

CHAPTER 1

Introduction

1.1: The Problem

As the entire world of trade and commerce is getting integrated and barriers to trade in goods and services are rolled down and with growing consumerism matters relating to identification/protection of the rights and entitlements of consumers have become equally important. The availability, variety and specifications of goods and services are becoming wider and deeper and so is the number of consumers, their choices and requirements which are also significantly impacted by technology and management inputs. This, in turn, has made calls on management and enforcement of the rights of consumers more intense and challenging. This has given further momentum by the transition from the unorganized sector to the organized one, from the informal to the formal, through inclusiveness and change in profile from a unorganized consumer to an informed, choosy and regular and organized one. In a way, concern for consumers' rights and their protection is part of the initiatives for civil and just society with concern for welfare of the citizens.

The code for the consumer movement is as old as trade and commerce itself. It therefore, comes as no surprise that Kautilya, the great thinker and the author of Arthashastra had made considerable references to the protection of consumers. Kautilya makes references to the protection of consumers against malpractices and exploitation by trade and industry. From Kautilya's Arthashastra we can easily guess that the problem that we are facing today existed many centuries back.

Before going into detail about consumer protection, it is better to define: Who is a consumer? By definition, a consumer is any person who buys any goods and services for a consideration and user or buyer, any person who hires or avails of any service for a consideration and any buyers availed of with the approval of the person hiring the services. 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 basis then his dollar is wasted, his health and safety may be threatened, and national interest suffers".

President Kennedy gave the American consumers four basic rights, viz, the right to safety, the right to choose, the right to information and the right to be heard. Thirteen years later after Kennedy's speech, 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, as an informed consumer cannot be exploited easily.

These rights serve the American consumers very well but they do not cover the whole gamut, because a global consumer does need, apart from them, other well-defined rights such as the basic needs, a healthy environment and redress. 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.

Considering the importance of Kennedy's speech to the US Congress on 15 March, 1962 and the resultant law the CI took a decision in 1982 to observe the day of 15th March as the **World Consumer Rights Day** from 1983. India also observes the day as the National Consumer's Day. Regarding consumer rights M.K. Gandhi had 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 which has been defined as the Magna Carta of consumers but, it recognizes only six of the eight rights, i.e., safety, information choice, representation, redress and consumer education.

Besides this statutory recognition, COPRA has succeeded in bringing about revolutionary judicial reforms by providing juristic quasi-judicial courts solely for redressal

of consumer grievances (where a price has been paid), for adjudication within a limited time frame of 90 to 150 days.

The rights of basic needs and health environment could not be provided in COPRA as these symbolized the aspiration of the poor and the disadvantaged and were not the subject matter of priced commodities and services available in the market place. However, these are the backbone of people's movements in both the developing and the developed worlds. Laws, rules, regulations and others alone do not protect consumers, but it is the rights and advocacy based and empowering movements of people which produce results in a democracy. The spirit and strength of this legislation is supplemented by welfare provisions and similar legislations such as the proposed Food Safety & Security Bill, National Employment Guarantee Scheme Act.

1.2 Backdrop of Consumer Protection Legislation

Consumer's sovereignty is very much related to globalization. This is because of the fact that consumer has alternative choices for goods and services available due to globalization. Globalization 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.

In order to understand the spirit of the legislation, one should necessarily study the objectives of Consumer Protection Act in India. While introducing Consumer Protection Bill into the Parliament the members of the Parliament were briefed about the intention of introducing the Bill, which is as follows.

The Consumer Protection Bill, 1986 seeks to provide for protection of the interests of consumers and for that purpose, to make provisions for the establishment of Consumer Councils and other authorities for the settlement of consumer disputes and for matters connected there with as stated in the Preamble of the Act. The object of the Bill is to define and promote and protect the rights of consumers such as right to be protected against hazardous goods and services, right to information, right to choose, right to represent consumer's interests, right to redressal and right to consumer education. But this responsibility is placed on Consumer Protection Councils established at the Central, State and District levels. Further, it is stated that in order to provide speedy and simple redressal to consumer disputes, quasi-judicial machinery is sought to be set-up at national, state and district levels. These quasi-judicial bodies shall observe principles of natural justice and have been empowered to give reliefs of a specific nature and to award compensation to consumers. Penal provisions are also provided for non-compliance of the orders given by these quasi-judicial bodies. As observed by the Supreme Court; "The law meets long felt necessity of protecting the common man from such wrongs for which the remedy under ordinary law for various reasons has become illusory".

