



CONSUMER LEGAL PROTECTION : A CRITICAL STUDY WITH REFERENCE TO CONSUMER EDUCATION



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ABSTRACT

To Adam Smith , the philosopher of market forces, ‘ the consumer is the sole end and purpose of all production and the interest of the producers ought to be attended to only so far as it may be necessary for promoting that of the consumers’. With the market forces gaining momentum and the National Economics of the world coming together for greater collaboration , the Consumer is emerging as the kingpin. But at the present time the consumer finds himself as a victim of many unfair and unethical tactics adopted in the market place . Moreover he can’t have recourse to court litigation as it is expensive and protracted. Hence a consumer needs protection from the deceptive business practices and as it is a social injury so he needs legal protection. Over the years consumer rights laws in this country have developed to afford consumers with a range of protections and Consumer protection Act 1986 is among one of the most important defence for them. Since we all are consumer of one thing/service or another, so we all are bound to get affected by it. Consequently consumer protection has become a serious concern of the society and we have to devise different mechanisms for safeguarding the consumer rights. The objective of my research paper is to provide a critical and objective analysis of the national legal protections endowed to the consumers with a view to address the issue of consumer protection by linking it up with the consumer education. I believe that my research paper would positively help in making the consumer more informed, self-determined, critical, and responsible and in building a fairer, and safer society for the consumers.

Key Words : Consumers rights , Legal protection , Mechanisms , Consumer education

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there is ignorance among the consumers for their rights. As the consumers are not yet organised, so there is almost nil movement for consumer's rights. There has been lack of due recognition to consumer organisation. All these have created a situation of very safe heaven for the traders and a state of frustration and uncertainty for the poor consumer. This does not mean that there has been lack of concern\ worry for the consumer. Accordingly there are number of legislations following the constitutional mandate i.e. "Drugs (control) Act 1950 ; Drugs and Magic Remedies (Objectionable Advertisements) Act 1954;" "Prevention of Food Adulteration Act 1954;" "Essential Commodities Act 1955;" " Trade and Merchandise Marko Act 1958;" "Essential Services Maintenance Act 1968;" " Standards of Weights and Measures Act 1976", "Bureau of Indian Standards Act 1986" , and "The Monopolies and Restrictive Trade Practice Act 1969;" " Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act 1980;" etc. Besides this there are also some pre-independent legislations i.e. " Indian Contract Act 1872" , "Sale of Goods Act 1930" , " Agricultural Produce (Grading and Marking) Act 1937" , and " Drugs and Cosmetic Act 1940" . The litigation under these legislative measures are disproportionately costly and troublesome particularly for the illiterate consumers. The legal procedures are complex and often delayed and most of all there is very little scope for the remedies. In a nutshell , the impact of these legislations in protecting the consumer has been relatively little.

Thus having realised the futility and insufficiency of these legislative efforts in order to protect the consumer from defective goods or deficient services , over charging of prices, and unscrupulous exploitation , the Parliament of India passed on 24th December 1986, a potentially very important legislation to fulfil the aim of safeguarding the consumers which is known as “ The Consumer Protection Act 1986”. It is essential to have a glimpse over the important provisions of this act .

Consumer Protection Act, 1986

The Consumer Protection Act, 1986 was enacted to provide a simpler and quicker access to redress of consumer grievances. The Act seeks to promote and protects the interest of consumers against deficiencies and defects in goods or services. It also seeks to secure the rights of a consumer against unfair trade practices, which may be practiced by manufacturers and traders.

The set-up of consumer forum is geared to provide relief to both parties, and discourage long litigation. In a process called 'informal adjudication', forum officials mediate between the two parties and urge compromise.

The Act applies to all goods and services unless specifically exempted by the Central Government. It covers all the sectors whether private, public or cooperative.





Claims of less than Rs. 5 lakh should be filed with district forum, claims of Rs. 5-Rs. 20 lakh directly with the state commission, and claims of more than Rs. 20 lakh with the National Commission.

