

## Consumer Protection Act, 1986 is a Social Legislation For Protection of Consumer Rights

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### **Abstract:**

*The Consumer Protection Act, 1986 is no more a farce in sealed files but is fast emerging as the true saviour of the rights of consumers. This has been amply proved by the recent verdicts given by the Supreme Court, National Consumer Disputes Redressal Agency (National Commission) imposing deterrent punishment or compensation on the uncaring government officials, servicemen and traders who had hitherto been harassing the consumers with impunity. The Act was enacted 'to provide for the protection of the interest of consumers'. The use of the word 'protection' furnishes key to the minds of the makers of the Act. In fact the law on the subject 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 importance of the Act lies in promoting welfare of society by enabling the consumer to participate direct in the market economy. A scrutiny of various definitions such as consumer, service, trade, defects, deficiency, unfair trade practice indicates the legislature has attempted to widen the reach of the Act. Each of these definitions are in two parts one explanatory and the other explanatory. The provisions of the Act thus have to be construed in favour of the consumer to achieve the purpose of the enactment as it is a social, benefit-oriented legislation.*

**Key words:** *Consumer Rights, protection, Act, Supreme Court, National Commission,*

### **I. Introduction:**

The preamble of the Consumer Protection Act, 1986 intended for the protection of the interests of the consumers and for that purpose to make provisions for the establishment of Consumer Protection Councils and Consumer Disputes Redressal Agencies for the settlement of consumer disputes and for matters connected therewith. The statement of objects and reasons attached to the bill states:

The Consumer Protection Bill, 1986, seeks to provide for better protection of the interests and for that purpose, to make provision for the establishment of consumer councils and other authorities for the settlement of consumer protection councils and other authorities for the settlement of consumer disputes and for matters connected therewith.

To provide speedy and simple redressal to consumer dispute, a quasi-judiciary machinery is sought to be set-up at the District, State and National Levels. The quasi-judicial bodies will observe the principle of natural justice

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and have been empowered to give reliefs of a specific nature, and to award, wherever appropriate, compensation to consumers. Penalties for non-compliance of the orders given by the quasi-judicial bodies have also been provided. From the reading of the provisions of the Act and Rules, it is clear that separate Forums are constituted by the legislature at district level, state level and national level. Complaints can be lodged before these machineries. Appeals against the orders of district forums lie to the state commission and against the orders of the state commission, an appeal lie before the national commission. Further appeal lies before Supreme Court against the orders of the National Commission. In fact, the statement of objects and reasons clearly mentioned that the Act is intended to provide speedy and simple redressal to the consumer disputes by providing a self-contained quasi-judicial machinery.

The Act is a social-welfare legislation enacted to provide for the better protection of the interest of the consumers and different redressal forms have been established under the said Act for settlement of consumer disputes. The legislature having enacted such legislation for speedy solution of disputes of the consumer for the benefit of people at large, the people to allow those forms to function as far as possible without avoidable interdiction by the High Courts. The consumer legislation is a beneficiary piece of legislation and the legislature in order to help the consumers has not prescribed any court fee to be affixed on the complaint. But it is expected from the complainants that they should come before the Redressal Agencies with clean hands, and that the reliefs claimed by them are not inflated.

## II. Research Questions

1. Whether the Consumer Protection Councils are perusing to protect and promote the consumer rights
2. Whether the Consumer Protection Act, 1986 will act as social legislation?

## III. Literature Review

### 3.1 Strict Construction of the Legislation:

On strict reading of the provisions of the Act as a whole it would be seen that in enacting the statute, the intention of parliament was to provide protection and relief to four categories of consumers namely:

- Persons who have suffered loss or damage as a result of any unfair trade practice adopted by any trader.
- Persons who have purchased goods for consideration which are found to suffer from one or more defects.
- Persons who have purchased goods for which the trader has charged a price in excess of the price fixed by or under any law for the time being in force, or displayed on the goods or any package containing such goods.
- Persons who have hired any services for consideration when the services provided are found to suffer from deficiency in any respect, the Act seeks, inter alia, to promote and protect the rights of consumers.

