5250
2007	4267	4366	5146
2008	5024	4561	5654
2009	5976	5736	5894
2010	4805	5216	5483
2011	4253	3926	5810
2012	6211	5636	6380
2013	8407	6688	8104

Consumer Affairs Department, Govt. of W.B, 2014 In spite of enacting the 1986 legislation especially in order to protect the interest of consumers; but even after 28 years of passing the Act no remarkable progress in filing complaint and no effective step has been taken against trading community and at the same time poor approach is taken by the Forums in giving effect to implement the Judgement and to handover the decretal dues to the relief seekers. Though the Act has provided for speedy and inexpensive redressal but in all level a long drawn process is being adopted and in this regard traders and service providers are getting preference by adopting such process in Appeal Forum and it is most interesting without taking any preventive measures by the Appellate Forum at random the execution cases are being stayed and hearing the revision petition and appeal against execution cases are fixed after lapse of 6/7 months and ultimately same are disposed of after one year also but at the time of passing stay order no part of decretal amount is directed to be paid as precondition of passing stay in execution cases in the state level appeal but in this respect National Commission is no doubt very strict and in fact for lack of social movement, general picture of filing of complaint and also adopting of delaying process in disposing of the complaint and staying of all the execution cases without any condition is being followed and to improve this situation pressure from Consumer protection Association and Organization is highly required for welfare of the consumers but anyhow in West Bengal, consumer movement is in fact no existence except the said type of associations are found in some Government Seminar and Mela organized by the Government except this consumer organization in West Bengal have no teeth and claws and so long the structure and nature of movement the degree of awareness among the people are not effective in nature and movement is not a massive combat of people, in that case present redressal system shall shape as a long drawn process like Civil Court though for avoiding long drawn process of Civil Court present Act had been introduced but due to change of chair from Civil Court to

Forums by the president, outlook has not been changed. Most interesting fact is that as per provision of Sec.-7 of the C. P. Act there is State Consumer protection Councils and main object of the said Council is to promote and protect within the state the rights of the consumers but no such 117 effective action is taken to control the present situation of the Forums and also to cover consumers' right of this state which is no doubt alarming despite undertaking several measures by the State Government along with Govt. of India. At the same time, forming of several consumer organizations will not save the consumers if consumers too shall not involve actively in the activities and function in the market hierarchy instead of depending upon legislative measures. In the above perspective, it is urgently required to form a permanent institution for Consumer Protection Movement to keep proper vigil against exploiters when designed several means of exploitation are being adopted due to present technological development and that is the need of the present days for actual implementation of the C. P. Act. At the same time, District Consumer Protection Council has failed to monitor the functions of Consumer Forum as yet only on the ground, District Magistrate as Chairman of that Council does not chair the meeting and monitor the function of the Forums. It is pertinent to say that in most of the cases in appeal, compensation amount as awarded is reduced at low rate though as per spirit of the Act such compensation should be very high so that chances of repeating the practice of trader and service provider can be controlled. So some suitable amendment is highly required to remove such drawback of the hierarchy system when purpose of enactment is to give redressal for the interest of the consumers but same is overlooked in many cases so there is need for changing the outlook of the Forums at all levels for proper implementation of the Act and for speedy settlement of grievances, otherwise the present Act shall take shape of other legislation like Sale of Goods Act, Prevention of Corruption Act, Probation of Offenders Act, Merchantile and Trade Practice Act, Child Protection Act etc. Justice J. D. Kapoor, former President of Delhi State Commission in National Seminar on Role of Consumer Disputes Redressal System in India stated "An enlightened person is empowered person" and also gave stress for a good Endeavour to provide full protection to the consumer but he was not satisfied with the way Consumer Courts are functioning and judicial process in getting complex leading to harassment and suffering the consumer victims don't feel encouraged to go to the Forum and thousands of cases are pending for years together and so consumers are increasingly losing faith in quasi judicial proceeding

