Research Paper Commerce

Remedies Against Unfair Trade Practices

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ABSTRACT

Consumers are buying a variety of goods and services. Consumer, expect a certain value for money, that is, right quality, right quantity, right prices, information about the product, etc. But today with the liberalization, privatization and globalization of our economy large number of Multinational Corporations has entered India. Some of them may adopt all sorts of unfair trade practices and try to exploit the Indian consumer. So an alert consumer is need of the hour. The present study project the consumer movement in India, consumer exploitation, forms of consumer exploitation and remedies available under the Consumer Protection Act, 1986 against unfair trade practices.

KEYWORDS Consumer, consumer exploitation, unfair trade practices

INTRODUCTION

The common consumer is neither knowledgeable, nor well informed. He needs support and protection from unscrupulous sellers. Liberalization, privatization and globalization of our economy gave a large scope for unfair trade practices in our country. So an alert consumer is need of the hour.

Consumerism is a social and economic order that encourages the purchase of goods and services in ever-greater amounts. In economics, consumerism refers to economic policies placing emphasis on consumption. It is believed that the consumers are free to make choice and should dictate the society's economic structure.

According to Prof. Philip Kotlar "Consumerism is not limited to organised efforts only but, is a social movement seeking to augment the rights and powers of the buyers in relation to sellers".

CONSUMER

A person who buys any goods or services for a consideration which has been paid or promised or partly paid and partly promised or under any system of deferred payment is a Consumer. A person who obtains such goods for resale or for any commercial purposes will not be a consumer. However, if such goods are bought by a person exclusively for the purpose of earning his livelihood by means of self-employment then such a person will be considered as a consumer.

CONSUMER MOVEMENT IN INDIA

Dynasties prior to the British rule, there were enactments to punish the dishonest and unfair traders and producers. The laws of Manu and Chanakya's 'Arthasastra' also refer to the punishments to be awarded to dishonest traders. The British introduced in India laws such as the Sale of Goods Act, Weights and Measurements Act which were being followed in England. Some organized effort to protect consumers from the middlemen was made in the 1940s by eminent freedom fighters such as Sri Tanguturi Prakasam, Sri C. Rajagopalachari (Rajaji), etc., in Southern India. They started consumer co-operative stores to retail essential commodities. This became a social movement and the concept of consumer co-operatives spread to different parts of the country. Today, consumer organizations such as the Mumbai Grahak Panchayat in Mumbai are continuing this approach to consumer welfare by organizing the procurement and distribution of essential items to their members.

The origin and growth of the consumer movement in India which has many similarities to the movements elsewhere can be divided into three significant phases.

The first phase constitutes the 1960s in which organisations such as the Consumer Guidance Society of India (Bombay) were formed to inform and educate consumers on the quality of goods and services and to conduct simple tests on goods of daily consumption.

During the second phase, 1970-1980, shortages in the supply of essential commodities and the unsatisfactory functioning of the Public Distribution System (PDS) led activists to form consumer organizations in their towns and localities to ventilate their grievances to the authorities concerned. Several such organizations which were formed between 1970 and 1980 were primarily concerned with the problems of inflation, food adulteration and the Public Distribution System. These organizations served a very useful purpose as voluntary vigilance groups in the market place.

The third phase of growth covering the period from 1981 to 1990 signifies expansion and consolidation of the consumer movement in India, especially after 1986. With the enactment of the Consumer Protection Act, 1986, there has been a spurt in the number of new organizations in the country. We can certainly say that the consumer movement in India has come of age. Beginning with less than 10 organisations in 1965, we had by 1996 established over 900 consumer organizations across the country. This is the largest number of consumer organisations in any country in the world.

CONSUMER RIGHT

Consumer right is 'the right to have information about the quality, potency, quantity, purity, price and standard of goods or services'

CONSUMER RIGHTS IN INDIA

There are strong and clear laws in India to defend consumer rights. Out of the various laws that have been enforced to protect the consumer rights in India, the most important is the Consumer Protection Act, 1986. According to this law, every-

body, including individuals, a firm, a Hindu undivided family and a company, have the right to exercise their consumer rights for the purchase of goods and services made by them. It is significant that, as consumer, one knows the basic rights as well as about the courts and procedures that follow with the infringement of one's rights.