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## 3.2 Perspective of Consumer Protection Act, 1986:

The Act received the assent of the president on 24 December 1986, the legislation was enacted for the protection of the consumers and for that purpose to provide for the establishment of consumers council and other authorities for the settlement of consumer's disputes and matters connected therewith. Section 1(3) of the Act provides that it shall come into force on such date as the central government will provide by notification. Since different dates could be appointed by different States for different provisions, the provisions of the Act did not come into force on a single date in the entire country. The provisions contained in Chapters 1, 2 and 4 were brought into force by the Central Government with effect from 15<sup>th</sup> April 1987 and chapter 3 from 1<sup>st</sup> July 1987. The consumer protection introduction and scope of the Act, - The preamble of the Act makes it clear that the Act was to provide for the 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 consumer disputes. Therefore, the extent and nature of protection schemed and devised under the Act would also become vitally relevant to assess width and range of services that could reasonably be held to be comprehended for protection under the provisions of the Act. The protection envisaged the interests of consumers by providing for the establishment of consumer councils and other authorities for settlement of consumer disputes. The Act postulates the establishment of Consumer Protection Council and the object of these councils are one and the same to protect and promote the consumer rights.

Consumer Disputes Redressal Agencies under the Act are not courts in the ordinary concept and meaning, but merely Redressal Forms constituted to 'settle' the disputes raised and pass orders of the kind specified in section 14 of the Act. In substance, they are neither courts nor forms with any exclusive jurisdiction over such claims or disputes or any special class of disputes. Though in the hierarchy of their creation themselves, provisions of appeals have been provided with further right of appeal from the National Commission only to the Supreme Court of India and the Administrative Control vested in like manner among the three disputes redressal forums, they cannot claim to be la unto themselves but are subject to the jurisdiction of the High court under Articles 226 and 227 of the Constitution of India.

The Act, as such, does not cast any obligation on these disputes redressal forms to act in such a manner or lay down any guidelines or norms as to when they should necessarily direct or refer a particular claim to the ordinary civil courts. No other authority or the ordinary civil courts have also been specifically conferred with any such powers to intervene in the matter at the instance of the opposite party unless there is any such powers to intervene in the matter at the instance of the opposite party unless there is any scope for interference on such grounds or at the initial stage of the proceedings itself by the High Court in exercise of its powers under Article 226 and 227 of the Constitution of India and the possibility may be next to nothing in this regard except where the constitutional validity of any provisions of the Act or Rules.

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### 3.3 Scope and features of the Act of 1986:

1. The scope and object of Consumer Protection Act, 1986 – the importance of the Act lies in promoting welfare of the society by enabling consumer to participate directly in market economy.
2. Scope and applicability of the Act – under section 1(4) of the Act, the Act shall apply to all goods and services, save as otherwise expressly provided by the Central Government by notification and central government has not so far issued any notification excluding any service rendered by the government department from the purview of the Act, hence the service done by the registration department was a service within the meaning of the Act, and since it was done for consideration, namely stamp duty and registration fees, persons who present documents for registration were consumers within the meaning of section 2(1)(d)(ii) of the Act.
3. The Consumer Protection Act has been passed for protecting the interest of the consumer, no doubt a liberal interpretation has to be given while constructing the jurisdiction of the Tribunal constituted under the Act. But at the same time, it must be borne in mind that when there was no complaint at all as defined under the Act, the District Forum cannot exercise jurisdiction. It was, therefore, necessary for the District Forum constituted under the Act to examine the complaints filed before them under the consumer protection Act and to see whether such complaints do not attract the provisions of the Act, they would do well not to entertain the complaint because by entertaining the complaints where they have no jurisdiction, they will be encroaching on the jurisdiction of the civil courts or other Tribunals and thereby clutching at jurisdiction which they do not have.
4. The Consumer Protection Act provides cheap and quick redressal of genuine consumers' grievances and it is a matter of paramount public importance that no person should misuse the remedies available under this Act for lodging false complaints on the basis of fabricated evidence and harass the persons who supply goods or render services.
5. The object and purpose of the Act – The object of the legislation, as the preamble of the Act proclaims, is 'for better protection of the interests of consumers'. During the last few years preceding the enactment there was in this country a marked awareness among the consumers of goods that they were not getting their money's worth and were being exploited by both traders and manufacturers of consumers goods. A three-tier system comprising the District Forum, the State Commission and the National Commission came to be envisaged under the Act for redressal of grievance of consumers.
6. The object of the Act is to give to the complainant proper information and opportunity to put his case properly. In case of ignorance and poverty, the complainant was not able to plead the case very properly and has not filed even an affidavit resulting into the failure of justice. Therefore, the case was remanded to the District Forum as a special case to decide it afresh after giving opportunities to both the parties.
7. The preamble of the Act recites that it is to provide for the 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 consumer's disputes and for matters connected therewith.