and also not happy with a way laws are being interpreted and so each and every related laws should be considered to give meaningful and effective judgment for protecting consumer rights and unfortunately Consumer Forums, being Quasi Judicial bodies, are not in a position to expeditiously reduce the sufferings of consumers due to certain inherent weaknesses and delay in disposing of cases is another challenge when for industrialization and global market economy is becoming more exploitive and traders and businessmen show 118 reluctance to protect consumer rights and thereby Consumer Disputes Redressal System is gradually becoming dysfunctional. The expression of Justice Kapoor cannot be challenged in view of the figure of past twelve years filing and disposal of complaints and appeal and revision by the District Forums and Commission of West Bengal and no doubt this poor figure of filing complaint in the District Forum is due to inadequate knowledge of consumer jurisprudence and also absence of knowledge of consumerism, consumer psychology, consumer behavior, home economy and corporate social responsibility etc. In fact, Consumer Forum has tremendous responsibilities to uphold the spirit of the Act of 1986 but spirit of the Forum is found very evaporating which is proved from the above data of yearly disposal and filing complaints, appeal and revision which no doubt pathetic though huge amount of Govt. fund is being spent for running the hierarchy of Forum but even then market exploitation is rampant but Forum has failed to create such impact in the market to control uncontrolled trade or business but even then particularly one or two Forum of West Bengal has no doubt established a remarkable impact in the mind of businessmen / traders and market for deceiving and exploiting consumers and so traders and businessmen are liable to pay fine and for noncompliance even they are being sent to Jail also and fact remains for said particular Forums active attitude to implement the spirit of the C. P. Act, huge penalty is collected per year and probably said particular Forums attitude and approach should be followed by all Forums of West Bengal for proper protection of the consumers. In the above context it can be said Forum is not always in a mood to serve its role effectively and another factor is always overlooked by all corners and that is nothing but many Forums' attitude to ask the consumer to appeal Ld. Lawyer to proceed with the complaint and for which many consumers are very shaky to move their own grievances before Forums and they also do not render such help through office for defending his case personally and no doubt it is against the spirit of the Act but same is still a conservative practice in most of the Forums in West Bengal. No vital support from Forum's office staff

to consumers are at all provided to process the complaint and for preparing affidavit, for filing evidence in chief or for preparing execution cases by the consumer unless extra amount is paid and it is now very common scenario but Forum is not taking any such step against such erring staff. But fact remains that corruption is rampant but if same is found rampant in the Forum in that case in place of getting protection from Forum, consumers are being exploited by the Forum's Staff and if it is not properly checked by the Forum, Government Administration and State Commission, the whole object of implementation of the C. P. Act shall be frustrated. Solution is highly required to take stringent step against those corrupt staff by the appointing authority. 119 But several factors are not in a position to give social justice to the consumer but same is being evaporated daily for negative attitude of the Quasi Judicial system. In this regard justice V. R. Krishna Ayer introduced social justice in his book "Social Justice – Sunset or Dawn" and we also need the same in implementing the C. P. Act. It is equally important to note that Law as it is would no longer exist if Judges do not from time to time accept the challenges and boldly lay down new principles to meet the new social problems and no doubt inventive decisions reflect a social revolution but in this respect landmark judgment in this field is a few but in the hands of Forum and Commission there are ample power to enforce the spirit of the Act, 1986 and the fundamental rights of the consumers and to conserve not only the safety but also the moral welfare of consumers also. So consumer and consumer organization may hope that the speed of justice delivery system will be accelerated by and all imagination in near future by the existing Fora, persons trained in consumer science after warming up well. It is evident from the above discussion that the C. P. Act is a social legislation so it is predominant function of the Act to bring vital change in the Consumer Society and in reality the present Act is not static but dynamic and branded as the threshold of social reform. In view of the above situation President and Members of the hierarchies should not be guided by old and any bureaucratic ideas which is no doubt detrimental to the development of consumer rights and protection and for reorientation of the thought of the Members and President, some reorientation courses should be organized by expert team of the field to give chances to them to realize the factual aspect of consumer rights, need of consumer society at present, true spirit of the guidelines of the Consumer Protection and also to minimize the agonies of the consumer. So need of collective thinking and wisdom of all levels of Forums are highly required to take pro consumer approach and adjudicate the matter on merit and to take good

