

Working of District Consumer Forum with Special Reference to Bidar District Consumer Forum: A Study

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Abstract

The civilization has passed through several developments among which are the concepts of consumer and consumerism. Consumer is a person who is used to consume or buy the goods and services for himself or for his/her family in a marketplace. When marketers started to exploit the consumers, the consumer developed themselves into consumerism which is movement for supporting the interest of the consumers organized in a small group initially and in a large-scale setup in modern marketplace. The plights and exploitations of consumers increased more and more in their quantity and gravity since from physical market to virtual and e-market or online market. The online markets added more plights of the consumers for which consumers are suffering with multiple problems for redressal of their grievances as national physical boundaries are no more relevance and outside the purview of online transactions. The jurisdiction of national redressal mechanism is not possible to overcome the online transactions. The Consumer Protection Act, 1986 needs to address such anomalies challenged by the online transactions.

This paper examines the aim and objectives of the Consumer Protection Act, 1986 and makes some field based study of Bidar District of Karnataka in respect of agency meant for protection of consumers i.e., Bidar District Consumer Redressal Forum.

Keywords: Civilization; Consumer; Consumerism; Physical Market; Online Market.

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Introduction

It is wrong to think that business is incompatible with ethics. We know that it is perfectly possible to carry business profitably and yet honestly and truthfully. The plea that business and ethics never agree is advanced only by those who are actuated by nothing higher than narrow self interest. He, who will serve his own ends, will do so by all minds of

questionable means, but he, who will earn to serve the community, will never sacrifice truth or honesty. You must bear in mind that you have the right to earn as much as you like, but not the right to spend as much as you like. Anything that remains, after the needs of a decent living are satisfied, belongs to the community [1].

Everybody is a consumer to the goods or services. A person who buys goods and pays for services is a consumer. Referring to consumer, Mahatma Gandhi had rightly stated as:

“A consumer is the most important visitor in our premises. He is not dependent on us, we are dependent on him. He is not an interruption in our work, business, he is part of it. We are not doing any favour by serving him, he is doing us a favour by giving us an opportunity to do so”.

In a democracy, the state has provided rights in many aspects. But due to negligence, illiteracy or ignorance, we are not in a position to enjoy our rights. The consumers are highly respected in developed countries.

The markets are forcing the consumers to be whatever is available in the market. Certain commercial and service concerns are producing and supplying cheap quality, adulterated goods without following the conditions laid down by the Government and legislations and certain concerns are selling them by propagating with attractive commercial advertisements. Under these circumstances how the consumer should be? They should be properly educated aware of their rights to save themselves from exploitation [2].

The Consumer Protection Act, which is social welfare legislation, is a milestone in the history of socio-economic legislation in the country and the main purpose of this Act is to protect consumer from exploitation by unfair trade practices and to provide a speedy, simple, timely and inexpensive redressal to consumer disputes and complaints [3].

In India, the need for consumer protection is paramount in view of the fact that there is an ever increasing population and the need for many goods and services of which is no matching supply. In India the consumer awareness has a very recent origin. The reasons appear to be lack of education, poverty, illiteracy, lack of information, traditional outlook of Indians to suffer in silence and ignorance of their legal rights against the remedy available in such cases. It was therefore necessary that a forum be created where a consumer not satisfied with the goods supplied or services rendered may ventilate high grievance and machinery devised to afford him adequate protection. The new law in the form of the Consumer Protection Act, 1986 was enacted to overcome the maladies [4].

The Consumer Protection Act, 1986, has ensured functioning of the Consumer's Grievance Forum at District level the State Commission at the middle and national commission at apex level. The movement is catching up the expectations of the public, day by day, with the variety of complaints and grievance made on the question of price, quality of goods and different services rendered by different agencies and

the reliefs that are now being made available to the aggrieved persons, the people are becoming more and more aware about their rights and the models of relief available to them [5].

