

The Consumer Protection Act, 1986 of India- 31 Years of Enactment: A Critical Study

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Abstract

Consumerism in India starts in 1970, as the literacy level increase as well as industrialization is also increase in the same period and stiff competition is started, due to stiff competition in the market seller are using unfair marketing practices and customer are mislead with false claim through advertisements. So customer agitation starts, to save the interest of the customer Govt. of India enacted two major laws one is MRTP Act, 1969 and another is Consumer Protection Act, 1986. In 2013 MRTP Act, 1969 was replaced with Commission Competition Act, 2013 to make Indian Companies more competitive. After enactment of consumer protection Act, 1986 the vacuum in law fulfilled with respect to any specific law for settlement of consumer disputes. This Act provides three- tire redressal machinery for speedy settlement of consumer dispute. In this context we can see the achievements of this Act and we can also assess the area of where improvement is required. For this study available literature

in Indian context has been surveyed, and opinion is formed. On going to this study many facts revealed about the consumer protection and awareness. One side some facts are on positive note about the provisions of consumer protection Act, 1986 and its implementation, which are keep in the category of achievement of the Act, while on the other side there are some facts revealed for which some corrective action is needed for the betterment of the consumerism, these facts can be categorized as challenges.

Keywords: Consumer Protection, MRTP, Consumerism, Law, Redressal Machinery.

Introduction

Today, India is a big market and crores of consumers in India are ready to buy any product offered to them by big multinationals as well as Indian companies. But this does not mean that whatever offered to them they will accept. The time has gone when the market was sellers market and

consumers not raised questions about the quality of goods. Now the state of mind of consumers in India has changed and reason behind this change is enactment of The Consumer Protection Act, 1986. In Indian legislative history the year 1986 will be remembered for passing a revolutionary Act for consumers i.e. The Consumer Protection Act, 1986 after enactment of this Act the vacuum in law fulfilled with respect to any specific law for Union Government and the setting up of a Consumer Product settlement of consumer disputes. This act provides three-tier Testing Laboratory redressal machinery for speedy settlement of grievances of consumers. At present 629 District Form and 35 State Commissions are functioning all over the country besides the National Commission in New Delhi. State Commissions and National Commission have started sitting in Circuit Benches also. Year 2013 is the silver jubilee year of the Consumer Protection Act, 1986. In this context we can see the achievements of this statute and also we can assess the areas where improvement is needed in among urban and rural consumers, still there is a room for the Consumer Protection Act, 1986 in general and awareness in particular. Many researchers have already been conducted on testing the level of awareness of consumers and implementation of provisions of the Consumer Protection Act, 1986. Amendments in the Consumer Protection Act, 1986 have also been made thrice as per the requirement of the time and what recommended by the experts and researchers.

Judiciary also played very important role in interpretation of the provisions of the Consumer Protection Act, 1986 and propounds many new rulings during the process of judgments; the judgment of Supreme Court in the case of Indian Medical Association, Shantha (AIR 1996 SC 550) is the one of them. In recent past it has been

observed that the cases registered at consumer form related to the deficiency in services are more in numbers rather than defect of the products, this may be because of increasing share of the service sector to GDP of India.

Review of Literature

Andrew Eiler (1984), has given detailed information intended to educate the consumers about their specific rights as purchasers. The first section describes how to make a convincing case when faced with a consumer problem. The second section provides an overview of consumer protection laws. The major part of this book examines the relevant laws at each stage of purchase, covering advertising and sales practices, a buyer's rights and obligations, warranties and methods of payment. *Arthur Best's (1988)*, presents the nature and scope of consumer complaints and the institutions designed to handle these complaints. He has described three stages in the consumer complaint process such as perception of the problem, voicing of the complaint and resolution of the complaint. This book contains some case studies which demonstrate significant obstacles in the process and flaws in the institutions of business and third party assistance for obtaining proper redress. *Avtar Singh's (1994)*, book has examined the basic concepts and definitions as used in the Act of 1986 in general terms, in the context of established legal principles. This book analyses different fields of consumer goods and services, subject-wise, depending upon the decisions delivered by the State and National Commissions. The author has discussed in detail the applicability of the