endeavor to provide full protection to the consumers. No doubt in this respect, in all levels, Government particularly Consumer Affairs Department should act as constant watch dog to assess the performance of Forum otherwise like Prevention of Corruption Act, 1988, the present C. P. Act, 1986 shall be a toothless legislation even after spending huge amount from consolidated fund for running Forums at all level. Globalisation and the Consumer Protection The trend of the globalization is market driven by new technologies and advances in product marketing and service delivery and is the continuing retreat of Governments in many nations from traditional forms of regulating the market place. In this regard Foreign Direct Investment (FDI) is an important tool in the 120 Economic development of the nation. Indian retail sector is one of the most important sector that carries great potential for attracting FDI. Entry of Global retailers is expected to have direct impact on consumers as well as common man. It is expected to bring down commodity prices of the common man. Large scale and high volume sourcing and technology edge of global retailers help in realizing greater operational efficiency and wide assortment of goods at lower prices may be made available to consumers. Food-safety hygiene and quality are value additions. More than 60 percent of the wastage can be prevented if specialized cold storage chains are built up on mass scales which eventually shall help common man. However, aggressive opposition parties from nearly all quarters of India have raised voice and alleged that consumer shall benefit due to variety, quality and availability of wide merchandise. However, it is feared that in the long run consumers may have to face the risk of higher prices, substandard quality and limited options once these big retailers settle down comfortably in Indian market. But it is also true that FDI in retail trade will also help in integrating the modern Indian retail market with that of global retail market but at the same time legal and regulatory authority and strong mechanism is necessary to ensure that big retailers do not dislocate small retailers by unfair means. However, uniform regulatory structure needs to be set up with respect to taxes and duties as regards modern retail sector. Consumer Awareness through Consumer Groups Access to global market through the process of the opening up of economies, places many opportunities before the consumers as well as the producers. For wholesale markets, initiative such as trade liberalization and the increasing adoption of international standard are playing an important role in the Indian and International economy. Despite this, some difficulties are surfaced in finding out the mechanism to improve consumer's access to justice in the global market place. Under such

a condition, consumer group can help to improve global market condition through education and warning of consumers about the global market and at the same time Industry and traders should play an important role through concerted coordination and cooperation and maintaining standard and at the same time global code of conduct should be introduced to spread industry based protection for consumers into the global market place. In this regard consumer protection agencies and authorities can contribute most effectively to improve the well- being of the consumers but even then the rural people live below poverty line, have their no time to think over their rights because they always feel helpless before the might of the exploiters even when they know that they are cheated with impunity. In fact, at present in India, mechanism to protect the interest of the consumer is not full proof. A considerable section of the consuming public is not at all aware that it has certain legitimate rights and there are legislative measures enacted by the Government relating to protection. 121 Thus an environment is created which is conducive to the trading community and detrimental to the interest of consumers. Power system, roads, transportation system and Ports are facing a huge demand for the booming economy of India. However, shortages are eroding the competitiveness of the country and affecting the business growth especially export-oriented manufacturing. But slow growth in agriculture is a concern because nearly two thirds of Indian Population depends on rural employment. Farmers' access to market is hampered by poor roads, poor market infrastructure and excessive regulation. The trade deficit is large and has increased due to excessive hike in oil price and increased volume of imports of oil and non-oil products. Improving Consumer Awareness through Technology and Media However, Government efforts may not be sufficient to provide basic services to its citizen but many other stake- holders must be involved to achieve the development goal and in this regard corporate sector has a vital role to play in ensuing the private investment flows in those rural areas that have been left out of the development process till date. New ideas and strategies for products and services surface when accurate consumer needs are obtained and analyzed. Certain improvements in other business sectors such as customer service and phone support can also be made through determining consumer needs. For example, product lines, such as phones created by NOKIA have been successful because of their campaign to connect the rural villages also and long back in the year 2000 the lines promotes satisfying the need for belonging and in fact people of all status purchase to satisfy different kinds of needs. When a need is established the choice of product or service to fully satisfy it comes

after the pragmatic or practical individual is likely to buy useful, cost effective products and consumers (customers) are always attracted to product and services that promote increased acceptance and favour in society and all these have become possible due to globalization and now many other foreign brands have entered into market to compete NOKIA and so Samsung, Micromax and other companies are in the market to satisfy the consumers. Similarly, Market places have been enormously expanded as shopping centre. Shops have started to become important places to meet and socialize and these trends are vastly accelerated to change the idea, fashion and desire of the consumers and no doubt the globalization has increased the availability of the consumer goods and consumers can buy an astonishing variety of goods all in one place and shopping has become a popular activity and at present for the first time products are available in outstanding qualities at moderately low prices. Beginning in the year 2000, school and college students are also in need of personal computer, cellular telephone, digital media and even compact disc player and upper class's tastes, lifestyle and preferences have become the 122 standard of all such consumers and no doubt those consumers are the most attractive targets of marketing by different companies and traders. This purchasing behaviour may co-exist in the mind of a consumer with an image of oneself as being an individualist. For some years Electronic technologies are operating within National boundaries and across to provide entertainment marketing and client-service delivery to retailer consumers and the advent of global electronic market place presents many opportunities for consumer. Not only that, since establishment of world wide web (www) the internet in particular is transcending in national boundaries in a manner never before seen for retail transaction. Other technologies are increasingly operating across the national boundaries to provide entertainment, marketing and client service delivery to retail customers and two such trends are call centres and cable televisions. Similarly, online commerce has encompassed various forms of home shopping, home banking and home entertainment accessed through both open and closed online computer networks. Some industries are feeling the effects of these new technologies, especially those which are essentially information and booking services particularly in travel services and ticketing. Electronic commerce has the potential to deliver significant gains to consumers in terms of price, quality and service through increased competition and it happens for two correlated reasons – lowering barriers to entry and increasing number of suppliers competing in product markets. To cope with the process of globalization, India