Historical Background

Consumer activities and practices are as old as human civilization. Even during the barter system, some kinds of consumer activities were prevalent in ancient societies. In ancient India, consumer rights and consumer protection related reference are found in a number of writings and records.

Kautilya's 'Arthashastra, the monumental treatise on state - craft, dealt with the subject of consumer awareness and protection of the interests of the consumers [6].

“Satya Mevo Jayathe” is our age old Indian psycho instilled in our minds that we live on the path of “Dharma”. The counter effective dissuading factor to that is “Karma” (Destiny). Indian consumers did not fight back as the concept of Karma was etched in their mind to accept everything in the name of destiny [7].

The consumer movement began to develop in the 1960s though it took its shape in the late 1980s. The concept of 'Consumer is the King' remained alien to the average Indian. It is in this background that the parliament took the initiative in passing the Consumer Protection Act in 1986. A three-tier structure of the agency i.e., District Consumer Fora, the State Level Commission and the National Commission for Redressal of Consumer Grievances was in place by 1988 [8].

The industrial revolution has primarily been responsible for proliferation of human wants in respect of goods and services and the same time industries need to take care of their products it means defect less goods to be produced otherwise manufactured hard liable. It began with principle in the leading and classic case of “Donoghue v Stevenson”. [9] Even though, the appellant was not a party to the contract i.e., the purchaser of goods, but still the manufacturer was held liable on the ground that the manufacturer owed a duty of care to the ultimate consumer”.

Consumer protection movement, popularly known as 'consumerism' is a social movement, which seeks to protect and augment the rights of the consumer in relation to manufacturer. Consumer movement may be described as the

collective power of consumers to take a country forward with respect to awareness, education and development of consumer rights. The consumer protection laws have originated and developed as a natural response to the recognition of the rights of every consumer to be protected against exploitation and abuse by any manufacturer or supplier of goods or service providers.

Traced with care, the idea of consumer protection can be found to have existed in every kind of social order and judicial mechanism, whether primitive or modern. However, the extent to which it has been emphasized and sought to be flourished has varied depending upon the variations in circumstances. This reality draws – support not only from customary norms of buying and seeking services but also from many religious ordainments and commands of kings.[10]

a. Objects and Reasons of the Act

Statement of objects and reasons as per the Consumer Protection Act 1986, are mentioned as under:

- i. The right to be protected against the marketing of goods, which are hazardous to life and property.
- ii. The right to be informed about the quality, quantity, potency, purity, standard and price of goods so as to protect the consumer against unfair trade practices;
- iii. The right to be assured, wherever possible, access to a variety goods at competitive prices;
- iv. The right to be heard and to be assured that consumer interests will receive due consideration at appropriate fora.
- v. The right to seek redressal against unfair trade practices or unscrupulous exploitation of consumers; and
- vi. The right to consumer education.

b. Who Can File a Complaint?

Any of the following persons may file a complaint under the Consumer Protection Act, they are:

- a. The consumer or legal heirs to whom such goods are sold or delivered or agreed to be sold or delivered or such service provided or agreed to provided;
- b. Any recognized consumer association, namely, any voluntary consumer association registered under the Companies Act, 1956 or any other law in force at that point of time. It is not necessary

that the consumers have to be members of such associations;

- c. Where there are numerous consumers having the same interest, with the permission of the District Forum, on behalf of or for the benefit of all consumers so interested;
- d. The Central or the State Government.
- c. Where to File a Complaint?
 - a. If the value of the goods or services and the compensation claimed does not exceed Rs. 20,00,000/-, then the complain can be filed in the District Forum within the local limits of whose jurisdiction the opposite party actually resides or carries on business or has a branch office or personally works for gain or where the cause of action wholly or in part arises;
 - b. If the value of goods or services and the compensation claimed is between Rs. 20,00,000/- and Rs. 1,00,00,000/-, the complaint can be filed before the State Commission;
 - c. If the value of goods or services and the compensation claimed exceeds Rs. 1,00,00,000/-, a complaint can be filed before the National Commission.

d. Procedure for Filing a Complaint

Original Complaint along with two spare copies is to be filed before the District and the State Commission before the Presiding Officer along with additional copies for effective service upon the opposite parties. The registry shall only entertain the complaint when it is accompanied with the prescribed fee payable.

