

Juris Prudentia on Consumer Protection and Consumer Welfare

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Abstract

India is not a developed country; India is developing in the last quarter of the 21st century. The process of development, along with the expanding globalization, liberalization, and industrialization processes, has increased the number of consumer-related issues with the advancement of information technology. The world has become a small village and the web resource is a territory, where e-commerce is easily available with the internet regime and the use of Android phones and laptops. The market is now fully designed with up-to-date colors of design and passion, to cheat and exploit the customer in a fashioned manner with all lucrative advertisements in electronic media and fashioned items at online trading. This has changed choices, communication, and the concept of consumerism. "More profit with little time is the best trader." This trend is causing distress as the unfair traders enjoy prestige and good social status. The consumer is the most important person in the economic setup of a country, and the customer is sovereign, and the consumer is the "king of kings". However, it has been realized that consumer protection is a socio-economic programme that includes legislation and the responsibility of the government to protect consumers' interests and rights through adequate measures, legal structure, and administrative framework. The main objective of this Consumer Protection Act of 2019 is to protect the consumer in every respect of his interests. The prime objectives were to protect the consumer, through the existence of punitive, preventive, and compensatory measures. The quick redress procedure fulfils the hopes and aspirations of the common people and achieves the real purpose of this legislation. It has been seen from time to time that consumer movement in India is weak, consumer awareness is poor, and leadership in the consumer class lacks the vitality to organize against black marketing transactions. The author explored the best provisions of the law and shed light on the welfare perspectives of consumerism.

Keywords: Consumerism, consumer welfare measures, damage and compensatory practices, legal jurisprudence in consumer law, role of quasi-judicial functionaries, punitive and preventive procedural remedies

INTRODUCTION

"Any arrangement for the allocation of social positions, and goods and services should proceed on the basic assumption that everyone has a right to equal concern and respect. Any arrangement that pays unequal respect or shows unequal concern towards any one violates the basic right of all."

—Mahendra Palsingh

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The new enactment of Consumer Protection Act is a milestone in the area of consumer protection. It is a potent and vibrant legislation that has come to the aid of consumers in various spheres of human

activity [1]. Financial intermediaries and industrial revolutions are going through significant changes all over the world under the impact of globalization. The technological upgradation and financial innovations over the past one decade, has been unfolding before our eyes is the onward march of rapacious capitalism. Industrial revolution brought sea change in the world scenario. In view of the fast changing world order, the Consumer Protection Law has acquired high importance. Due to fashionable technical information, a consumer is unable to choose the adequate one, having manipulated with open advertisements [2]. There is a good development in the network process, and network on online marketing is an advanced marketing strategy in this present context. The digital age has opened a new regime of commerce with digital branding. In these days, the expectation of customer is very high because the digital era has given an easy access in the fingertips of android, laptop, I pad, I phone, a large variety of choices are available with convenient payment process. But there are also some issues and challenges in stake to protect the consumer's interest, though the consumer often becomes a victim of unfair competition, marketing policies, cumbersome legal process, cost, and agony. To assist and help the new setup issues and challenges faced by the consumers in this digital era, the need of this legislation is timely justice for settlement of consumer disputes without delay and denial of justice without any cumbersome legal process.

The need of the hour is to protect the consumers' right to protection against goods and services, which can be dangerous to life and property. The term service unambiguously indicates that its definition is not restrictive and includes within its ambit any beneficiary of such service other than the one who actually hires or avails of the service for consideration and such services are availed with the approval of such person. The Consumer Protection Act, 2019, is a law to protect the interest of the consumers, This Act provide safety to consumers regarding defective product, dissatisfactory services, and unfair trade practices [3].

The consumers have the right to access a variety of goods and services with competitive prices. In this last quarter of 21st century, there is a need to protect the consumer from unfair trade practices and from their colorful advertisements. If your go through this act under the Section 2 (7) (i), consumer means any person who 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.

The manufacturer or suppliers who are supplying to the consumers, a lot of difficulty and deficiency is an alarm in this internet trade arena [4]. The real norms and standards of quality for a particular product have left no scope for affording opportunity to avail it on as per the essentiality of consumers' option. As such, the consumer protects his interest to exercise his or her right in proper forum against the exploitation or abusive restrictive trade practices. The primary aim of this act is to save the rights of all the consumers by proper means to achieve the goal of justice within the timeframe to restore the fairness of justice, the settlement of consumer dispute, and penalize the unfair trade that is rampant in the digital regime of this nation.