initiated a wide range programme of trade liberalization and economic deregulation with object of integrating the Indian Economy more closely with world economy. The principal object of India's trade policy defined in the Export-Import Policy for 1997 to 2002 is to accelerate the country's transition to a globally oriented, vibrant Economy with a view to deriving maximum benefits from expanding global market opportunities and to enhance the technological strength and efficiency and to encourage the attainment of internationally accepted standard of quality and also to provide consumers with good quality products at reasonable prices. Conclusion Several stages of reforms in trade policy have lifted all licensing restrictions on imports of capital goods, liberalized partially imports of consumer goods and reduced maximum tariffs etc. Decontrol of the banking system is also continuing and competition in the banking system and sector has increased gradually as a result of which a good number of new Private Sector banks have entered. Similarly in the insurance sector, some private insurance companies have entered into this sector. Significant capital market reforms have introduced and encompassed primary and secondary markets, equity debt and foreign institutional investment. However, for proper administration of different foreign 123 sectors trade in India several authorities are established to control them and also for saving the interest of consumers and for which RBI has no doubt a proper watchdog in this regard but even then for Telecommunication Sector TRAI (Telecom Regulatory Authority of India) for Insurance Sector Insurance Regulatory Authority of India and for controlling primary and secondary equity markets and debt and foreign investment. Securities and Exchange Board of India have been assigned to protect the interest of the consumers. Very recently, to safeguard consumer interest Government of India has been thinking over establishing National Consumer Protection Control Authority as a policy making body of the Ministry of Consumer and Food Supplies Department. References 1. Julian Edward (2006): "Accountability in the Consumer Movement" Consumer Policy Review. 2. P.S. Verma (2004): "Development in Consumer Protection in India". Journal of Consumer Policy. Springer Netherlands. 3. S.S. Singh and Sapha Chadah (2007): "Consumer Protection in India – Some Reflections. India Public Administration, New Delhi. 4. S.S. Kumar (2009): "Compensation in Medical Negligence Cases". Consumer Protection and Trade Practices Journal (CTJ). Vol. 17, No.VI. 5. Laxmi Narsimha Rao Revelli (2009): "Insurance Claims – Repudiation should not be On Frivolous Grounds". Consumer Protection and Trade Practices Journal (CTJ) Vol.17, No. VI. 6. Rosy Kumar

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## APPENDIX-C

### Educating Consumers about Their Rights

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#### Introduction

Globalization of the world economies has widened the freedom of both consumers and producers through the world over. The consumers, in particular, are given more importance in respect of their rights. Developed economies are the torch-bearers in enacting consumer protection laws. Not only the developed world the developing economies too, have accelerated the pace of law making for the greater interest of the consumer community. Developing countries like China, Sri Lanka, Taiwan, Thailand, Korea, Mongolia, Philippines, Mauritius, Nepal, Indonesia, Malaysia and others have made legislations in order to protect the interests of their consumers. The Government of India in 1986 has enacted its Consumer Protection Act, 1986. The main object of this legislation, among others, is to ensure the better protection of consumers. The provisions under this Act are compensatory in nature and the Act, in fact, intends to provide simple, speedy and inexpensive redressal to the grievance of consumers. At the global level, **the Consumer International**, an international organization of consumer unions persuaded the United Nations to adopt a set of guidelines for consumer protection in 1985. The guidelines address the rights and interests of consumers throughout the world and provide a framework for promoting consumer protection. In this context, the guidelines highlighted on seven important areas such as physical safety, protecting and promoting economic interest of consumers, standards for the safety and quality of consumer goods and services, measures enabling consumers to obtain redress, measures to some important areas such as food, water

and pharmaceutical and consumer education and information programme. The UN guidelines as mentioned are not static and therefore are more flexible under changed social, political and economic circumstances.