Jurisdiction of the District Forum, State and National Commission to entertain, try and adjudicate the complaints/ Appeal/ Revision Petition

A. District Forum

If the cost of the goods or services and compensation asked for, is up to rupees twenty lakhs, then the complaint can only be filed in the District Forum having jurisdiction, on payment of the prescribed fee.

B. State Commission

- i. To entertain a complaint if the cost of goods or services and compensation asked for is more than rupees twenty lakhs but less than rupees one crore, the complaint can be filed before the State Commission having jurisdiction, fee, etc.

- ii. Appeals against the order of any District Forum within the State.
- iii. To call for the records and pass appropriate orders in and consumer disputes which are pending before or has been decided by any district Forum within the state, where it appears to the State Commission that such District Forum has exercised a jurisdiction not vested in it by law.
- iv. Transfer of the case from the one District Forum to other District Forum within the state. The State Commission may, at any state of the proceedings, transfer any complaint pending before the District Forum to another District Forum in the same state in the interest of justice.

C. National Commission

- i. To entertain a complaint if the cost of goods or services and compensation asked for is more than rupees one crore.
- ii. Appeals against the order of any state commission passed on a complaint. The period of limitation is 30 days and which the commission can condone on satisfactory grounds.
- iii. Revising against the orders passed by the State Commission in appeals the limitation is 90 days from the date of the order or from the receipt of the copy of the order.
- iv. To call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by the state commission, where it appears to the National Commission that such state commission has exercised a jurisdiction not vested in it by law or has failed to exercise a jurisdiction not vested in it by law or has failed to exercise a jurisdiction so vested or has acted in the exercise of its jurisdiction illegally or with material irregularity.
- v. *Review*: The National Commission shall have the power to review any order made by it when there is an error apparent on the face of record.
- vi. Power to set-aside ex-parte orders against the complainant and the opposite party.
- vii. Power to transfer the case from one District Forum of one State to another district forum and before one state commission to another state commission in the interest of justice and on the application of the complainant or on its own motion.
- viii. Power of interlocutory orders/interim orders.

e. Relief Available to the Consumers

The consumer Fora when satisfied that the goods complained against suffer from any one of the defects specified in the complaint or that any of the allegations contained in the complaint about the services are proved, it shall issue an order to the opposite party directing him to do one or more of the following things, namely:

- a. To remove the defect pointed out by the appropriate laboratory from the goods in question;
- b. To replace the goods with new goods of similar description which shall be free from any defect;
- c. To return to the complainant the price, or, as the case may be, the charges paid by the complainant;
- d. To pay such amount as may be awarded by it as compensation to the consumer for any loss or injury suffered by the consumer due to the negligence of the opposite party;

Provided that the District Forum shall have the power to grant punitive damages in such circumstances as it deems fit;

- e. To remove the defects in goods or deficiencies in the services in question;
- f. To discontinue the unfair trade practice or the restrictive trade practice or not to repeat it;
- g. Not to offer the hazardous goods for sale;
- h. To withdraw the hazardous goods from being offered for sale;
- i. To cease manufacture of hazardous goods and to desist from offering services which are hazardous in nature;
- j. To pay such sum as may be determined by it if it is of the opinion that loss or injury has been suffered by a large number of consumers who are not identifiable conveniently;

Provided that the minimum amount of sum so payable shall not be less than five per cent, of the value of such defective goods sold or service provided, as the case may be, to such consumers:

Provided further that the amount so obtained shall be credited in favour of such person and utilized in such manner as separate prescribed;

- k. To issue corrective advertisement to neutralize the effect of misleading advertisement at the

cost of the opposite party responsible for issuing such misleading advertisement;

- I. To provide for adequate costs to parties.

