



A STUDY ON JUDICIAL TRENDS ON PROTECTION OF CONSUMER RIGHTS IN GUJARAT

Prajapati Jitendrakumar Gandlal¹, Dr. Kinjal Patel²

ABSTRACT

A consumer or a customer is a person who buys goods or hires services with money, i.e., a price is fixed on the purchase of a commodity or hiring a service for a service provider. Consumer pays a price for the commodity he buys or the service he receives. The problem arises when he finds that the good he gets in exchange of a price suffers from defects or it is a low quality product. This certainly makes him a loss-monetary as well as mental.

In order to understand the spirit of the legislation, one should necessarily study the objectives of Consumer Protection Act in India. While introducing Consumer Protection Bill into the Parliament the Parliament members of the Parliament were briefed about the intention of introducing the Bill, which is as follows. Indian market is dominated by the consumerism. It has been transformed from sellers' market into buyers' market. In this sort of market exercised choice by the consumers depends on their awareness level. Consumer rights could be protected in a competitive economy only when right standards for goods and services for which one makes payment are ensured by evolving a network of institutions and legal protection system. Ensuring consumer welfare is the responsibility of the Government as every citizen of the country is a consumer in one way or the other.

Consumers, clients or customers world over, are demanding value for money in the form of quality goods and better services. Modern technological developments have no doubt made a great impact on the quality, availability, and safety of goods and services. But the fact is that consumers are still victims of unscrupulous and exploitative practices. Exploitation of consumers takes different forms such as adulteration of food, spurious drugs, dubious hire purchase plans, high prices, poor quality, deficient services, defective advertisements, hazardous products, black marketing and many more. It has been realized that the consumer protection is a socio-economic programme to be pursued by the government as well as the business as the satisfaction of the consumers is in the interest of both. In this study we would like to investigate the government policies relating to protect the interest of the consumers and their rights. In this context, we would thoroughly analyse the policy measures, legal structure and administrative framework. We are also interested to examine some of the case studies related to consumer disputes settled in the Consumer Disputes Redressal Forums under three-tier system.

INTRODUCTION

John Kennedy, late President of United States once observed that a country whose administration did not afford redress for consumer protection would not be in a state of civilization. The problem is whether in the light of the existing legislation made for protecting consumers in India, can we afford to call our self civilized? The answer is obviously No.

The purpose of consumer protection legislation should be to (A) Eliminate impure and harmful! food, drugs and cosmetics. (B) Prevent fraud, deception and false advertising (C) Standardise weights and measures and improve labeling (D) promote fair competition (E) Assure fair rules in transportation, power, fuel.

The problem is, does the Consumer Protection Act, serves this purpose? If, yes how far? The researcher intends to examine this in the object.

The important measure of legislative reform has been the enactment of the Consumer Protection Act of 1986. According to the statement and objects and reasons of the bill, it seeks to promote some basic rights of consumers, viz, the right to safety, right to be informed of quality, potency and purity of products, to access to variety of goods at competitive prices, to redressal of grievances and to consumer education. The Act provides for setting up of quasi-Judicial authorities for redressal of consumer disputes.

This study alias to project and suggest not only the ways and means to those engaged in serving

¹ Ph.D. Research Scholar, Monark

University, Ahmedabad

² Assistant Professor, Department of Law, Monark University, Ahmedabad

HOW TO CITE THIS ARTICLE:

Prajapati Jitendrakumar Gandlal, Dr. Kinjal Patel (2024). A Study on Judicial Trends on Protection of Consumer Rights in Gujarat, International Educational Journal of Science and Engineering (IEJSE), Vol: 7, Issue: 6, 16-18

the consumer but also to proclaim equilibrium between the buyers and sellers within socio-economic plight.

Public Interest Litigation movement is perhaps the striking innovation in the recent past in the delivery of legal services. It is a strategic arm of the legal aid movement which is intended to bring Justice within the reach of the poor masses, who constitute the low visibility area of humanity. The Public Interest Litigation is litigation which is initiated not for the benefit of one individual but for the benefit of a class or group of persons who are either the victims of exploitation or oppression or who are denied their rights. The purpose of such litigation is to provide protection to those people who are socially and economically disadvantaged.

Exemption clauses which excludes or limits the rights of the injured party to bring an action for damages are world wide problem. Their purpose is to negative the terras which would normally be implied in favour of a buyer. The attitude of courts to these clauses is already one of hostility. There Is always the problem as to deciding whether an agreement which has the appearance of a legal contract but contains a wide exclusion clause, is or is not intended to be legally binding.

History of consumer protection

The concept of consumer protection is not something new in India. It is as old as trade and commerce itself. It has its roots in our country which date back to 3200 B.C. In ancient India, human values and ethical behaviour is at the core of Indian culture and ethos. Also, the welfare of the people is the primary objective of governance of the ancient rulers. Hence, those rulers kept norms and values in their minds while making rules and regulations to make them suitable for the then-Indian society. Even for spiritual purposes, both rulers and traders followed dharma while making policies or rules and doing trade and commerce respectively. For this objective, the ancient kings started controlling not only the social lives but also the economic lives of people by imposing numerous trade restrictions on producers and traders to safeguard the interests of consumers.

Meaning of the word 'consumer'

A consumer is an individual or group of individuals who purchase goods and services for their own personal use and not for the purpose of manufacturing or resale. Section 2(7) of the Consumer Protection Act, 2019 defines a consumer as any person who buys goods or services in exchange for consideration and utilises such goods and services for personal use and for the purpose of resale or commercial use.