The Consumer protection Act no doubt provides a mechanism to find out the real deficiency in services, quality of product, misleading advertisements, and unfair trade practices by the seller of supplier to cheat the common people. Collectively, these mechanism set up to protect and promote consumer rights [5]. This act enshrines certain rights of the consumers and provides for setting of consumer protection council in the states and the center. There are specific rights enshrined with the Consumer Protection Act which are enumerated here one after another clinically.

The rights of the consumers are:

- *Right to safety*: That means right to be protected against the marketing of goods and services, which are hazardous and endanger to life and property.
- Right to be informed, without the change of nature and character in any manner.

- *Right to choose*: The consumer became king of his domain.
- Right to be heard.
- Right to seek redressed mechanism.
- Right to know about the consumer education.

All the grievances redresses mechanism is necessary as it reflects the essence of any institution of the system in a country. No one system can work perfectly in a country and thus there are and there will be grievances arising from any cause every now and then [6]. Rights and interests of the person in different roles have to be protected. Goods or services consumed demand that there be an effective mechanism in place of the rights of these consumers only for survival of the business.

The Consumer Protection Act itself solely exposes the redressal mechanism. According to the mechanism, the three tier system is forced to meet the recurring needs of fairness to justice in every district-level CDRC, at the state-level SCDRC, and NCDRC set up at the national level for redressal of grievances. It is repealed now; there is new legislation available in the year 2019, and implementation is fruitful in 2021 to deal with the exposure of unfair practices in the virtual mode [7]. Online fraud is rampant in the pandemic situation. The consumer became the subject of his dominion. In this regard, the dominion exploits the consumer through unfair trade practices.

The district forums are established by the state governments in each district in each “state” by notification of the state govt. If any state government desires to establish more than one district forum in a district forum, if it deems it proper to establish the board for the speedy disposal of cases. If any backlog of cases is pending to meet the urgency of fairness of justice, the central government will set up a Central Consumer Protection Authority (CCPA) to promote, protect and enforce the rights of consumers [8]. It will regulate matters related to violations of consumer rights, unfair trade practices, and misleading advertisements. The CCPA will have an investigation wing, headed by a Director-General, which may conduct inquiries or investigations into such violations.

COMPOSITION OF THE DISTRICT FORUM

Social democracy is baseless without economic democracy. Therefore, to sustain economic democracy, consumers’ rights must be protected. Consumer protection has earned an important place in the socio-political and economic programmes to protect and provide the best remedial measure for consumerism. Each district forum shall consist of a person who is, has been, or is qualified to be a district judge, or retired district judge, who shall be its president, and two other members, who shall be persons of ability, integrity, and standing, and have adequate knowledge or experience of or have shown capacity in dealing with problems relating to law, commerce, accountancy, industry, public affairs, or administration, one of whom shall be a woman.

It is also observed that the same wine in the new bottle for better level and status is there in the consumer protection Act of 2019. No doubt some changes are there to meet the urgency of the society but there is also need for further go with the advantages of new legislation, and disadvantages of the new concepts will arise after its proper implementation. Every appointment shall be made by the state government on the recommendation of panel of experts within prior approval of a selection committee [9]. The said person will hold for a term of five years/prior to the 2nd term up to the age of 65 years the remuneration and allowance, and other terms and condition are payable to them as per the notification thereon from time to time as described within this Act. The president or any member may resign from his office in writing to his or her reporting authority that he is not showing any interest to continue further for the said post.

JURISDICTION OF THE DISTRICT FORUM

The importance of jurisdiction plays a vital role in consumer justice mechanisms. Identifying and responding to complaints cannot be overstated, but the problem lies with the fact that most consumers do not bring their complaints to the appropriate platform that could not help them achieve their goal.

The jurisdiction of the district forum extends not only to the subject matter but also to the territorial and pecuniary limits. It is the fundamental principle of the law that a court should work with certain jurisdictions. According to the law, the district forum is allotted to jurisdiction pertaining to the subject matter, territorial, and pecuniary matters of the suit.