The present paper aims to discuss some important aspects that are extremely essential for consumers to make them knowledgeable and aware them about their rights relating to the quality of products they purchase, or the services they buy, redressal against unfair trade practices or unscrupulous exploitation of consumers through consumer disputed redressal adjudicatory bodies at the district, state and national levels.

### **How to Educate Consumers?**

The present age is the age for both consumers and producers. In this era of open economy buyers and sellers come face to face. It is said that under full and free competition and open economy world goods are exhibited by the sellers. Buyers after thorough examination/ scrutiny buy the product. Under such a market condition, there should not be any asymmetry in information either from the sellers or from the consumers. Sellers know who are the buyers, what strategies to be followed in the sale of their product, what constraints to be faced if bad quality products are sold etc. Similarly, the consumers know the price as well as the quality of the goods they are considering buying at a price at a point of time.

Any decision-making unit makes a choice in the light of more or less inadequate information popularly known as asymmetric information. Joan Robinson, in her **Further Contributions to Modern Economics**, 1986 (Indian Edition, Disha Publications, Delhi - 09) has informed us that full information regarding the correct choice can never be available because basic data do not and cannot exist. She states, "There is no certain knowledge about the future, not even certain knowledge of probability distributions. There are expectations (or guesses) formulated with greater or less care; and unfortunately those formulated with greater or less care; and unfortunately those formulated with the greatest care are by no means always the most accurate".

In the present day world of vast expansion of trade and its globalisation the personal relation between the buyer and seller which was an important factor in their relations does not hold true. It is not just possible for a consumer to examine the quality of the good before hand; because now most of the transactions take place through correspondence. Although we are talking about globalisation and free competition of goods and services between the buyers and sellers i.e. we believe that there exists free or perfect market competition. In fact we don't really have such a market form; rather we have a market structure known as monopolistic competition or oligopoly market where seller only can assure the quality and more or less determines the price of the product. This shows that the seller becomes more and more strong due mainly to the complex structure of modern goods.

Moreover, all the sellers are more organized and strong in order to improve their bargaining power. Contrarily, the consumers are unorganized and weak in their bargaining power. In the present age of information technology and wider applications of e-commerce in trade and business transactions consumers are being really deprived, misled, and deceived. This becomes more intense especially among the illiterate and less-informed people of developing countries like ours. In the less-developed economies consumerism is thus in the infancy stage. Most of the consumers are not well informed about the quality of products, price of the commodities, protection against bad quality products, etc. thus, due to lack in education, information resources, testing facilities, competent leadership, price control mechanism, and adequate quasi-judicial mechanism (S.S. Singha and S. Chadah, IIPA: Consumer Protecting in India) the providers of Goods and services have been reluctant in providing protection to the interests of the consumers.

Consumerism is not a war between the sellers and the buyers. It is in fact wide range of activities of government, businesses and independent organizations aimed to protect the interest of consumers.

We are now in a position to discuss some important issues/ aspects through which consumers can be made more educated and knowledgeable to protect their rights.

## **Role of Voluntary Consumer Organisations**

The rapid growth of industrial growth due to the effects of the efforts of R & D teams throughout the world the goods which previously were catering to our demand have been replaced by complex and complicated new goods. This has made consumers perturbed and confused when they find that the goods or services they bought are not in good order. This calls for a strong and wider consumer movement in order to provide necessary legal protection to the affected consumers. Voluntary Consumer Organisations can in fact organise consumers and encourage them to safeguard their interests. Also the business enterprises act as voluntary 'self-regulators'. They may serve consumers' interest and provide benefit to them, although some businesses in our country have adopted a code of conduct for controlling/ regulating their own activities.

## **Increasing Consumer Awareness**

Consumers should be made aware about the protection needed against the marketing of goods which are hazardous to life and property. The consumers, irrespective of their status and educational qualifications, should be informed about the quality, quantity, potency, purity, standard and price of goods and services they purchase. This will in fact protect the consumers against the unfair trade practices. The price at which the consumer purchases a good should be competitive. The government should assure that consumers have access over the variety of goods at competitive price. This will certainly save the consumers from unscrupulous exploitation from the part of sellers. It is stressed that consumer council if constituted may be a good platform where consumers can put their grievances. This organization can be established on public private – partnership (PPP) basis and this can review the grievances raised by consumers and thereby review the policy of consumer rights protection.

The council can also provide feedback to consumer courts at three levels i.e. district consumer court, state and national commissions. Consumers are also advised to attend seminars, workshops relating to consumer awareness and consumer rights protection. The central and state governments have accepted to introduce consumer education in school

curriculum. There are some states where this curriculum has been accepted in order to make students knowledgeable about consumer rights and their protection.

