

# “The Consumer Protection Act, 1986 of India- 25 Years of Enactment: A Critical Study”

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## Abstract

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 statute the vacuum in law fulfilled with respect to any specific law for settlement of consumer disputes. This act provides three-tier redressal machinery for speedy settlement of grievances of consumers. 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 the Consumer Protection Act, 1986 in general and consumer awareness in particular. Many researches have already been conducted on testing the level of awareness of consumers and implementation of provisions of the Consumer Protection Act, 1986. Present study is qualitative and exploratory. For this study available literature on consumer protection and welfare, which is in Indian context, has been surveyed. And opinion is being formed. On going through this study 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 keep in the category of achievement of the Act, while on other sides 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. India is a big country with diversity where needs of people is also different. On one side of coin educated and urbanized people are taking advantage of the provisions of the Consumer Protection Act, 1986 on the other side illiterate and rural people are yet to take full advantage of this legislation. Though this Act has provided relief to the consumers but still there is a need to improve in the implementation of this Act and also to incorporate some of provisions, which can protect the interest of consumers fully in coming years.

## Keywords:

Protection; Law, India

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## 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 statute the vacuum in law fulfilled with respect to any specific law for settlement of consumer disputes. This act provides three-tier redressal machinery for speedy settlement of grievances of consumers. At present 629 District Fora 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 the Consumer Protection Act, 1986 in general and consumer awareness in particular. Many researches 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 Vs V.P. Shantha (AIR 1996 SC 550) is the one of them. In recent past it has been observed that the cases registered at consumer fora 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

**K. Srinivasan (1999)** observed that an analysis of the data from the consumer courts in different States shows that there is a direct relationship between literacy and consumer awareness. Statistics relating to Kerala and Bihar will justify this. The question to be considered is what can the Government does to improve the position? It is very often stated "Customer is sovereign and consumer is the King." If that is really so, why do we have the Consumer Protection Act? Why is there a need for protecting the King? Should it not be rightly called "Consumer Sovereignty Act"? It is for the consumers to decide. After all the dictum in democracy is, the citizens get a government they deserve. Similarly the consumers in society get a position in the market depending upon what they do or do not do. It is agreed on all hands that "consumer empowerment" in India has a long way to go. This is the right time to act.

**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. Redress can now be sought before any consumer court also for negligence or deficiency in medical services. The Bureau of Indian Standards Act, 1986, has strengthened the measures for the standardisation and quality control of manufactured goods. A Consumer Welfare Fund has been set up to provide financial assistance to voluntary consumer organizations and for the general development of consumer movement in the country. A spurt in voluntary consumer organizations in different parts of the country can also be observed. Other developments include the

establishment of a separate Department of Consumer Affairs in the Union Government and the setting up of a Consumer Product Testing Laboratory.

**Patidar Suresh (2008)** concluded that consumer awareness is very important to protect the interest of the consumers. The study has tried to reveal the fact that how much deep rooted is the problem of consumer awareness. The awareness among the consumers can be increased by sincere efforts of government and also at some extent by society. Although a number of steps have been taken up by the government to improve the level of awareness among urban and rural consumers, still there is a room for improvement.

**Patil Ashok (2011)** has concluded that it is a known fact that without the people's participation, the government, as a lone body cannot protect consumers from defective products. There are plenty of laws to take care of consumers and their numbers are constantly increasing. However it leaves much to be said that their effectiveness has to rely upon the alertness of consumers and the sincerity of authorities in their implementation.

**Chandra A.K. (2011)** observed that The Consumer Protection Act, 1986, is one of the socio-economic legislation, which has been enacted for protecting the interests of the consumers in India. Unlike existing laws, which are punitive or preventive in nature, the provisions of this Act are compensatory in nature. The Act is also intended to provide simple, speedy and inexpensive redressal to the consumers' grievances, and relief of a specific nature and award of compensation wherever appropriate to the consumer. Consumerism is fast emerging as an environmental force affecting major business decisions as consumers become more aware about their rights. Even though comprehensive statutory measures have been provided in India for curbing unfair business practices, for protecting consumer interest, and for promoting consumerism; companies have yet to do a lot. Chandra analysed consumer awareness and perception about consumer rights and consumer protection Act by use sample from district Raipur through their purchase behaviour and their action in case of dissatisfaction form the purchased goods.

**Venugopal P. et al. (2012)** concluded that Educational institutions are unto their best in promoting consumerism or we cannot even say that Educational institutions are just money oriented and are doing nothing for the promotion of consumerism. It is clear that IITs, IIMs, IIPA, IIFT, VIT, IGNOU are striving and contributing more promoting consumerism and creating awareness among the people (both rural and urban). But these are the not only educational bodies on the Earth. When 10 universities or schools are in a position to bring such a change and are able to conduct so many campaigns, what if all the schools and, colleges and university bodies come into force? The change will be ultimate. This can become an exploitation free consuming world.

