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PART-III

Consumer Awareness in Rural India: Role of Organisations

28. ROLE OF CONSUMER REDRESSAL FORA IN CONSUMER PROTECTION

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INTRODUCTION

The advertisements of goods and services in television, newspapers and magazines influence the demand for the same by the consumers though there may be manufacturing defects or imperfections or short comings in the quality, quantity and the purity of the goods or there may be deficiency in the services rendered. In addition, the production of the same item by many firms has led the consumers, who have little time to make a selection, to think before they can purchase the best. For the welfare of the public, the glut of adulterated and sub-standard articles in the market have to be checked. Inspite of various provisions providing protection to the consumer and providing for stringent action against adulterated and sub-standard articles in the different enactments like Code of Civil Procedure, 1908, the Indian Contract Act, 1872, the Sale of Goods Act, 1930, the Indian Penal Code, 1860, the Standards of Weights and Measures Act, 1976 and the Motor Vehicles Act, 1988, very little could be achieved in the field of Consumer Protection. Though the Monopolies and Restrictive Trade Practices Act, 1969 arid the Prevention of Food Adulteration Act, 1954 have provided relief to the consumers yet it became necessary to protect the consumers from the exploitation and to save them from adulterated and sub-standard goods and services and to safe guard the interests of the consumers. In order to provide for better protection of the interests of the consumer the Consumer Protection Bill, .1986 was introduced in the Lok Sabha on 5th December, 1986. 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 consumer disputes redressal agencies for the settlement of consumer disputes and for matter connected therewith.

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The Salient Features of the Act are as under:

- The Act provides for establishing a three-tier consumer dispute redressal machinery at the national, state and district levels.
- It applies to all goods and services.
- It covers all sectors, whether private, public or any person.
- The Act provides for relief of a specific nature and also for compensation to the consumer as appropriate.
- The Act also provides for setting up of Consumer Protection Councils at the Central, State and District levels, which are advisory bodies to promote and protect the rights of the consumers.
- The provisions of the Act are in addition to and not in derogation of the provisions of any other law for the time being in force.

Amendments to the Act

Though the overall disposal rate and the performance of the Consumer Fora is considered to be impressive, still, the delay in disposal of cases by the redressal agencies at the District, State and National level including the level of pendency has been a cause of major concern for the Government. Therefore, the Government made comprehensive proposals to further amend the Act and brought the Consumer Protection (Amendment) Act, 2002 (62 of 2002). The amended provisions of the Act were brought into force from 15.3.2003. The Provisionsof the Amendment Act were mainly aimed at facilitating quicker disposal of complaints, enhancing the capability of redressal agencies, 17strengthening them with more powers, streamlining the procedures and widening the scope of the Act to make it more functional and effective and also to strengthen Consumer Movement at the grass root level. The amended provisions empower the Senior most member to preside over the Bench in case the President is absent due to any reason so that the Forum functions uninterruptedly. Further, Presidents of the National Commission & the State Commissions have been empowered to constitute Benches with one or more Members for their effective functioning. As a sequel to the amendment in the Act, Consumer Protection Rules were amended, new provisions introduced wherever it was considered necessary. Similarly, the Consumer Protection Regulations, 2005 was notified by the NCDRC after getting the approval of the Central Government to supplement the Rules in order to provide a uniform procedure for day to day functioning of the Consumer Fora. The Consumer Protection Act was amended in the years 1991, 1993 and 2002 and proposals to further amend the Act are under consideration. The Consumer Protection Act has been amended thrice during the years 1991, 1993 and in 2002. Further amendments to the Consumer Protection Act, 1986 are presently under consideration. These amendments are aimed at:

(a) Widening the scope and amplifying the provisions of the Act,
(b) Facilitating quicker disposal of complaints and
(c) Rationalising the qualifications and procedure of selection of President and Members of the Consumer Fora

Indicators of Growing Consumer Awareness/Consumer Movement in India

(a) There is an exclusive Department created in the Central Government for consumer protection/consumer welfare i.e. the Department of Consumer Affairs which accords a very high priority to the consumer protection programmes and to strengthening consumer awareness/movement in the country. Similarly, some State Governments have also created a separate Department or Directorate of Consumer Affairs on the request of

the Central Government. Wherever not feasible, the name of the Department has been changed to include Consumer Affairs/Protection for the public knowledge.

(b) There are 629 District Fora at district level, 35 State Commissions at State level and one National Commission functioning in the country to render inexpensive and quick redressal to consumer grievances. Out of over 35 lakhs cases filed before the consumer disputes redressal agencies, 89.77% already stand disposed of.

(c) The Parliamentary Standing Committee of the Ministry has recognized the importance of consumer protection, while examining the demands for grants. The Committee made strong recommendations to the Planning Commission for substantial allocation of funds to the consumer protection programmes especially for undertaking the gigantic task of spreading consumer awareness and strengthen the infrastructure of the Consumer Fora in the country including their computerization and computer networking.