The observations of the Apex Court would reveal the onerous responsibility placed on the machinery established vis-a-vis the members of the redressal agencies to implement the spirit of legislation for the benefit of the common man. Protecting a common man from hazardous goods, unfair trade Practices, exploitation, fraud etc., is not an easy task. One has to work devotion, and dedication to provide better protection to consumers. It is also desirable to know the backdrop in which the Consumer Protection Act was passed, to have a better appreciation of the provisions of the Act. In United Nations General Assembly, a Consumer Protection Resolution No. 29/248 was passed and India is signatory to this resolution. The U.N. had passed a resolution in 1985 indicating certain guidelines under

which the Governments could make laws for better protection of the interests of the consumers and such laws were more necessary in developing countries to protect the consumers from hazards to their health and safety and to make them available speedier and cheaper redress. With this background the 1986 Act was enacted. Consumer Protection has been an- increasing public concern in the recent years because consumers are becoming victims of many unfair and unethical trade practices. Many of the consumers know little about the modern goods. Foods produced in other countries are flowing into India. Marketing of goods is done without boundaries due to globalization of economy.

United Nations General Assembly discussed these issues and adopted guidelines for protection of consumers on 9 April 1985. These guidelines provide a framework for governments to use in elaborating and strengthening consumer protection policies and legislation.

The objectives of the **U.N. Guidelines** for consumer protection include:

1. To assist countries in achieving or maintaining adequate protection for their population as consumers.
2. To facilitate production and distribution patterns responsive to the needs and desires of consumers.
3. To encourage high levels of ethical conduct of those engaged in the production and distribution of goods and services to consumers.
4. To assist countries in curbing abusive business practices by all enterprises at the national and international levels which adversely affect consumers.
5. To facilitate the development of independent consumer groups.
6. To promote international cooperation in the field of consumer protection.
7. To encourage the development of market conditions which provide consumers with greater choice at lower prices.
8. The legitimate needs which the guidelines are intended to meet include the protection of consumers from hazards to their health and safety; the promotion and protection of the economic interests of consumers and the availability of effective consumer redress.

Thus, whoever takes up the responsibility of protecting consumers, like members of the Redressal Agencies, constituted under Consumer Protection Act, should know the mechanics of consumer protection as suggested in U.N. Guidelines. The legitimate needs of consumers as expressed in U.N. Guidelines are as follows.

- (a) The protection of consumers from hazards to their health and safety.
- (b) Promotion and protection of the economic interests of the consumers.
- (c) To provide them adequate information to make informed choices.
- (d) Consumer education.
- (e) Availability of effective consumer redress.
- (f) Freedom to form consumer group and providing them opportunity to present their views.

U.N. Guidelines motivated many countries to enact suitable laws for consumer protection. Many of the consumer protection legislations made worldwide reflect the objectives of these guidelines.

Indian Parliament has enacted this special law, namely, the Consumer Protection Act, because the existing laws are inadequate and fell short of expectations due to loopholes and poor enforcement. At this juncture, it is important to know various legislations that provide protection to public as consumers. The following are some of such legislations.

1. Public Provident Fund Act, 1968
2. Railway Claims Tribunal Act; 1987
3. Indian Contract Act, 1872
4. Indian Penal Code
5. Banking Regulation Act,
6. Negotiable Instruments Act, 1881.
7. Reserve Bank of India Act,
8. Indian Companies Act, 1956.
9. Apartments Act,
10. Chit Fund Act,
11. Sale of goods Act,
12. Environment Protection Act,

13. Prevention of Food Adulteration Act,
14. Indian Medical Council Act,
15. Essential Commodities Act,
16. Standards of Weights and Measures Act, 1976.
17. Bureau of Indian Standards Act,
18. Civil Procedure Code, 1908.
19. Criminal Procedure Code, 1973.
20. Competition Act, 2002.
21. Arbitration Act, 1972.
22. Carriage by Air Act, 1972
23. Carriers Act, 1865.
24. Constitution of India, 1950.
25. Standards of Weights and Measures (Packaged Commodities) Rules, 1977.
26. Telegraph Act,
27. Indian Post Office Act, 1898.
28. Insurance Act, 1938.
29. Electricity Supply Act,
30. Usurious Loans Act,
31. Agricultural Produce (Marketing and Grading), Act,
32. Prevention of Black Marketing Act,
33. Cinematography Act.
34. R.T.I. ACT.