In the explanation of the definition of consumer, it has been distinctly stated that the term 'buys any goods' and 'hires or avails any services' also includes all online transactions conducted through electronic means or direct selling or teleshopping or multi-level marketing.

According to Sec-2(1)(d) of the Act, a consumer is a person who purchases any goods or services or hires or avails the services of some person for his own personal use and not for

manufacturing or resale of that good. For instance, a person purchasing wheat flour for his own personal use is a consumer but a person purchasing wheat flour for baking bread which he is going to sell in his bakery shape is not a consumer.

The Consumer Protection Act defines a consumer as a person who buys goods or services for consideration (NOT for resale). Also, a consumer is who uses the goods and services with the permission of the person who purchases the goods or services. The Act covers all goods and services including banking, e-commerce, telecom, insurance, electricity, transportation in the private and public sector.

Evaluation of Consumer Protection

After enactment of the Consumer Protection Act, 1986 it was thought that the Act is remembered as revolutionary change in the society for curbing Economic crimes and for last 28 years, all sorts of benefits derived by the consumers have been highlighted. Educated and urban people, no doubt, are getting advantage of the legislation but rural people are completely left out of the impact of the legislation.

Recent years India has become a big market for multinational and Indian companies for FDI and globalization and for which consumer sovereignty is a vital factor when consumption is the sole purpose of all production and alternatively consumers keep the economy going by generating demand of goods and services and regarding the view it is generally viewed that consumption is something that benefits individual. From this perspective consumer as source of demand is central mechanism for making the economic system run.

To protect the consumers' excessive strict provisions would be comfortable with the protection of the consumers for their welfare but in reality the spirit of this Act has failed to give full advantage of the legislation particularly to the rural people. To ventilate the above poor picture after collecting statement of cases filed and disposed for the year 2002 to 2013 of twenty two Consumer Forums including State Commission of Gujarat from the Consumer Affairs Department, Govt. of Gujarat., it is found that in an overpopulated state like Gujarat total population at present is over eight crore whereas total filing and disposal of cases is very less. This is shown below in table- 3.1.

Year	Total Cases Filed	Total Cases Disposed of	Total Cases Pending
2002	5535	5594	Not Available
2003	5109	5300	DO
2004	4349	4379	DO
2005	4161	4027	5411
2006	4234	4395	5250
2007	4267	4366	5146
2008	5024	4561	5654
2009	5976	5736	5894
2010	4805	5216	5483
2011	4253	3926	5810
2012	6211	5636	6380

2013	8407	6688	8104
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Consumer Affairs Department, Govt. of Gujarat, 2014

Table-3.1 Cases filed and disposed for the year 2002 to 2013

Comparison between MRTP Act and Consumer Protection Act

Let us compare the two and see.

MRTP Act	Consumer Protection
Regarding Restrictive Trade Practices, the MRTP Act only discusses situations with respect to its effect on the competitive situation in the economy.	The Consumer Protection Act has been enacted in the interest of a single player in the economy i.e., the consumer.
The MRTP Act does not apply to many enterprises, such as banking or insurance companies.	This kind of an exemption is not proffered under the Consumer Protection Act.
The MRTP Commission can take up issues suo motu and initiate inquiries into restrictive or unfair trade practices.	The Consumer Protection Act is a device to be used by aggrieved consumers and does not operate to regulate the economy as a whole. Due to this, the Act does not envisage suo motu powers to initiate inquiries into restrictive or unfair trade practices.
There is no restriction on any buyer of goods, whether for commercial or non-commercial purposes, to approach the MRTP commission under the MRTP Act.	The Consumer Protection Act does not regard a buyer of goods for commercial purposes as a 'consumer', as contained in the definition of the Act.
Under the MRTP Act, the MRTP Commission was the only body to approach in case of any grievance.	The Consumer Protection Act has a 3 tier redressal setup, at the district, state and national level.
There is no limitation period for those applying under in the MRTP Act.	There is a limitation period of two years within which an aggrieved consumer must file a suit under the Consumer Protection Act.

CONCLUSION

The Consumer Protection Act, 2019 is a modified piece of legislation that offers the consumers a great variety of benefits and rights to protect them from unfair trade practices, false or misleading advertisements, etc. The Act enables the consumers to seek alternative dispute resolution mechanisms and mediation so that the parties can opt for speedy and effective settlement of consumer disputes. The scope of e-filing of complaints and e-consumers in the Act portrays forward-thinking in part of the legislature. Furthermore, the Act also introduced new terms such as product liability, unfair contracts, etc. thereby widening the scope of protection of consumer rights and enabling the consumers to file complaints when their rights have been violated under the Act.

The Consumer Protection Act solely prioritizes that there should not be any hamper or damage to the rights of the customers. While interpreting, it is interpreted in such a way that the rights of the customers are protected against the unfair trade practices in the market. Consumers should always be aware of their rights. In some cases, Supreme Court asked the Commission to be liberal while interpreting the law and take a pragmatic view of the consumer's rights. It's good that the Consumer

Protection Act, 2019 was enacted considering all the current scenarios but still there is a need for proper implementation of the act. Still, many consumers in our country don't know much about their legal rights and have an opinion that the court work is time taking as a result of which they are hesitant to file the case. So the Government of India should try to educate the consumers of their legal rights and should also simplify the case filing mechanism.

Thus, the inclusion of the provisions in this fills up the lacunae in the Consumer Protection Act, 1986. The enactment of the Act was paramount and it changed the ambit of protecting the rights of consumers in the country.

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