In above literature researchers have focused mainly on the awareness level of consumers and importance of the Consumer Protection Act, 1986. There is a scope for study on assessment of effectiveness of provisions of the Consumer Protection Act, 1986, hence, this study.

### Objective of the Study

Main objective behind this study is to assess the 25 years of

enactment of the Consumer Protection Act, 1986. The study also aims to reveal what has been achieved and what are the challenges ahead?

### Methodology

Present study is qualitative and exploratory. For this study, available literature on consumer protection and welfare, which is in Indian context has 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 subject, various judgments of the cases and provision of the Act studied thoroughly. Researcher has also interacted with consumers, officials of government authorities, judges of redressal forums and academicians and obtained their views on the subject.

### Findings

On going through this study 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 keep in the category of achievement of the Act, while on other sides 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. These findings can be summarized as follows:

#### Achievements

- The Consumer Protection Act, 1986 enables the consumer to get his grievances redressed about any defect in product and any deficiency in services. Redressal mechanism of the Act has got some respect in the eye of the consumer because of its performance, functioning and providing justice to the consumer within the time frame. Familiarity of the consumer court to educated consumers can be seen from the incidences when any consumer of defective product approaches to the seller of the same for replacement of it or refund of money and seller refuses to do the same, consumer then warning the seller for filing the suit against him in consumer forum. This researcher come across many such incidences and has observed that in the name of consumer forum seller compelled to replace the goods. These are some sign of popularity of the consumer forums and Consumer Protection Act, 1986.
- As the literacy of people in India is increasing this also resulted into the increase in the level of awareness of consumers about their rights. Numbers of cases registered in the consumer forums across the country are proof of the increase in the level of consumer awareness. As per records of National Consumer Disputes Redressal Commission as on 27/04/2012 total number of cases registered with the all district forums, state commissions and national commission since their inception are 37,62,224.
- Records of National Consumer Disputes Redressal Commission also confirms that more than 90% cases registered with the consumer grievances redressal machinery under the Consumer Protection Act, 1986,

have been disposed off and only around 10% cases are pending. This fact also tells us the successful implementation of the provisions of the Consumer Protection Act, 1986 and fulfillment of the objective for which this consumer welfare legislation was enacted.

- From the enactment of the Consumer Protection Act, 1986 till the date total 3 amendments have been made and lacunas in the law have been removed.
- A full-fledged department (Department of Consumer Affairs) has been established which is ensuring the implementation of the provisions of Consumer Protection Act, 1986. This department is also responsible for preparing the policies and implementing them for consumer protection and welfare. Many schemes introduced by the department for promotion of consumer awareness including very famous advertisement campaign Jago Grahak Jago. What we have noticed the increased level of consumer awareness, which is also because of this Advertisement Campaign whose reach, is whole of India. Educational Institutions are also encouraged to undertake the studies on consumer protection and welfare and for this financial assistance is provided by the department. Non-government organizations also encouraged working for the interest of consumers and for this they can get grant-in aid from the department.

#### Challenges

The Consumer Protection Act, 1986 has completed 25 years of enactment but still there are some issues, which need to be given attention. Some are related to the provisions of the Act itself that are adequate enough but implementation of the same is very poor. Since time is changing very fast so the legislation should also be in position to incorporate the provisions, which can be as per the requirement of time. Challenges can be summarized as follows:

- In the Consumer Protection Act, 1986 Section 8A provides for establishment of District Consumer Protection Councils at every district whose main function is to promote and protect the rights of the consumers within the district. During the study this researcher came across the fact that this provision which, has been inserted by an amendment during the year 2003, is not implemented in its true sense. In many districts district consumer protection councils are working only on paper and not contributing anything for promotion and protection of the rights of the consumers within the district. *Comptroller and Auditor General also commented in this matter with reference to Madhya Pradesh State-* The objects of the District Council are to promote and protect within the district the rights of consumers laid down in section 6 of the Act. Collector of the district functions 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 Council must hold at least two meetings in a year. The rules or procedure for conducting business at the meeting were required to be formulated by the

State Government. The rules and procedures for conducting business at meeting of the district council were not formulated even after lapse of 2 years. On being pointed (April 2005), Commissioner replied (September 2005) that formulation of rules is under process.

The district councils were created (February 2004) after lapse of one year from the date of enforcement of the Act. No meetings of District Consumer Protection Councils were held in 10 test-checked districts. Thus due to non-functioning of district council and irregular functioning of State Council the rights of consumers, as envisaged in the Act were neither promoted nor protected. Monitoring of functioning of Consumers Forums were never conducted<sup>1</sup>.