It is not unusual that the contesting parties may refer to the provisions of the above legislations. As redressal of consumer grievances by Consumer Forums is described as additional remedy, and the provisions of Consumer Protection Act should not be applied in derogation to any other law, the members are required to know the salient features of the above referred laws. There is good number of disputes relating to which special enactments are made invariably, the provisions of such Acts come up for discussion during trials. This necessitates the members to learn the impact of such provisions to the case on hand.

1.3: The Consumer Protection Act, 1986

Government of India made an exhaustive exercise before the Consumer Protection Bill which was introduced in the Parliament through its Legislation efforts to protect consumers started from 1985 itself in a few states like Madhya Pradesh, Karnataka and Delhi. The idea for a central legislation was initiated by the U.N. guidelines for consumer protection. On receipt of these guidelines Government of India held discussions with various interest groups including trade and industry, educationists, Consumer groups, Chambers of Commerce etc; and accordingly, Consumer Protection Bill was placed in the Parliament. It received the assent of President of India on 24.12.1986 and came into force on 1 July 1987. Twenty fourth December is a red-letter day in the history of Indian consumerism and observes as a National Consumers day.

Consumer Protection Act, 1986 is considered as one of the most benevolent welfare legislations. It only recognizes six consumers' rights but also provides time frame for settlement of consumer Disputes Redressal Agencies established under the Act. It is strongly believed that this legislation is the best of the legislations made in other parts of the world for consumer protection. No other welfare, legislation in India has such a wider reach as Consumer Protection Act. This Act applies to all goods and services unless otherwise exempted by Government of India. In the short period of its existence this Act has been amended thrice in 1991, 1993 and 2002. Government of India is contemplating for further amendments and also gave notification requesting consumers to suggest amendments. In this respect also Consumer Protection Act is considered unique because no other law has been amended so many times in such a short period. These amendments are aimed at removing the difficulties in the implementation of the Act. and make it more effective.

One of the greatest achievements of the Indian consumer movement is the enactment of the dynamic consumer law (COPRA). Critics of COPRA rightly conclude that it cannot do anything about rising prices, but it is a fact that it has helped in bringing about fair play in the supply of goods and services available in the market place, giving substance to the adage. COPRA has also encouraged active consumer bodies to demand, debate costing, pricing and promote competition.

Safeguarding the rights and interests of consumers includes all the measures aimed at protecting the rights and interests of consumers. Consumers need protection because they are illiterate, ignorant, and unorganized. The market is increasing supplying duplicate products. It is necessary to protect consumers from such exploitation by ensuring compliance with prescribed norms of quality, and safety. Some businessman gives misleading information about quality, safety and utility of products. A mechanism is needed to prevent misleading advertisements. Malpractices of businessmen increase helplessness among the consumers. Certain measures are needed to be made to protect the consumers against such malpractices. There are four main methods of protecting the interests of consumers. These are: business self-regulation, consumer self-help, consumers' associations and government regulations.

1.4. Objective of the Study

Indian market is dominated by the consumerism. It has been transformed from sellers' market into buyers' market. In this sort of market exercised choice by the consumers depends on their awareness level. Consumer rights could be protected in a competitive economy only when right standards for goods and services for which one makes payment are ensured 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.