To file the complaint:

- Complaint is to be filed within two years of buying the product or using the service.
- Complaint needs to be in writing. Letters should be sent by registered post, hand-delivered, by email or fax. Don't forget to take an acknowledgment.
- The complaint should mention the name and address of the person who is complaining and against whom the complaint is being filed. Copies of relevant documents must be enclosed.
- The consumer must mention details of the problem and the demand on the company for redressal. This could be replacement of the product, removal of the defect, refund of money, or compensation for expenses incurred and for physical/mental torture. Please ensure that the claims are reasonable.
- You should preserve all bills, receipts and proof of correspondence related to the case. Avoid using voice mail or telephone because such interactions are normally difficult to prove.
- The complaint can be in any Indian language, but it is better to use English.
- There is no compulsion to hire a lawyer. Main cost consists of correspondence and travelling to the consumer forum for the hearing
- Maintain a complete record of the emails and documents sent by you.

Appeal

Appeal is a legal instrumentality whereby a person not satisfied with the findings of a court has an option to go to a higher court to present his case and seek justice. In the context of consumer forums:

- An appeal can be made with the state commission against the order of the district forum within 30 days of the order which is extendable for further 15 days. (Section 15)
- An appeal can be made with the National Commission against the order of the state commission within 30 days of the order or within such time as the National Commission allows. (Section 19)
- Appeal can be made with the Supreme Court against the order of the National Commission within 30 days of the order or within such time as the Supreme Court allows. (Section 23)



Penalties

The consumer courts (district court, state commission and National Commission) are given vast powers to enforce their orders. If a defaulter does not appear in court despite notices and reminders, the court may decide the matter in his absence. The forum can sentence the defaulter to a maximum of three years' imprisonment and impose a fine of Rs. 10,000. Forums can issue warrants to produce defaulters in court. They can use the police and revenue departments to enforce orders.

Effects of Consumer Protection Act 1986

With the passage of the Consumer Protection Act (COPRA) 1986, an all pervasive sense of complacency seems to have crept in. There seems to be a feeling that COPRA is the panacea for all the ills plaguing the consumer. Nothing is farther from the truth. The consumer should treat COPRA as just one more tool to guarantee their rights and nothing more. The NGOs working in the past as consumer rights activists are more and more overcome by a feeling of redundancy as they feel their work has been taken over by the consumer courts. But the record must be set straight here.

Consumer Protection Act is only a small step towards creating a consumer friendly market, but it has miles to go before making India a land where a consumer is treated as KING! That may not happen automatically given the decades of neglect of consumers and an attitude of taking them for granted. With a huge population in the rural areas, where literacy and awareness of consumer's rights and responsibilities are low, consumerism as developed in the advanced countries may not take roots in near future.

Therefore it is very important to help the consumer to make them aware of their rights and their assertion in the present scenario of the free economy. Since the government has failed miserably on several fronts concerning consumers – take for instance the PDS (Public Distribution System), mostly patronised for the weaker section of society, where cheap and sub standard goods are supplied to the consumers. And they have no choice! The same negligent attitude holds goods in providing -

- (a) basic health services
- (b) quality of education in government and civic body controlled schools
- (c) quality of life in slums
- (d) potable water to million
- (e) means to take care of the environment
- (f) steps to protect the consumers from the onslaught of adulterators who target the weaker sections.





themselves away from being cheated. When their awareness rise, sellers and producers would be forced to get quality products with better performance, thereby leading to better economy and growth of India in the coming years.

Thus a consumer should be made conscious of their most important **rights** which may be given as below :

- a) Access to **information**
- b) **Right to safety**
- c) **Right to free choice**
- d) **Right to be heard**
- e) Right to enjoy goods / services as a consumer
- f) Right to **Consumer Education**.