The central government through the **Consumer Welfare Fund (CWF)** undertakes consumer educational programmes with the help of consumer groups or state government. **The Consumer Welfare Fund** has another / provision for providing funds in the name of **“Consumer Club Scheme”** the sole objective of such a scheme is to educate children about the rights of the consumers, protection of their rights, and to strengthen the consumer movement in every corner in the country. This scheme was introduced in 2002. The media can also play a significant role in educating consumers through advertisement. The radio, television, internet, newspaper etc. have been doing extremely well in educating consumers in spite of lot of problems such as multiplicity of languages, religions, social customs. Consumers are the victims of many unfair and unethical practices adopted in market place. There is no perfect match between the untrained selling goods and services. Naturally, consumers are very often cheated in the quality, quantity and price of goods or services and have been transformed from ‘kings of the market’ into the “victims of circumstances”. Only educating consumers can help reducing asymmetries in information or knowledge about market affairs.

### **Safeguarding through Enacting Legislations**

Our government has taken a number of legislative measures in order to safeguard the interests of consumers. All such measures can be classified as follows: (i) statutory regulation of private business, and (ii) development of the public sector. The government has enacted several statutory legislations such as Indian Contract Act, 1872; Sale of Goods Act, 1930; Agricultural Produce (Grading and Marketing) Act, 1937; Industries (Development and Regulation) Act, 1951.

Prevention of Food Adulteration Act, 1954; essential Commodities Act, 1955; Essential Service Maintenance Act, 1968; Monopolies and Restrictive Trade Practices Act, 1969; Standard to Weights and Measures Act, 1976; Bureau of Indian Standard Act, 1986; Environmental Protection Act, 1986; Consumer Protection Act, 1986.

## **Some landmark Judgments of Apex Court**

To implement the Consumer Protection Act, 1986 Quasi Judicial Authority from district level to national level were empowered to redress the consumer complaint and dispute vide Chapter-III of the C. P. Act, 1986 which came into force with effect from 01.07.1987 in the whole of India except Jammu & Kashmir whereas other chapters II and IV of the Act came into force on and from 15.04.1987 but for effective operation of the Act for the benefit of consumers and to give whole time President to run the Consumer Fora in fact from Government side there was no positive approach till passing Judgment passed by the Apex Court in the year 1993 on the basis of the case filed by common cause a NGO concern and truth is that by that Judgment Apex Court passed some strict directions to the Government to follow up action for running regular Fora in all the districts by appointing whole-time President and other Members in terms of the prescription of the Statute and the Apex Court by that Judgment also directed the Government to strictly comply the directions and in case failure in future, contempt action may be initiated for violation of order of Apex Court and after that Government took initiative and regular Fora's present appearance is found .The above Judgment also reveals that Apex Court also realized the need for proper implementation of the C. P. Act for the benefit of the consumers.

After enactment of the Act Government undertaking like Bank, Insurance, transport and Corporations took a strong plea like the promoting and development Authority took plea that they can be guided by the Consumer Protection Act alleging that they are Statutory Government Official Bodies for offering services to consumers so they are not covered by Consumer Protection Act and challenging the decision of National Commission, Lucknow Development Authority preferred appeal before Apex Court but passing a very exhaustive Judgment (Lucknow development Authority vs. M. K. Gupta reported in 1993 (1) CTJ Page 929) decided the very wide meaning of "Service" and came to a conclusion that legislative intention of the Act is to protect a consumer against services rendered even by statutory body and even Government Housing Board and other and further decided that no Authority can claim any immunity to the extent protected by that statute itself and no doubt that Judgment interpreted the wide scope of the definition of "Service" which is not applicable against both private and public service providers.

By that Judgment Hon'ble Apex Court has specifically held that the provisions of the Act have to be construed in favour of the consumer to achieve the purpose of the enactment as it is a social benefit oriented legislation and at the same time the very definition of the "Consumer", "Trader", "Unfair Trade Practice", "Service" have got a wider ambit.

Further by a Judgment passed in Bareilly Development Authority vs. Ajay Paul Singh reported in AIR 1989 (SC) Page 1076 Apex Court observed that Cost fixed at the term of agreement may vary if construction cost is increased due to increase in price of the construction materials, escalation cost should be paid by the intended purchaser but same shall be decided by the Forum no doubt and direction for payment of escalation charge is not arbitrary and unreasonable.