Analysis of Working Method of Bidar District Consumer Forum

The Consumer Protection Act, provides for the transactions in terms of money heard by the three-tier Consumer Disputes Redressal Agencies (CDRAs), which can be shown with the help of a chart.

a. Functioning of Bidar District Consumer Forum

District Consumer Forum at Bidar started functioning from 3-12-1991 under the Presidentship of Sri. P.S. Gunduwady along with other members include Sri.

Kashinath Phule, and Smt. Gurmma Siddareddy.

Presently the President is Sri. S. Ganganth Prasad, and one member is Sri. Shankreppa Halhippargi another member is vacant. The order of the District Consumer Forum should be sent to the complaint within a week at free of cost and the order copy is published on website also.

Presently the Forum has jurisdiction over 5 talukas, in Bidar District such as (1) Aurad; (2) Bhalki; (3) Humnabad; (4) Baswakalyan; (5) Bidar. Still 3 talukas (1) Chitguppa; (2) Kamalnagar; (3) Hulsur will be established and the functioning will take place in this district.

The Consumer Protection (Amendment) Act, 2002 came into force where often nominal fee for filing complaints has been provided by notification of Government of India (Table 1).

Chart No. 1

Activities of CDRAs

Consumer Dispute Redressal Agencies (CDRAs).[11]

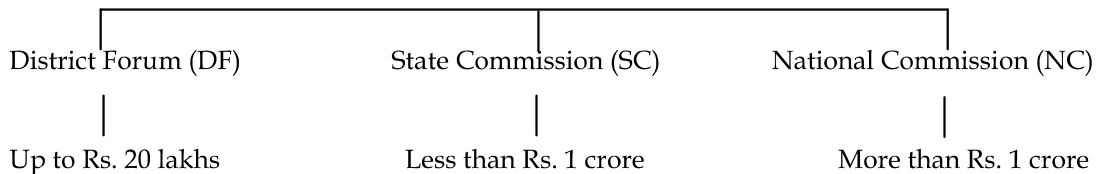


Table 1: Filing of Complaints

Section	Particulars	District Forum, State, National Commission or Supreme Court of India
Sections 9 and 10	Complaint	District Forum
Sections 9 and 16	--	State Commission
Sections 9 and 20	--	National Commission
Section 23	--	Supreme Court of India
Section 11	Jurisdiction	District Forum
Section 17	--	State Commission
Sections 21 and 24(b)	--	National Commission
Section 23	--	Supreme Court of India
Section 12, 13 and 14	Procedure and Decision	District Forum
Sections 12, 13, 14 and 18	--	National Commission
Sections 12, 13, 14 and 22	--	National Commission
Section 23	--	Supreme Court of India
Section 27	Penalties	District Forum, State Commission and National Forum
Section 26	Dismissal of vexatious complaints	District Forum, State Commission and National Commission
Section 28	Protection of action	District Forum, State Commission and National Commission
Section 30	Power to frame Rules	Central Government and State Governments.

Analysis of Data

The analysis of data mainly focused on the complaints filed, disposed and pending before the CDRF, Bidar and stressed on how many cases disposed in favour of and against the consumers and

dismissed on technical grounds. It has also made point on period taken for disposal of the complaints. Specifically data have been analyzed by using simple and complex method of statistical technique represented in Tables 2-4.