Consumer Protection Act, 1986 to various services like airlines, banking, housing, insurance, posts and telegraphs and telecommunications. Towards the end of the book, some practical notes have also been provided for enabling the readers and practitioners to understand the way in which different Consumer Disputes Redressal Commissions and Forums are to be approached for the purpose of filing complaints and appeals and for getting their orders executed. *D.N. Saraf (1990)*, has critically examined the basic principles of major consumer laws in the country. This book contains a detailed commentary on the *Consumer Protection Act, 1986*. The author has traced the evolution of consumer law by referring to the developments in the United Kingdom, the United States and ultimately in India. He points out how the state regulation was necessitated due to the pressure of powerful consumer groups and observes that both in the United Kingdom and the United States, the consumer movement preceded legislative reform. He has also described the change that had come about in the recent past as a result of the untiring efforts of consumer organizations including filing of complaints against the State monopolies. He has suggested better mechanisms for consumer protection in India and has highlighted the role of State agencies, self-regulation of business both public and private, the role of voluntary agencies, consumer education and advocacy which includes the use of media, lobbying, boycotts, demonstration and

public interest litigation. He has mentioned in detail the role of the IOCU and UN Guidelines on consumer protection. *O.P. Garg (1990)*, has provided an exhaustive section wise commentary on the subject. He has explained the consumer's position under the American, British and Swedish laws. He has also dealt with the role of national and international consumer organizations in consumer protection. *Raj Rani (1978)*, has reviewed the existing legislative protection available to Indian consumer at both Central and State Government levels and the efforts made by manufacturers' and traders' associations and consumers' organizations. She has assessed the views of middle class home makers in respect of various areas of consumer interests and problems. She has finally offered valuable suggestions. *Verma D.P.S. (2002)*, surveys the major developments in the field of consumer protection in India since 1984, when the statutory provisions for regulating unfair trade practices were incorporated for the first time. The Consumer Protection Act, 1986 was enacted in order to provide speedy and inexpensive redress of consumers' grievances. Venugopal P. et al. (2012), revealed that educational institutions are doing their best to educate the and promoting consumerism its mean they are not earning money and they are not doing for promoting consumerism in the country. It is clear that IITs, IIMs, IIFTs and Universities are contributing towards this direction.

In above discussion researcher focused mainly on the awareness level of consumers and importance of the Consumer protection Act, 1986. There is a scope to study the effectiveness of different provisions of the Act. 1986, hence this study is conducted.

Objectives

1. To assess the 31 years of enactment of the Consumer Protection Act, 1986.
2. To reveal what has been achieved and what are challenges ahead?

Methodology

This study is qualitative and exploratory in nature. For this study available literature on consumer protection and welfare, which is in Indian context have been surveyed and on the basis of provisions of the Consumer Protection Act, 1986 and its implementation, opinion is being formed. For coming on the conclusion, available literature on the topic, various judgments of the cases and provision of the Act thoroughly studied. Researcher also interacted with the customers, officers, and academicians etc. to obtain the view on the topic.

Findings

After reviewing the literature and talking to officials, experts of the subject many facts revealed about the consumer protection and awareness. One side some facts are on positive note about the provisions of The Consumer Protection Act, 1986 and its implementation, which we can in category of achievements, where as some note are revealed on

which some corrective measure is needed for the betterment of the consumerism these facts can be categorized as challenges which are summarized below:

Achievements

- The Consumer Protection Act, 1986 enabled the consumer to get his/her grievances redressed about any defect or deficiency in products and services.
- Records of National Consumer Disputes Redressal Commission also Confirms that more than 90% cases registered with the consumer grievances redressal machinery under Consumer Protection Act. 1986.
- As the literacy level of the people increases the level of awareness among the people towards the consumer rights also increasing.
- From the enactment of the Act number of amendments has been made in The Consumer Protection Act, 1986 to become this Act more effective and consumer friendly.
- A full-fledge department (Department of Consumer Affairs) have been established which is ensuring the implementing the provisions of this Act and promoting the consumer awareness regarding the provisions of the act. This department also spreading the messages through TV commercial likes JAGO GRAHAK JAGO, awareness towards Polio, Cancer, Kusth Rog, Tuberculosis and other social awareness programme etc.