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8. Comprehensiveness of the Act – It is evident from section 2(1)(o) of the Act, that even though the Act has been processed by the Ministry of Food and Civil Supplies of the Government of India, the parliament has enacted it and there is not provision in the Act limiting it to subjects under the control of civil supplies ministry.
9. Banking cases – application of the Act – The Act applies to Banking transactions with full strength. Large number of cases pertaining to banking institutions have been decided under this Act. Where as per special instructions either of the partner had the authority to operate the account the bank acted in accordance with the instructions and authority in honouring the cheques signed by one partner.
10. Education – Application of the Act. – The answer to the basic question whether education is to service under the purview of the Act is in the affirmative and the answer to specific questions such as whether holding of examination, declaration of results etc., is a service, is also in the affirmative, these specific issues being operational aspects of the basic matter.
11. Exclusion of persons from the Act – Legislative Intent. – The intention of parliament in excluding persons purchasing goods for commercial purposes from the definition of the expression ‘consumer’ is to impose a restriction that the special remedy before the consumer forums can be invoked only by ordinary consumer purchasing goods for their private and personal use and consumption and not by business organisations buying goods for commercial purposes. It was held that the appellant is not entitled to invoke the remedies by the Consumer Protection Act.
12. Speedy justice to consumers to effect pendency of cases before one Bench is not enough. – President of National Commission was directed to draw attention to government for taking appropriate actions. Supreme Court observed that as proposed amendment to Act was pending and consumer protection (Amendment) Bill 2002 showed that parliament was alive to problems faced by consumers and the consumer forums, therefore, further directions were not necessary. Apart from the contemplated legislative action, it is expected that the government would also take appropriate steps in providing proper infrastructure so that the Act is properly implemented and the legislative purpose of providing alternative, efficacious, speedy, inexpensive remedy to the consumers is not defeated or frustrated.
13. Summary trial of complaints in Consumer Forum – evidence Act in terms does not apply, - This Court held in the case of Malay Kumar Ganguly vs. Dr.Sukumar Mukherjee and others (2009) 9 SCC 221, that provisions of Evidence Act are not applicable and the fora under the Act are to follow principles of natural justice.

### 3.4 Perspective of Consumer Rights:

Every year the 15<sup>th</sup> of March is observed as the World Consumers Rights Day. The significance of this day is that 15<sup>th</sup> March 1962 John F.Kenedy, the then President of the USA declared four Consumers Rights in his special message to the American Congress. Such consumer rights are Right to safety, Right to be informed, Right to choose, and Right to be heard. Later during 1974 the International Organisation of Consumers Union is

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added four more consumer rights in the list. Such consumer rights are Right to redress, Right to Consumer Education, Right to a healthy environment and Right to basic needs. The first four rights and two rights respective have been inserted in the section 6 of Consumer Protection Act, 1986

Statement of Objects and Reasons. – The Consumer Protection Bill, 1986 seeks to provide for better protection of the interests of consumers and for the purpose, to make provision for the establishment of Consumer Councils and other authorities for the settlement of consumer disputes and for matters connected therewith. It seeks, inter-alia, the main objects of the Consumer Protection Councils (Central Consumer Protection Council, State Consumer Protection Council and District Consumer Protection Council) are to promote and protect the rights of consumers such as:

1. The Right to be protected against marketing of goods which are hazardous to life and property.
2. The Right to be informed about the quality, quantity, potency, purity, standard and price of goods to protect the consumer against unfair trade practices.
3. The Right to be assured, wherever possible, access to an authority of goods at competitive prices
4. The Right to be and to be assured that consumers interest will receive due consideration at appropriate forms
5. The Right to seek redressal against unfair trade practices or unscrupulous exploitation of consumers
6. Right to consumer education

#### **IV. Methodology:**

This paper has been carried on the basis doctrinal and non-doctrinal method for seeking information to analyse the perspective of research paper.