Table 2: Total number of complaints filed, disposed and pending before the CDRF Bidar from 1991 to 2017 (as on 31st Dec. 2017)

S. No.	Year	Total complaints		
		Filed	Disposed	Pending
1.	1991	0	0	0
2.	1992	128	128	0
3.	1993	120	120	0
4.	1994	91	91	0
5.	1995	152	152	0
6.	1996	65	65	0
7.	1997	53	53	0
8.	1998	80	80	0
9.	1999	76	76	0
10.	2000	52	52	0
11.	2001	71	71	0
12.	2002	68	68	0
13.	2003	150	150	0
14.	2004	182	182	0
15.	2005	152	152	0
16.	2006	130	130	0
17.	2007	189	189	0
18.	2008	214	214	0
19.	2009	210	210	0
20.	2010	113	113	0
21.	2011	93	93	0
22.	2012	120	120	0
23.	2013	88	88	0
24.	2014	105	104	1
25.	2015	95	82	13
26.	2016	125	75	50
27.	2017	92	11	81
	Total	3014	2869	145

Source: Records of CDRF Bidar

Table 3: Execution petition filed, disposed and pending from 1991 to Dec. 2017 (as on 31st Dec. 2017)

S. No.	Filed	Disposed	Pending
1.	876	777	99

Source: Records of CDRF Bidar

Table 4: Complaints on various categories of services and goods at CDRF, Bidar (as on 31st Dec. 2017)

S. No.	Categories of Services and Goods	Filed	Disposed	Pending
1.	Bank	283	262	21
2.	Railway	16	16	0
3.	Airlines	01	01	0
4.	Insurance	563	520	43
5.	Telecom	164	164	0
6.	Postal	51	51	0
7.	Housing Govt.	147	146	1
	Private Societies/ Builders	73	73	0
8.	Electricity	340	323	17
9.	Medical Negligence	43	40	3
10.	Defective Household Goods	31	22	9
11.	Education	67	66	1
12.	Road Transport	58	57	1
13.	Miscellaneous	1177	1128	49
	Total	3014	2869	145

Source: Records of CDRF, Bidar

This table 2 reveals that a total number of complaints filed, disposed and pending before the CDRF, Bidar during the year from 1991 to 2017. During the period a total 3014 complaints were filed, 2869 complaints were pending during the present study.

This table reveals that the total number of complaints filed, disposed and pending and pending before the CDRF, Bidar during the year 1991 to 2017. During the period a total 3014 complaints were filed, 2869 complaints were disposed of and 145 complaints were pending during the present study. It further shows that a fluctuating trend in the members of complaints filed.

Conclusion

The Consumer Protection Act, 1986 which is a piece of progressive socio-economic legislation to protect the exploited common man for wrongs for which remedy under common law for various reasons have become illusory and to provide them social justice by a time bound, simple, inexpensive and speedy mechanism. Although long thirty one years have elapsed but awareness and enforcement of said Consumer Protection Act has not achieved to minimum extend what to speak of its implementation.

Consumer Protection Act is the product of the consumerism all over the world, the tremendous awareness among the people, which leads to protection, and promotion of their rights, which are frequently violated by the dominant traders in market. Corrupt practices and exploitation of consumers by unscrupulous means have been brought the revolution in the field of commerce.

The legal remedies that where the people do not exercise their legal remedies the system of remedies tends to become rusted. Hence, for the proper functioning of the legal systems; it is necessary that knowledge of the availability of a legal remedy should be so widely disseminated that people as a whole become conscious of their rights. By increased information as to rights and remedies, the consumer will be the better empowered to pursue his/her remedies. A consumer complaint which gives the impression that the consumer is fully conscious of and alive to his rights would bring about more positive response from service provider. This has been

made one of the missions of the Consumer Protection Act, 1986 and the Central Consumer Protection Council has been charged with the responsibility to provide the people proper education in terms of their remedies under the Act. Once the people are rendered conscious of their power, they may, perhaps, energized to struggle against exploitation by manufacturers and service providers, people's awareness is likely to prove a better tool for putting the trade on some level of discipline than tunas of government controls. Controlling hands and tools of the government are easily compatible. They also suffer from slow motion. They often fail in their mission. But consciousness of the people as a whole, for every person is a consumer one way or the other, when aroused by proper consumer education, is likely to be above petty temptations and therefore effective in its motions. So in this regard, there is famous statement that "An alert consumer is an asset to the Nation".

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