- At the implementation part one more weakness is that at many district forums seats of members are vacant and not filled within the time, which is creating hardship for functioning of the forums. Many a times members appointed in the district forums are not adequately qualified to discharge their duties which are quasi-judicial in nature. The honorarium paid to the members of district consumer forums and state commission is not adequate.
- At present 629 District forums are functioning all over India and some of them are functioning as part time basis. This means all forums are not full time forums. During the study when this researcher explored reasons behind this, surprising facts revealed that this is not the failure at the part of government, which has not constituted full-fledged forums for every district, but fact is that in many districts cases are not registered of the level for which a full time forum has to be established. Hence two are more surrounding districts are falling within the same forum and days are fixed for sittings of the forums.
- As already seen in the achievements that 90% cases are disposed off by the redressal machinery. In this process quasi-judicial process followed. One fact revealed that district forums and state commissions are passing the judgments in the interest of the consumers for awarding them compensation for defective goods or deficient services but there are very few instances where redressal machinery awards the compensation for mental harassment that is exemplary damages.
- Department of Consumer Affairs is promoting the consumer awareness through the Voluntary Consumer Organisations (VCO) for this grant is being given to these organizations. During the study it has been noticed that many VCO are not working at satisfactory level. Many of them are not working at grass root level where their presence is must to educate the consumers but their activities are limited to just participate in programs organised on 15<sup>th</sup> March (World Consumer Rights Day) and 24<sup>th</sup> December (National Consumer Rights Day) and to avail financial assistance from the Department of Consumer Affairs.

## Suggestions

For better implementation of the provisions of The Consumer Protection Act, 1986 in coming years, emphasis can be given on following areas:

- Provisions of the Section 8A regarding constitution of District Consumer Protection Council are very good in spirit but these are not implemented in their true sense. To overcome this problem one amendment is needed in section 8A. Instead of District Collector as chairman of the District Consumer Protection Council, any other official of district level should be made the chairman preferably food controller/district food officer, reason behind this is district collector of the district is already occupied in his primary duties hence is not doing justice for this task which is otherwise very crucial for consumers. If an officer nominated chairman of district consumer protection council who is comparatively less occupied and who is devoting some time for this, can give good results.
- For appointment of members in district consumer forums and state commission a pool of adequately qualified people should be created and from this pool only members of district forum, state commission should be appointed. Remuneration for these members should also be increased substantially. The remuneration paid to members should be on monthly basis unlike the present system of per sitting basis.
- Like in US in India should also due recognition be given to the award of compensation for mental harassment to consumer by consumer dispute redressal machinery and such compensation should be very huge so that chances of repeating the same practice on part of seller/manufacturer/service provider can be minimised. For this purpose Act can be amended suitably and provisions in this regard can be inserted.

Some of the recommendations made by Working Group of Planning Commission on Consumer Protection and Welfare for 12<sup>th</sup> Five Year Plan are also very important which can be described as follows:

### National Consumer Protection Agency

It is proposed to set up a National Consumer Protection Agency to function as a Think-Tank body dedicated to pursue objective research and policy relevant studies on all aspects of Consumer Protection & Welfare. The Agency will comprise of Members drawn from officials and non-officials. The Agency will function as THINK-TANK for the Department and also advise it.

### Awards to Consumer Forums/Commissions

Recognition should go to district forums and State Commissions who have performed well against agreed benchmarks developed by the NCDRC. A system is to be worked out in consultation with NCDRC for instituting such awards.

### Consumer Awareness Index

A Consumer Awareness index should be developed and survey

conducted periodically so as to bring out the relative change in Consumer Awareness over a period of time in various parts of the country and among various categories of consumers. This data will become an important indicator of the efficiency of the programmes of Department of Consumer Affairs and should enable the Department to carry out midcourse corrections. Consumer Protection Agency may be empowered to undertake this job. An annual report of the impact of the awareness campaigns and other programmes could be prepared by the ministry and made available on the web site.

### Conclusion

The Consumer Protection Act, 1986 that was enacted for the protection of the interest of consumers as per the guidelines of United Nations, now this law is completing 25 years and has achieved some of its objectives for welfare of consumers. India is a big country with diversity where needs of people is also different. On one side of coin, educated and urbanized people are taking advantage of the provisions of the Consumer Protection Act, 1986 on the other side; illiterate and rural people are yet to take full advantage of this legislation. Though this Act has provided relief to the consumers but still there is a need to improve in the implementation of this Act and also to incorporate some of provisions, which can protect the interest of consumers fully in coming years.

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