In general, the consumer rights in India are listed below:

- The right to be protected from all kind of hazardous goods and services
- The right to be fully informed about the performance and quality of all goods and services
- The right to free choice of goods and services
- The right to be heard in all decision-making processes related to consumer interests
- The right to seek redressal, whenever consumer rights have been infringed
- The right to complete consumer education

FORMS OF CONSUMER EXPLOITATION IN INDIAN MARKET

In a commercial society, the customer should be king. Even so, there are plenty of ways establishments rip consumers off and treat them below par. No matter what types of goods you buy, you need to be on the guard for consumer exploitation. Some types of exploitation are small and somewhat unimportant, but other types of exploitation can be quite costly.

Goods that are sold by weight or volume are subject to short-changing and consumers are left to pay the price when businesses short-change their consumers. In some cases the short-changing is unintentional, the result of a mechanical failure or an improperly rectified scale. In other cases, the short-changing may be a deliberate repetition, intended to bring the company more business. From the butcher holding his thumb on the gauge while counting out the steaks to a gas station whose pumps provide three-quarters of a gallon instead of a full one, there are many ways consumers are cheated and exploited in this way.

- Underweight and under measurements
- Selling at a higher price
- Product risk
- Duplication
- Substandard goods and services
- Artificial scarcity
- False claims

CAUSES OF CONSUMER EXPLOITATION

- Illiteracy and Ignorance
- Spurious Goods
- Deceptive Advertising
- Malpractices of Businessmen

CONSUMER DISPUTES REDRESSAL ADJUDICATORY BODIES

The Consumer Protection Act, 1986 envisages a 3-tier quasi-judicial system. There are Consumer Disputes Redressal adjudicatory bodies established at three levels i.e. District, State and National. They are known as District Forums, State Commission and National Commission. These decentralized infrastructures help the consumers who are aggrieved to approach the appropriate forum. The District Forum is presided by a District Judge. The State Commission is presided by a Retired High Court Judge. The National Commission is presided by a retired Supreme Court Judge. The District Forum can adjudicate on the matter up to Rs.20 lakhs, State Commission up to one crore and National Commission above Rs.1.00 crore. The proceedings before these-adjudicatory bodies are regulated in accordance with the principles of natural justice. New complaints filed are required to be accompanied with court fee.

CONSUMER RELATED AGENCIES

The following major Agencies are involved in Consumer Protection

- State Consumer Protection Council, Government of Tamil Nadu
- Civil Supplies and Consumer Protection department
- District Administration and District Consumer Protection Council
- Consumer Courts
- Department of Consumer Affairs, Government of India
- Other departments of State and Central Government: Drug Controller General of India, Ministry of Food Processing Industries, Bureau of Indian Standards, Stock Exchange Bureau of India, Telecom Regulatory Authority, of India (TRAI), Competition Commission of India (CCI), Controller of Legal Metrology, Department of Public Health, Police department, Local Bodies, etc.,

TYPES OF GRIEVANCES

The consumer can seek redressal for various kinds of grievances and can launch a complaint in the appropriate Consumer Forum if

- A trader adopts unfair or restrictive trade practice
- Goods bought are defective
- Services of any kind suffer from deficiency
- The trader collects price in excess than the fixed price, or the price displayed on goods or package, or the price displayed on the price list.
- Goods which are hazardous to life and safety are being offered for sale.
- Services hazardous to life are being offered for sale.

REMEDIES AVAILABLE UNDER THE CONSUMER PROTECTION ACT, 1986 AGAINST UNFAIR TRADE PRACTICES

- To remove the defect pointed out by the appropriate laboratory from the goods.
- To replace the goods with the new goods of similar description, which are free from similar defects.
- To return the price or the charges paid by the complainant
- To pay such amount as compensation to the consumer for any loss or injury suffered by the consumer due to the negligence of the opposite party.
- To remove the defects or deficiencies in the services in question;
- To discontinue the unfair trade practice or the restrictive trade practice or not to repeat.
- Not to offer the hazardous goods for sale.
- To withdraw the hazardous goods from being offered for sale and
- To provide for adequate costs to parties.

CONCLUSION

With the liberalization of our economy large number of Multinational Corporations has entered India. Some of them may adopt all sorts of unfair trade practices and try to exploit the Indian consumer. So an alert consumer is need of the hour. Consumer Education has become an integral part of formal education therefore all universities, colleges and school education department should make necessary step to introduce consumer education in their curriculum at all levels. The following activities should be implemented to increase consumer awareness:

- Establishment of Citizen Consumer Clubs in every educational institution.
- Providing consumer education to rural masses through Women Self Help Groups / Panchayat Level Federations and through Residents Welfare Associations / Apartment Owners Associations in Urban areas
- Generating awareness through work shops / seminars
- Publication and distribution of magazine
- Propagating consumer awareness messages through Radio / Television Media and short video films

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