Right to Consumer Education means that consumer laws are written in language that is easily understood. It also means the right to acquire knowledge and skills needed to make informed, confident choices about goods and services, while being aware of basic consumer rights and responsibilities.

Rights cannot exist without responsibilities. Consumer responsibilities are equally significant . The consumers should aware themselves of the following **responsibilities** -

- (i) To provide **adequate information** to the seller
- (ii) To exercise **caution** in purchasing:
- (iii) To insist on **cash memo** or receipt
- (iv) To **file complaint** against genuine grievances:
- (v) To be **quality conscious**:
- (vi) To be **cautious against false and misleading advertisements**:
- (vii) To **exercise his legal rights**

Role of NGOs in Consumer Education

Consumer protection can certainly be asserted via non-government organizations and individuals as consumer activism. Accordingly in order to secure and uphold the rights of the consumers, both the NGOs and civic participation is mandatory. They can play the following meaningful roles:

- They can organise campaigns on various consumer issues to create social awareness.
- They can organise training programmes for the consumers and make them conscious of their rights and modes of redressal of their grievances.



- They can bring out periodicals and other publications to enlighten the consumers about various consumer related developments. For instance, VOICE publishes a bimonthly magazine called “Consumer Voice” which covers a wide variety of subjects of importance for the consumers.
- They may provide free legal advice to their members on matters of consumer interest and help them to take up their grievances with the District Forum, State Commission and National Commission set up under the Consumer Protection Act.
- They can interact with businessmen and Chambers of Commerce and Industry for ensuring a better deal for consumers.
- They may also launch Public Interest Litigation (PIL) on important consumer issues. Public Interest Litigation means a legal action initiated in a court of law regarding a matter of general public interest such as ban on a product injurious to public health.

NGOs working in the field of Consumer Education in India

It would be overwhelming to know that in present day **several NGOs and consumer organisations** have come up in India with the object of educating and enlightening the consumer. Some of the prominent organisations are as under:

- (i) Voice, New Delhi.
- (ii) Common Cause, New Delhi.
- (iii) Consumer Guidance Society of India, Mumbai.
- (iv) Akhil Bharatiya Grahak Panchayat, Mumbai
- (v) Karnataka Consumer Service Society, Bangalore.
- (vi) Consumers Association, Kolkata.

Most of these organisations are NGOs (Non-Government Organisations) which have been created for the protection of the interests of consumers, and are playing a prominent role in providing education and enlightenment to the consumers.

CONCLUSION

Hence consumer education and awareness empowers the consumer of his rights as a consumer, so that he can get the best deal. And It also involves imparting of adequate knowledge and information about his responsibilities, so that he makes the best deal. In essence modern consumer education can teach more than getting the best buy. Rather, it is a lifelong process essential to the economic well-being of society. Consumer education offers several benefits to individuals; it

- (1) encourages critical thinking;



- (2) imparts life skills that contribute to success in everyday living;
- (3) promotes self-confidence and independence;
- (4) fosters broadly accepted values; and
- (5) improves the quality of life.

In addition, consumer education offers several benefits to society: it encourages citizen awareness and promotes a stable society. Finally, consumer awareness offers several benefits to business as it satisfies customers, creates realistic expectations of products, and increases sales.

Keeping this in view now it is high time for an aware and vigilant consumer to get an insight into the rights of consumers defend themselves so that they may exercise them whenever the need arises. So a *dynamic and participatory mechanism of NGOs and consumer activists* besides governmental efforts should be devised with a view to make them knowledgeable and educated about the law, their rights and methods of recourse, in order to participate effectively and self-confidently in the market place, to secure from exploitation, and take appropriate action to seek grievance redress. At the same time **by the instrument of consumer education, we may create an awareness among the consumers of the citizens' role in the economic, social and government systems and how to influence those systems to make them responsive to consumer needs in order to build a fairer and safer society. Thus we may awaken the consumers for their rights and obligations through intensive consumer education.**





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