Responsibilities of Central and State governments funds for their effective functioning According to the provisions of the Consumer Protection Act, 1986, while it is the responsibility of the Central Government to set up the National Consumer Disputes Redressal Commission (NCDRC) and to ensure its effective functioning, the responsibility for setting up the State Commissions and District Fora and their effective functioning rests with the State Governments/UT Administrations. State governments are also responsible for providing these consumer Fora with adequate manpower with basic knowledge of computer operations, infrastructure including ICT infrastructure namely computers, ups, network items etc.

Scheme on Strengthening Consumer Fora

Although providing infrastructural facilities to the consumer Fora for their effective functioning is the responsibility of the State Governments/UTs; in order to supplement the efforts of the State Governments in this regard, the Central Government has been extending financial assistance for strengthening the infrastructure facility of the Consumer Fora. The scheme, 'Strengthening Consumer Fora' with an overall outlay of Rs. 54.50 crore, is being implemented during the last 4 years of the XIth Plan viz. 2008-09 to 2011-12, for extending financial assistance to States/UTs for strengthening the infrastructure of consumer fora so that minimum level of facilities required for their effective functioning are made available at each consumer forum. These include construction of new building of the consumer fora, carrying out additional/alteration/renovation of existing buildings and grant for acquiring non-building assets such as furniture, office equipment etc. The current guidelines for implementation of this scheme are at ANNEXURE- I. As per the guidelines it is the responsibility of the State Governments to provide the land for construction of a new building for a Consumer Fora. State wise details regarding financial assistance extended so far under various schemes for strengthening infrastructure of Consumer Fora and Utilization thereof is at ANNEXURE-II while the State wise details of funds released under the scheme of "Strengthening Consumer Fora" during the last three years is at ANNEXURE III. The State Governments are responsible for timely filling up of vacancies of President and Members in the State Commission and District Fora of their State. The latest State wise vacancy position as furnished by NCDRC is at ANNEXURE IV. Ensuring speedy Disposal of Complaints filed in Consumer Fora As on 13.6.11, 3603281 cases had been filed in all three tiers of consumer

dispute redressal agencies since inception and 32,03,978 cases stood disposed of, showing a commendable disposal rate of 89.77 %. State wise details of cases filed and disposed of as well as the percentage disposal rate in the State Commission and District Fora, as furnished by NCDRC may be seen at ANNEXURE V. The 21National Commission is maintaining State-wise data in respect of cases filed, disposed of and pending, since inception, in the National Commission, State Commissions and District Fora. The statement of cases filed, disposed of and pending, since inception, in the National Commission, State Commissions and District Fora (State-wise) may be seen at ANNEXURE VI & VII respectively. As far as NCDRC is concerned, the President is empowered to constitute Bench with one or more Members as may be considered necessary. At present, there are 5 Benches functioning in the NCDRC. One additional bench has been approved for dealing with pending cases disposal exclusively. NCDRC has identified 13 places for holding Circuit Benches. It had its first Circuit Bench at Hyderabad in the month of January, 2005, the second one at Bangalore in the month of January, 2006, the third one at Chennai in the month of January, 2007, the fourth one at Pune in the month of JanuaryFebruary 2008, the fifth one at Cochin in the month of March-April, 2009, the sixth one at Kolkata in the month of January-February, 2010 and the seventh one held at Ahmedabad during February-March 2011.

Computerization and Computer Networking of Consumer Fora (CONFONET).

Consumer Fora are being computerized and networked to enable dissemination of information leading to quicker disposal of cases. A project for Computerization and Computer Networking of Consumer Fora in the country, (CONFONET) was launched during the 10th Plan period at a cost of Rs. 48.64 crore. The project is being implemented by the National Informatics Centre (NIC) on a turnkey basis. The CONFONET project has been extended to 11th Plan with a total outlay of Rs. 25.69 crore. In the extended period of project, stress is being laid upon continued HR support by means of Technical Support Personnel (TSP) and training for eventual adoption of the system by the Consumer Fora themselves. An expenditure of Rs. 8.89 crore has been incurred during 2010-11. Out of 629 locations being covered under the scheme 519 Consumer Fora are uploading cause lists while 450 Consumer Fora are uploading judgments.

Initiatives on ADR and Counselling

The State Consumer Helplines and National Consumer Helplines National Consumer Helpline was launched in 2005 in collaboration with the University of Delhi .Consumers from all over the country can access the toll-free number 1800-11-4000 and seek telephonic counseling, advice and guidance to sort out their consumer related problems. An independent evaluation conducted noted that there are very few calls originating from North East, West and non Hindi speaking States. Since the service is available only in English and Hindi, State level Helplines were initiated which provides service in regional language ,Hindi and English. This functions in 23 States at present These Helplines will be networked and linked to a nodal Centre at IIPA where the central hub will be functioning. A uniform software platform has been provided to the States for this purpose.