#### **4.1 Role of Community for the protection of consumer rights:**

Participating as citizens helps in supporting consumer involvement in business, government and community policy decisions. The process includes questioning, analyzing and suggesting alternative solutions to consumer issues and problems. Influencing change promotes an awareness among consumers though their active participating, can exercise powers to modify those policies, institutions and systems within society which affect consumer interests. All of us are well aware that today`s school and college going children are tomorrow`s prospective citizens.

Therefore, these young and prospective consumers should be educated to gain competence with knowledge and skills needed to make decisions and take action as informed and responsible consumers in a broad spectrum of consumer behaviour. By keeping all these things in mind, consumer education in curriculum must include these considerations.

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The introduction of this new content of consumer education into the curriculum should be carefully made through introspection. In the first place, it is advisable to teach only some basic concepts of consumer education for those who are in primary classes and also it is advisable to teach to the college level about the consumer rights and services of consumer disputes redressal agencies.

## 4.2 Consumer education concern of all sections of society and its Institutions

Consumer education should be the concern of all sections of the society and its Institutions. The Consumer Protection Act, 1986 and its amended laws of 1993 along with the Consumer Protection Rules, 1987 and its amendment made in the year 1993 should be included in the education curriculum. The most important consumer protection laws that are in force in India which also should be dealt for the citizens

At the college level and for the citizens, some advance aspects should be taught institutions. The most important aspects could be:

- The effectiveness and ineffectiveness of consumer protection laws in India
- Which laws could be further amended and why
- The new consumer protection laws that may be framed and the necessity of additional laws
- The application of consumer rights and responsibilities
- The problem of adulteration, public distribution, marketability and consumer disputes redressal agencies and a number of such related aspects could be included in the college level curriculum. However, curriculum should be framed with care and attention and also these aspects shall be taught to the concern of all sections of society and its Institutions

## V. Conclusion and Suggestions:

Consumer Disputes Redressal Agencies, similar to the Courts in functioning, have been established very recently. The very objects of consumer redressal agencies are to provide the speedy and inexpensive remedies to the aggrieved consumers. The consumer redressal agencies are not required to follow these rigid legal procedures. They are exempted from the principle of strict adherence of the legal procedures. This is an advantage to the consumers. The aggrieved parties are not required to pay court fee. This is an advantage to the consumers. The parties need not appoint advocates. They present their case, arguments, witnesses documents, etc., in an ordinary manner, just like before the village panchayat.

The Consumer Protection Bill, 1986 seeks to provide for better protection of the interests of consumers and for the purpose to make provision for the establishment of consumer councils and other authorities for the settlement of consumer disputes and for matters connected therewith. It seeks inter alia to protect and promote the rights of consumers. The objects are sought to be promoted and protected by the consumer protection councils to be established at the central, state and district level and its functions must be in accordance with the provisions of law and also social concern. To provide speedy and simple redressal to consumer disputes, a quasi

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judicial machinery is sought to be set up at the District, State and National levels. These quasi-judicial bodies will observe the principles of natural justice and have been empowered to give reliefs of a specific nature and to award whatever appropriate compensation to consumers penalties for non-compliance of the orders given by the quasi-judicial bodies have also been provided.

Consumer education is the best form of consumer protection today. If a large number of consumers both in the developed and developing countries have not touched by it. Consumer education is a responsibility that goes beyond the bounds of educational systems. Consumer education should be shared with all sections of society and its institutions including business, governments and consumer organisations. Consumer education is the process of gaining the knowledge and skills needed in managing consumer resources and taking actions to influence and affect consumer decision making in the market place. However, one important question to be addressed at this juncture is what is the value of consumer education? Should it be included in school and college curriculum? How can this be done? Consumer education has different aspects to it. In this first place, it is the process by which consumers develop the skills to make their rights in progress. Inform decisions in the purchase of goods and services in the light of personal values. Maximum utilization of resources, available alternatives, ecological considerations and economic conditions. Get information about laws, rights and methods of resources in order to participate effectively and self-confidently in the market place and to take appropriate action to seek consumer redressal.

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