By another Judgment in Indian Oil Corporation vs. Consumer Protection Council, Kerala reported in 1994 (1) CPR 255 (SC) it is already held that if Gas Agency gives connection unauthorizedly to any customer on the strength of obtaining possession of such a connection it is not open to customer to foist a contract on the Corporation and such complaint is not maintainable.

In a case Mayor, Calcutta Corporation vs. Tarapada Chatterjee reported in 1994 (1) CPR 87 and 1994 (1) CPJ 99 (SC) it is specifically observed that payment of tax to the Government and Government stating authority goes to Government consolidated fund of India or State and Private or Public function of Municipality or Corporation is statutory duties and functions and any service rendered by them is not availing or hiring a service and so tax payers are not consumer in the eye of Law and such a dispute is not consumer dispute and in fact by that Judgment the decision of State Commission and District Forum were set aside and complaint of Tarapada Chatterjee was dismissed.

In Civil Appeal No. 4024/2003 Apex Court passed Judgment reported in 2004 CTJ (Supreme Court) CP Page 1009 and held that in case of Medical Negligence once allegation is made that patient was admitted in any particular hospital and evidence of lack of proper care is the cause of death of the patient the burden lies on the hospital to justify that there was no negligence on the part of the treating doctor and also hospital and if in such a case it will not absolve the hospital. Similarly, the actual blame against doctor for the outcome of

the treatment has to be attributed with great care as held by Apex Court in case of Ms. Sus Malhotra vs. Dr. A. Kripalani and Others in Civil Appeal No. 1386/2009 reported in 2009 CTJ 472 (Supreme Court) (CP).

In public auction of existing sites the purchaser lessee is not a customer or service provider and the grievance does not relate to any matter in regard to which a complaint can be filed under Consumer Act as held by Supreme Court in U.T. Chandigarh Administration and Others vs. Amarjit Singh and Others reported in 2009 CTJ 486 (SC).“The Provision of Section 24A of the C. P. Act, 1986 is peremetary in natures and requires a Consumer Forum to see before it admits a complaint that it has been filed within two years from the date of accrual of cause of action. The Forum however for the reasons to be recorded in writing may condone the delay in filing the complaint if sufficient cause is shown” is the verdict of Apex Court in Case of State Bank of India vs. B. S. Agriculture Industries (I) reported in 2009 CTJ 481 (Supreme Court) CP.

About insurance policy it is settled by Supreme Court of that Proposal Form is integral and essential part of the insurance policy as commercial document and surveyors report cannot be the basis of construction of the insurance policy and terms and conditions of the policy shall be strictly construed to determine the extent of liability of the insurer in Vikram Greotech (I) Ltd. & Another vs. New India Assurance Co. Ltd. reported in 2009 CTJ 465 (Supreme Court) CP.

Where possession of a flat is given at the old rate the party has got the benefit of escalation in price of land and therefore there cannot be any award of interest on the amount by the Allottee on the ground of delay in allotment which is the vital pronouncement in respect of claim of interest by the party consumer for delivering possession at belated stage in the case of Hariyana Urban Development Authority vs. Raja Ram reported in 2009 CTJ Page-1 (Supreme Court) Volume-3 has in fact ultimately resolved the divergent verdicts on the point of electricity theft and dishonest abstraction of energy passed by Appellate Forum of different States including National Commission what resulted in closing the doors of the consumer and now it is clear position of the Electricity Act, 2003 that no consumer has right to file any complaint in respect of any action taken Sec. 126 and 135 to 140 of the Electricity Act and Consumer Forum is also debarred to take any contingency in respect of any matter related to Sec.-126 and 135 of the Electricity Act, 2003.

About interest there is a ruling of the Apex Court to the effect that there is no hard and fast rules for award of interest as reported in 2013 (4) CPR 405 (SC) in a case of Ghaziabad Development Authority vs. Balbir Singh. Banks sometimes force the poor villagers to various litigative Forums though they should stand for providing financial benefits to the villagers and so Forum should discourage such unintended litigations as observed by the Supreme Court in an appeal by Gurgaon Gramin Bank vs. Sm. Kharam & Another reported in 2013 (4) CPR 377 (SC).

But keeping in mind about professionalism of doctors and hospital authorities, horrible Judgment passed in Dr. Baidya Nath Halder, Dr. Sukumar Mukherjee & Advance Medicare Research Institute VS Kunal Saha reported in 2013 (4) CPR 284 (SC) which have shaken the doctors and hospital authorities also and at the same time it is held about nature of medical negligence including quantum of compensation and also hold that the cultural, social and economic background of the patient should be considered for ascertaining the quantum of compensation including on the ground long drawn process of pending case and the said Judgment has no doubt opened the pragmatic views of the Fora at all levels and it is no doubt a guideline of landmark Judgment to educate the Fora in deciding medical negligence cases.