REVISED PECUNIARY JURISDICTION

In this universe, democratically set-up governments are people-oriented functionaries; democracy runs by the people, for the people, and of the people in a democratic form of country like India. We have the national spirit and federal form of state functionaries inside the domain [10]. The sacred pillars of democracy are the executive, legislature, and judiciary. After any legislation, there is a gazette notification for its implementation, and some new powers have been incorporated with this new legislation.

The sum assured is ₹ 50 lakh (earlier less than 1 crore) for district commissions, now the limitation is within ₹ 1 crore (for filing/submission of a complaint before the CDRC).

It is more than ₹ 50 lakhs to ₹ 2 crore (earlier 1 crore to 10 crore) for state commissions; it is pertinent to note here that it is more than ₹ 2 crore (earlier more than 10 crore) for the national commission. About the Consumer Protection Act, 2019: Product Liability: A manufacturer, product service provider, or product seller will be held responsible to compensate for injury or damage caused by a defective product or a deficiency in services.

- *This three-tier quasi-judicial mechanism:* The act promulgates a three-tier quasi-judicial mechanism for redressal of consumer disputes, namely district commissions, state commissions, and national commissions.
- *Time-bound disposal of complaints:* The act stipulates that every complaint shall be disposed of as expeditiously as possible, and endeavor shall be made to decide the complaints within a period of 3 months from the date of receipt of notice by the opposite party.
- The complaint does not require analysis or testing of commodities, and within 5 months, if it requires analysis or testing of commodities.
- *Filing complaints electronically:* The act also provides consumers with the option of filing complaints electronically.
- To facilitate consumers' filing of complaints online, the central government has set up the E-Daakhil Portal.
- *Mediation route:* The act refers consumer disputes to mediation with the consent of both parties.
- It is now a common question answered by all of us that: what benefit could the complainant accrue from the remedy obtained by the consumer.
- Negligence, compensation, strict liability.
- To withdraw hazardous goods.
- To award adequate costs to parties.

After enquiry and perusal in ordinary civil and criminal courts, the courts can grant ad-interim orders. The consumer disputes redresses agencies are not purely civil courts. They are only quasi-judicial bodies. The Consumer Protection Act of 1986 as well as the protection Act of 2019 does not provide any provisions nor authorize the forums or commissions to pass ad interim orders. Hence, no district forum or state commission or national commission can pass ad-interim orders while the complaint is under enquiry. They can pass only final orders up to its extent purview.

DIAGNOSIS OF CONSUMER COMPLAINTS

Customer satisfaction is increasing and is recognized as a main ingredient for success in the market. Consumers complain when they do not get very good service or when the product they bought does not work or does not do what they expected. So consumer dissatisfaction resolves complaints. There is a need to explain the manner in which a complaint shall be made to the district forum by the consumer if

the litigation is within 1 crore rupees. This is a limitation on filing a case as per the pecuniary jurisdiction of the district consumer dispute redress forum. The consumer to manufacturer or supplier delivered or agreed to be solely delivered or such service has to be provided or agreed to be provided within the time of due course as per the contract. Product liability means the liability of a product manufacturer, service provider, or seller to compensate a consumer for any harm or injury caused by a defective good or deficient service. To claim compensation, a consumer has to prove any one of the conditions for a defect or deficiency.

The relevant documents and all particulars of the complaint: The complaint to the district forum will be very simple. It does not require any legal formalities. The complainant can present his complaint directly to the district forum or send it by registered mail. Where there are several consumers, one, two, or more can file a complaint on behalf of them and others. The consumer has genuine reasons for the delay and explains them to the consumer forum. By recording the reasons, such a delay can be condoned, and the redressal agency may entertain the complaints. When a complainant files his complaint before the district forum, it sets the law in motion. The framers of the act intended to provide a simple summary and expeditious procedure to dispose of the consumer's disputes. The Act of 1986 provides the principles of natural justice in the provisions themselves.

The intention of the framers of the Act of 2019 is to provide a speedy and inexpensive remedy to the aggrieved consumers. If the opposite party wants to prolong the case to harass the consumers, he may file a case before the High Court or the Supreme Court alleging that the consumer disputes redressal agency did not follow the principles of natural justice.

REMEDIAL PARAMETER TO CONSUMERISM

The real consumer is the king of kings, and modern consumers seem to be satisfied with passion for their material needs. Cultural diversity includes not only differences in language and lifestyle but also temperamental perceptions and values intimately linked to consumers.