Challenges

The customer protection Act completed 31 years of enactment but still there are some issues, which need to be given attention. Some of them are related to the implementation of the provision of the Act and some are related to changes in time because business environment as well as global political & business environment also changing very fast, apart from this consumer are well informed about availability, price, quality etc. about the products and services. Keeping in view of the above facts following challenges are encountered.

In the Consumer Protection Act, 1986 Section 8A provides for establishment of District Consumer Forum at every district whose main purpose is to promote and protect the rights of the consumer within district. During the study researcher came across the fact that this provision which, has been inserted by an amendment during the year 2003, is not implemented in true sense. In many district, District Consumer Court are not working well they are working only on papers and not contributing for promotion and protection of consumer rights within the district.

Controller and Auditor General of India also commented in this matter with reference to Madhya Pradesh State- the objects of the District Forum are to protect and promote the rights of the consumers laid down in the section 6 of the Act. The composition of the district forum as the Chairman and such number of other official and non- official members as prescribed by the State Government. Section 8A of the Act

provided that the District Forum must hold at least two meeting in a year. The rule for conducting business at the meeting were required to be formulated by the state Government. The rule and procedure for conducting business at meeting of the district council were not formulated even after laps of several years.

At the implementation part one more weakness is also observed that seats of district form were not filled by the Govt. on time, which is creating hardship in the functioning of the forum. Many times the appointed members of the forum are not enough qualified to perform their duties as a member which are quasi judicial in nature. Further the honorarium paid to the member is not sufficient.

At time 629 District Forum are working in India and some of them are functioning as part time basis. During the study researcher explore the reason behind this, surprising facts revealed that this is not the failure at the part of Government, but the cases registered in the forum are not sufficient.

As already seen in the achievements that 90% case reported are solved the forum. In this process quasi judicial process were followed. One fact revealed that district forum and state commission are passing the order in the interest of the consumers for awarding them compensation for defective goods and deficient services but, there are very few examples where redressal forum awarded compensation for mental harassment during this course.

Department of Consumer Affair is promoting consumer awareness through Voluntary Consumer Association but these voluntary associations are not working at

grass root level and performing their duties at satisfactory level.

Suggestions

- For better implementation of the provisions of The Consumer Protection Act, 1986 in coming years, emphasis should be given on the following points:
- The provisions regarding constitution of District Forum (Section 8A) must be seriously implemented by the State government in coming years.
- The members of the different Forum must be selected on the basis of knowledge and requirement, not on the basis of political reasons and they must also have requisite qualifications which give their decisions according to law.
- While making decisions regarding defective products and deficient services due recognition must be given to mental harassment and compensation should be given to the customer or user.

Some recommendations made by Working Group of Planning Commission on Consumer Protection and Welfare in 12 five year plan are also important which are as follow:

National Consumer Protection Agency

- It is proposed to set-up a National Consumer Protection Agency to function as a Think- Tank on this issue.

Awards to Consumer Forums/ Commissions

- A mechanism should be developed to reward the District Forum, State Commission who perform well in promoting and protecting the rights of consumers.

Consumer Awareness Index

A consumer awareness index should be developed and survey conducted periodically so as to bring out the periodical changes in consumer awareness over a period of time various parts of the country and among the various categories of the consumer. This data will become the important indicator of the efficiency of the programmes of Consumer Affairs Department and should enable the department to take corrective measures in this regard on time and protect the interest and rights of the consumers in a better way in coming years.

Conclusion

The Consumer Protection Act, 1986 was enacted for the protection and promoting the consumer rights, now this law is completed 31 years and has achieved some of its objectives for welfare of consumers. India is a big country with diversity having different needs. On the one side educated and urbanized population get advantages of the provisions of this Act, whereas, on the other side uneducated and rural area people are not getting desired benefits of the provision of this Act, therefore, there is a need to educate the people about the benefits of the different provisions of The Consumer Protection Act, 1986.

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