

# ASSIGNMENT

(Your Laws, Your Rights)

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Course :- B.A (Hons.) Political Science - A

Year :- 2nd year, 3rd Semester

Roll No. :- POK/19/155

# CONSUMER RIGHTS

Consumer protection laws or consumer rights 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 manufacturers, suppliers and of goods or service providers. Earlier, consumers in India were faceless, voiceless and were forced to accept whatever standards or quality of products they were served, but now the circumstances have changed with time, over the years consumers have also gained importance.

During the period of British Rule in India, various principles of the English Common Law were equally applied in India as they were applied in England by the English Judges. As a result, the protections that were prevalent in England in favour of the consumers were provided to the consumers in India as well. Moreover, some specific legislations dealing with specific rights of the consumers were also enacted in India from time to time.



## Development Of Consumer Protection Law In India.

The development of consumer protection laws in India is mainly concerned with or related to some basic issues like - enforcement of correct weights and measurements for protection against deceit in weights and measures; fair trading standards, restrictions and restrictive trade practices for prevention against malpractices in the area of business and trade; health and safety of the consumers and for degradation of the quality of products to stop etc.

The different Central Legislative Enactments of our country, which are in force, have enunciated the spirit of 'Consumerism' in one way or the other. Although, all these legislations may not specifically mention or state the concept of consumer interest, still they certainly do have various provisions to protect the interests of the consumers in some manner. These types of legislations include :- The Indian Penal Code, 1860; The Indian Contract Act, 1872; The Sale of Goods Act, 1930; The Agricultural and Marketing Act, 1937; The Drugs and Cosmetics Act, 1940; The Essential



Commodities Act, 1955; The Code of Criminal Procedure, 1973; The Consumer Protection Act, 1986; and The Consumer Protection (Amendment) Act, 1993 etc.

## Consumer Protection Act, 1986

The Consumer Protection Act, 1986 was an act of the parliament of India enacted in 1986 to protect the interests of consumers in India. It was made for the establishment of consumer councils and other authorities for the settlement of consumer grievances and matters connected there with it. The act was passed in Assembly in October, 1986 and came into force on December 24, 1986.

This act is regarded as the 'Magna Carta' in the field of consumer protection for checking unfair trade practices, 'defects in goods' and 'deficiencies in the services' as far as India is concerned.

'Consumer Protection' is protecting and promoting the consumers' interests through speedy and inexpensive redressal of their grievances.

## Scope of the Consumer Protection Act, 1986



The scope of the act is very wide. It is applicable to all types of undertakings, big and small, whether in the private or public sector or in the cooperative sector, whether a manufacturer or a trader, and whether a supplying goods or providing services.

## CONSUMER

The word 'consumer' refers to those persons who ultimately consume or use various goods produced by the manufacturer or producers. The word 'consumer' includes both consumer of goods and consumer of services.

### Who is a Consumer?

The Consumer Protection Act, 1986 has defined the term 'consumer' separately for the purpose of goods and the services. Section 2(1)(d) runs as a 'consumer' means any person who :-

- (i) buys any goods for a consideration which has been paid or promised or partly paid and partly promised or under any system of deferred payment and includes any user of such goods other than the person who pays for such goods other than the



person who buys such goods for consideration paid or promised, when such use is made with approval of such use persons but does not include a person who obtain such good for resale or for any commercial purpose.

- (ii) Any services for a consideration which has been paid or promised or partly paid and partly promised and includes any beneficiary of such services other than the person who [hires or avails] the services for consideration paid or promised but does not include a person who avails of such services for any commercial purpose.

As per the definition of consumer given in two parts :-

- Consumer of goods
- Consumer of services

Some of the common characteristics that exist between both type of consumers are :-

- (i) The person must have brought and paid consideration for the goods or hired and paid consideration for services in order to come under the definition of 'Consumer' as defined in the Consumer Protection Act, 1986.



(ii) It is not necessary that whole or part of the consideration for the goods has been paid considerations, even promise of payment as a consideration for goods bought or services hired is quite sufficient to attract the provision of the Consumer Protection Act, 1986.

(iii) The status of consumer is not absolutely restricted only to the one who buys goods or hire services, but it is also similarly extended in favour of a person who uses the goods or avails of the necessary approval from the original person.

However, a person who secures goods for resale or for commercial purposes is excluded from the definition of 'consumer'.

Who is not a Consumer?

One who does not pay for the goods one consumed and for the services one avails, is not a consumer.

(i) Free goods and services :- A person enjoying goods and services free of cost is not a consumer and cannot benefit from this Act.

(ii) Reseller :- A purchase of goods for resale cannot take benefit of this Act.



(iii) Commercial Purpose :- A person purchasing goods & services for commercial purpose will also not come under this Act.

Is a Patient undergoing treatment a consumer?

A patient who is using medical service of a doctor or a hospital is a consumer but a doctor cannot be held guilty of negligence if he act in good faith and in accordance of established medical properties.