There has been some observation recently. The act stipulates the pecuniary jurisdiction of each tier of consumer commission. The district CDRC will entertain complaints where value of goods and services does not exceed ₹ one crore. A consumer can file a complaint with CDRCs in relation to:

- Unfair or restrictive trade practices;
- Defective goods or services;
- Overcharging or deceptive charging; and
- The offering of goods or services for sale which may be hazardous to life and safety.

Complaints against an unfair contract can be filed with only the state CDRC and national appeals from a district CDRC will be heard by the state CDRC. Appeals from the state CDRC will be heard by the national CDRC. The final appeal will lie before the Supreme Court.

APPROACH TO UPLIFT THE CONSUMER MOVEMENTS

In reality, the awareness of your rights, as a buyer at the market place is not safe in purchasing any product in any manner. Everywhere, there is unfairness by rampant traders to cheat the customers [11]. It is also a question of what role the government played in its publicity to promote the consumer welfare measures and protect consumers' rights.

That the Department of the Consumer Affairs, New Delhi, also introduced a scheme on consumer clubs in the schools to impart consumer education to the schoolchildren in a non-formal manner with the object of educating children about the right of consumers as provided in the Consumer Protection Act of 1986 and mobilizing the youngsters by instilling in them the spirit of protection of consumer rights by imparting knowledge about the role of consumers and movements in the country.

The consumer protection department is undoubtedly taking various measures to involve all concerned authorities and strengthen awareness about consumer protection. It has been seen that in various ways, such as ensuring the availability of essential commodities at reasonable prices, including the monitoring of prices, formulation of standards for goods and services, and the regulation of weighing and measuring instruments also provides a legislative framework for the best safeguard measures in question, it is ensured that the process of approaching a redressal forum is reasonable and transparent in every endeavor.

CONCLUSION

Knowledge is power, and ignorance is the root cause of exploitation. It is seen that both the mechanisms of grievance and redress are provided herewith for both parties and are not heavily or unnecessarily biased in favour of any one party. The consumer is to be protected at all costs, and for that, an informal method has been followed in both mechanisms. The procedure of forum established under the Consumer Protection Act may appear to be too elaborate, but it is only a step in the direction of providing wholesome justice to the needy. To ensure better consumer protection, the Consumer Protection Act of 1986 was amended from time to time to redress grievances and facilitate the quick disposal of cases that were in need of it and it has been repealed and replaced by new legislation, i.e. by the Consumer Protection Act of 2019. In reality, the consumer movement started in urban and industrial area only, and it is also gradually spreading over to the other regions of the country. Due to illiteracy and poverty, there is a lack of awareness among the rural and SC/ST people who are actually in need of protection. Therefore, to educate, to promote the consumer movements, to work with the communities, and to help them solve their problems with counseling and guidance, it is necessary to organize programmes in the public interest. It is necessary to form an association or organization on grass-root level or the local level to promote the consumer movement and awareness for rescuing themselves from negligence, cheating, and exploitation. In this national movement within India, that there is a lot of significant and complex role has to be played for the welfare of the society. In the upcoming days also, a lot of issues and challenges will come to forefront to protect the economic sovereignty shall be complex and complicated subjective object in all perspectives of the society. The NGOs/media are not only taking a vital role in educating the people about their rights but also working at grass root level and initiating movement which bring empowerment to every corner of the region.

In this connection, every individual or citizen of our country has to accommodate and cooperate with the movement to make it fruitful. This act itself is noble in its aspect. The prevailing law and the other existing laws are punitive and preventive in nature, but the provisions of this act are compensatory in nature. But it is unfortunate that after 75 years of independence, average consumers continue to remain in utmost poverty, illiteracy, and ignorance, and mankind is always in a struggle for existence. A question arises in my mind: is the state capable of eradicating these social problems. In my opinion, every social problem is a legal problem. If we try our best to solute the social evils then we find remedial jurisprudence. Thus, it can be submitted that social justice can come only through political will, a vigorous progressive judicial process, and whole-hearted support and cooperation in every sphere to maintain the required standard or, in relation to any service, the law can protect the consumer's interests. The consumer's rights can also be protected if the farms recognize complaints and provide a positive response for their customer service. A response of right and confidence in the interest of justice might be able to redress the consumer's motto in the larger interest of justice.

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