Strategic Plan for 2012-15

As per the Strategic Plan of the Department it is our vision to protect the rights and interests of consumers, to spread awareness about consumer rights, duties and responsibilities and to promote consumer welfare by strengthening consumer movement in the country.

Our mission is implementation of various consumer welfare schemes through progressive consumer related legislations and effective. Active participation of State Govts., academic and research institutions, schools and voluntary organizations will be sought to create a vibrant consumer movement in the country. Strict parameters regarding consumer products will be developed and enforced along with regular monitoring of prices to ensure the sovereignty of consumers.

OBJECTIVES

- To empower consumers by making them aware about their rights and responsibilities.
- To provide effective, inexpensive and speedy redressal system to Consumers.
- To strengthen the infrastructure on Consumer Fora through computerization and computer networking across the country.
- To augment the infrastructure of enforcement machinery of Legal Metrology Department of States/UTs and implementation of The Legal Metrology Act, 2009
- To assist Consumers by giving advice and guidance in Consumer related issues through National Consumer Helpline and State Consumer Helplines functioning in States/UTs across the country.
- To create avenues for Consumers for settlement of Consumer related cases through Mediation process involving Voluntary Organisations and settlement of Grievances
- To dispose off all Grievances and Complaints through a well established Grievances Redressal Mechanism

The mandate of this Department is to undertake measures for consumer protection, by creating awareness among people, speedy dispute redressal system and provide for quality products and services. Our stakeholders in this Mission 25are basically consumers themselves who need to be educated and re-educated, Business organisations who can do a lot by putting in place an in-house Consumer grievances redressal mechanism, and be responsive to consumers, and the various Consumer organisations and academic institutions and research organisations who can supplement the efforts of the Government and could be vehicles for effective launch of a massive consumer movement in the country. Lastly we require the help of State governments in efficiently implementing various programmes at grassroots level.

Strengths and weaknesses:

i. The Department is small one compared to the task it has at hand.
ii. All activities affect the consumer finally in some way or other.
iii. As per Allocation of Business there are different ministries undertaking activities which has a direct bearing on consumer.
iv. There is no mandatory system to get prior clearance of this department before any new scheme or project is initiated.
v. Consumer protection is still of a lower priority among the State governments.
vi. As a result sufficient funds are not allocated for infrastructure and other recurring expenditure.
vii. This affects implementation of schemes.

Learning agenda

- Need to understand and find out the basic deficiencies in the enforcement of CP Act 1986 especially in the functioning of Consumer Fora and the councils at Sate and Dist. Level
- Understand best practices in other countries in providing consumer protection, product safety, ADR procedures.

Review of Consumer Protection Act 1986 and related Acts

Adequate measures to plug loopholes with a view to reduce delays and enhance its reach to new areas of consumer issues need to be taken. The Consumer Protection Act, 1986 is the umbrella Act that enshrined the consumer rights. Some other important pieces of legislation that have a bearing on consumer protection are:

- Bureau of Indian Standards Act, 1986
- Agricultural Produce (Grading and Marking) Act, 1937
- Essential Commodities Act, 1955
- Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980
- Motor Vehicles Act, 1988
- Drugs and Cosmetics Act, 1940
- Sale of Goods Act, 1930

The Acts dealing with other services like Pollution Control, Railways, Electricity, Transport, Communications, Insurance, Banking etc have provisions to protect 36the consumer interests. All these legislations need to be reviewed in consonance with the provisions of the Consumer Protection Act, 1986.A number of Ministries including those of Consumer Affairs, Food an and Public Distribution, Health and Family Welfare, Chemicals and Fertilizers, Agriculture, etc. are involved in various issues related to the protection of the consumers. This makes the implementation of laws complicated. There should be proper coordination between such ministries which have consumer inter phase and all their policy decisions need to be vetted by Department of Consumer Affairs.

Information Technology tools for better delivery of service Public service has to improve its use of technology in policy and program delivery to service citizen needs. In implementing and delivering the decisions of Govt., we need to do better at designing policies and programs in ways that take full advantage of modern technology and that are designed with flexibility and creativity, to meet citizens' needs. In other words, we need to become better at listening to citizens, particularly through the use of modern technology, Government needs to empower individuals and communities in ways that allow it and public servants to have effective exchanges with citizens. Information technology can play a crucial role facilitating communication between citizens and governments. Consumer Fora are being computerized and networked to enable dissemination of information leading to quicker disposal of cases. The project for Computerization and Computer Networking of Consumer Fora in the country, (CONFONET) being implemented by the National Informatics Centre (NIC) should cover all areas left out and enable online filing of complaints.

Conclusion

The prospect of the consumer justice system in our country appears to be bright in view of the proactive policy, schemes / programmes adopted by the Government. However, the present drive and direction need to be supplemented by adopting different channels of redressal. And there is a dire need for the State Governments to give deserving priority to Consumer welfare and gear up themselves to meet the challenges thrown up my market economy. Involvement of trade and industry, civil society organizations and above all consumer themselves are vital for betterment consumer welfare in the years to come.