Consumers, clients or customers of the world over, are demanding value for money in the form of quality goods and better services. Modern technological developments have no doubt made a great impact on the quality, availability, and safety of goods and services. But the fact is that consumers are still victims of unscrupulous and exploitative practices. Exploitation of consumers takes different forms such as adulteration of food, spurious drugs, dubious hire purchase plans, high prices, poor quality, deficient services, defective advertisements, hazardous products, black marketing and many more. It has been realised that the consumer protection is a socio-economic programme to be pursued by the government as well as the business as the satisfaction of the consumers is in the interest of both. In this study we would like to investigate the government policies relating to protect the interest of the consumers and their rights. In this context, we would thoroughly analyse

the policy measures, legal structure and administrative framework. We are also interested to examine some of the case studies related to consumer disputes settled in the *Consumer Disputes Redressal Forums* under three-tier system.

1.5. Research Methodology, Samples and Data Sources

Consumer protection is essential for all of us. This is because of the fact that even the manufacturers or the producers are the consumers. The producers purchase various factors of production for production purposes. Therefore they may also require legislative assistance if the input sold to them is bad. We purchase commodities to fulfill our utility of money or satisfaction. Therefore, we sacrifice the utility of money in order to receive the utility of commodity. Consumers require protection and that's why our national government has passed numerous legislations especially to protect their interest. This study covers the whole of India and it specifically deals with different aspects of consumer protection in India. The study is descriptive and analytical. Some case studies relating to consumer disputes redressal have been taken up for detailed analysis. For our purpose we have collected data from consumers who have filed cases of which some claimants are those who have got verdict in their favour, then have got verdict in their favour and then claimants whose cases are pending. Data thus collected have been tabulated and analyzed in detail. Secondary data sources are books, journals, government archives, government reports and documents, international agencies such as IMF, World Bank, ILO etc. Some statistical techniques such as mean, variance, standard deviation, regression analysis have been employed to draw conclusion.

1.6: Research Questions

1. Are legislations sufficient to protect the interest of consumers?
2. Are health insurance schemes working well in favour of the insurers?
3. Is consumer court quick in the redressal of grievances of consumers?
4. Do all consumers function as free, discriminating and happy individuals while purchasing and consuming goods and services in the market?
5. Do consumers have more freedom in the new globalised world?

6. Against which of the things can consumers make complaint?
7. What are the reliefs available to consumers?
8. What is the legislation that ensures all the rights of consumers?
9. Is consumer protection a socio-economic programme to be pursued by the government?

1.7: Hypotheses Tested

On the basis of overall analysis we have framed the above research questions and on the basis of research questions we have developed some hypotheses to be tested. Some of them may not be testable and in this context we have tried to accommodate some new hypotheses relevant for our purpose. The hypotheses are as follows.

- (i) The current legislation is sufficient to protect the interest of the consumers.
- (ii) Consumer court at district level, state level and national level is quick in the redressal of consumer grievances.
- (iii) Consumer sovereignty has increased in the new globalised world.
- (iv) Consumer protection is a socio-economic programme perused by the Government.
- (v) Health insurance schemes are working well in favour of the insurers.

1.8: Organization of the Study

The study has been segregated into nine distinct chapters. The first chapter is about the brief introduction of the research inquiry, backdrop of consumer protection legislation, objective, research methodology, samples and data sources, research questions framed and hypotheses formulated based on the objective and the research questions framed. A detailed and exhaustive review of existing literature has been done in chapter two. An analysis of consumer protection acts with the issue of globalisation and consumer protection, improving awareness through consumer groups and through technology and media have been elaborated in chapter three. Chapter four is about how to educate consumers about their rights. Consumer rights protection in the globalised world has been described in fifth

chapter. Indian scenario of consumer disputes and their redressal has been put forth in chapter six. Chapter seven analyses, in detail, consumer disputes redressal in West Bengal. Some interesting case studies on consumer disputes redressal has been narrated in eighth chapter. Chapter nine concludes and recommends. Thus the chapters are as follows.

Chapter 1: Introduction

Chapter 2: Review of Literature

Chapter 3: Consumer Protection Acts in India

Chapter 4: Educating Consumers about Their Rights

Chapter 5: Globalization and Consumer Rights Protection

Chapter 6: Indian Scenario

Chapter 7: An Analysis of Consumer Disputes Redressal in West Bengal

Chapter 8: Consumer Disputes Redressal –Some Interesting Case Studies

Chapter 9: Conclusions and Recommendations