Further in so many cases of Hon'ble National Commission wherein it has been observed and decided even if any particular item is insured and if no intimation regarding transfer of ownership is intimated by the transferee owner of the item, such a transferee is not entitled to get any benefit of insurance coverage of that item, if it is damaged or lost but such sort of Judgment as per the principle is not correct what has been already decided by the Apex Court in case of Mallamma (dead) by LRS vs. National Insurance Co. Ltd. reported in CLT 2014 (3) Vol. 63 at Page-1 and it is held that insurance policy is deemed to be transferred with transfer of ownership of vehicle or the unit or article or goods, animal and policy which will not lapse but fact remains, even after this Judgment, Hon'ble National Commission passed previous nature of Judgment by neglecting the Judgment of highest judicial authority of the country and also appellate authority of the Hon'ble National Commission.

Regarding the cause of Action as per provision of Sec.-17(2) of the C. P. Act, branch office means where the cause of action has arisen but it does not mean that a complaint

against O.P. could have been filed anywhere in India where any company's branch office is situated and in this regard in a case of *Semi Surgical vs. National Insurance Co. Ltd.* reported in 2010 CTJ 2 (Supreme Court) Apex Court decided the long standing complication about the meaning of Section as per C.P. Act regarding the definition of Branch Office.

It is held in a case of *New India Assurance Co. Ltd. vs. Juari Industries Ltd. & Others* reported in 2010 CTJ 5 (Supreme Court) CP that the proximate cause is not the cause which is the nearest in time or place but the active and efficient cause that sets in motion a train or chain of events which bring about ultimate result without intervention of any other force working from an independent source and the present decision is against a Surveyor's report in insurance claim.

In a case of *National Insurance Co. Ltd. vs. Laxmi Narayan Dhut* reported in 2007 CTJ 445 (Supreme Court) Apex Court decided that a statute is an edict of the legislature and in construing the same, it is necessary to seek the intention of its maker. If a provision is open to move there are interpretations which represent the true intention of the legislature and considering the above principle it is clear that once a license is fake one, the renewal cannot take away the effect of fake license.

Another landmark Judgment of the Hon'ble Apex Court in a case of *Standard Chartered Bank Ltd. vs. Dr. B. N. Pawan* reported in 2006 CTJ 841 (Supreme Court), has finally decided that activities relating to non-sovereign powers statutory bodies are within the purview of the Consumer Protection Act and so the function of statutory bodies come under the term "Service" as defined in its Section 2(1)(o) under C.P. Act, 1986.

The above Judgments of Apex Court are discussed only on the ground that in those Judgments the Hon'ble Apex Court not only heard Appeal but also exposed the need to make Redressal Machinery more accessible for protecting the consumers at large by giving proper interpretations of the Act in wider aspect and term and in fact consumers at large have been saved from the tyranny conflicting Judgments of Hon'ble State and National Commission. Further, the chariot of present Act got such life to breathe in true sense to proceed with full force after 1995 though C.P. Act, 1986 came into force in the year 1987.

## **Conclusion**

Consumers should be better informed about the price and the quality of goods they are going to buy. They must get the actual information on the products and their services based on which they can make well-informed decisions on what they are buying and from whom they are buying. If they are knowledgeable about all of these, then they will become the active participants in the entire process. Thus, consumer education ensures that producers/sellers are held accountable by governing agencies and the consumers who use the products and services. Consumers in many cases do not get their money's worth from the goods and services they bought. Their loss may be on account of both quality and price. It is necessary that traders and business establishments should strictly comply with various regulations relating to consumer rights and at the same time consumers have to be conscious while buying goods and avail services as well as they should know the legislative support for them and for their protection.

On overall views of such decisions of the Hon'ble Apex court, It is the stepping stone towards economic reform process of Indian economy, since it is gradually being transformed from a predominantly sellers' market to a buyers' market where exercised choice by the consumers depends on their awareness level. Consumer rights could be protected in a competitive economy only when right standard of goods and services for which one makes payment are assured by evolving a network of institutions and legal protection system. Ensuring consumer welfare is the responsibility of the Government as every citizen of the country is a consumer in one way or the other. The need of the hour is for total commitment to the consumer cause and for social responsiveness to the consumer needs. This should however, be proceeded in a harmonious manner so that our society becomes a very good place to live in.

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