- Patient in pay wards are consumer
- Hiring of services of doctor on payment is service.
- Patient in Private nursing home is a consumer.
- On payment to hospital, patient is a consumer.
- A person getting free services at hospital is not a consumer.

Is student a Consumer?

- A candidate who pay fees to university for appearing in an examination is a consumer.
- Candidate applying for re-evaluation of examination paper is a consumer.
- Students of education institutions are consumers.
- Student paying tuition fee is a consumer.



# RIGHTS OF CONSUMER

In general, the consumer rights in India are listed under section 6 of the Consumer Protection Act, 1986.

## ① Rights to Protection against Hazardous Goods and Services

This act gives every consumer the right to be protected against marketing of hazardous goods / services significant in various areas including: health care, food, medicine etc.

## ② Right to Information

The consumer has a right to be informed about quality, purity, quantity and other basis in order for him to decide if it is fit for use or not. In the case of unfair practices the consumer may file complain either to the Monopolies Commission or to forums under Consumer Protection Act, 1986.

## ③ Right to Access to Variety of Goods and Services at Competitive Prices.

Every consumer has the right to assured access to a variety of products without a pressure of sale. Certain liberty has been given to shopkeeper to make availability of products at competitive price.



#### ④ Right to Education

Every consumer has the right to consumer education, every consumer should / must be aware of his consumer rights & legal remedies. This right means people / consumers should have access to materials programmes to get the information to make better choice.

#### ⑤ Right to seek Redressal

Every consumer has a right to get relief against unfair trades & exploitation. This is known as right to redressal in the consumer Protection Act, 1986.

#### ⑥ Right to be heard and Receive due consideration at appropriate forums.

Every consumer has the right to be heard and assured that consumer interest will receive due consideration at appropriate forums. This right is supposed to empower Indian consumers to voice complaints and ensure their issues are handled efficiently.

### WHO CAN MAKE / FILE A COMPLAINT?

A complaint can be filed by :-

- (a) A consumer
- (b) One or more consumer where there are numerous consumers having the same interest.
- (c) In case of a death of a consumer his



legal heir or representative.

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(e) Where a young child is taken into a hospital taken by his parents and doctors treat the child the parent of such a minor child can file a complaint under the Act.

(f) Legal heirs of the diseased consumer. In conditions where the consumer himself is not able to file the complaint.

(g) Husband of the consumer. In conditions where a woman may be illiterate or educated woman unaware of her legal rights, the husband can file a complaint on behalf of his spouse.

(h) The relative of consumer.

## CONSUMER COURTS

The consumer protection Act, 1986 provides three tier courts for the adjudication of consumer disputes. The lowest level courts are constituted at district level, which are called **District Forum**. Above them state level consumer courts are constituted, which are called **State Commission** and at the national level there are **National Commission**.



## District Forum

The district forum are constituted in all the districts of India. It entertains consumer complaint where the values of the goods or service and the compensation of any, claimed does not exceed Rs 20 lakhs. Usually every district forum is situated in the district head quarter.

The district forum consists of one president and two other members (one of whom is to be women). The president of the forum is a person who is or who has been qualified to be a District Judge.

## State Commission

A state commission has jurisdiction in whole of the state for which it is constituted. It can hear cases involving the amount more than Rs 20 lakh and upto Rs 1 crore. It has also jurisdiction to hear appeal against the order of the district forum of that particular state. It is situated in the capital of the State.

It comprises of president & two members (one of whom is to be a woman). The president is the person who is or who has been judge of a high court.



## National Commission

The National Commission is on the top of the hierarchy of consumer court. It is the only one for whole of India & situated in Delhi, the capital of India. It can hear cases involving amount above **Rs 1 Crore**. It can also hear appeals against the order of a State Commission.

The National Commission consists of a President, four other members (one of whom is a woman). President should be one who has been a Judge of **Supreme Court**.

## SOME IMPORTANT TERMS

- ① Consumer Dispute :- It is a dispute in which a consumer makes a complaint of deficiency against the goods or services that one pays for.
- ② Deficiency in Service :- It means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by the service provider.
- ③ Defect :- It means any fault, imperfection or short-coming in the quality, quantity, purity or standard which is required to be maintained by the manufacturer, producer



or trader of a good.

④ Unfair Trade and Practise :- A trade practise which is for the purpose of promoting the sale, use or supply of any goods or for the provision of any service adopts unfair methods or unfair or deceptive practise in unfair trade.

## CERTAIN PROVISIONS OF THE ACT

- Consumers physical presence in the consumer Redressal Forum is not required. Instead of appearing himself the complainant authorises some person to appear on his behalf.
- The procedures of the consumer forum are easily understandable even by a lay man.
- No need for advocate
- Place is very normal.
- Proceedings are time bound.
- Consumer courts have different atmosphere when compared to other ordinary courts. Its presiding officers are not required to wear uniform.

## CONCLUSION

Consumer protection enacts protecting the rights and interests of the consumer in matters of availability, quality, quantity and price of Goods and Services. It



in fact promotes the concept of value for money and enhances the trust between the customers and the producer or provider of services.