



**ORIGINAL RESEARCH PAPER**

**Law**

**REDRESSAL MECHANISM OF CONSUMER DISPUTES UNDER THE CONSUMER PROTECTION ACT, 2019: A STUDY WITH SPECIAL REFERENCE TO WORKING OF THE HIMACHAL PRADESH STATE CONSUMER DISPUTES REDRESSAL COMMISSION**

**KEY WORDS:** Consumer Protection, Consumer, Consumer Dispute, Consumer Dispute Redressal Commission

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**ABSTRACT**

*A new regime of consumer protection is started in India by enacting the Consumer Protection Act, 2019 by the legislature. With the advent of digitization the new era of e-commerce started. The consumers are having both new opportunities and risks. To tackle these new emerging problems and to provide speedy redressal to the consumers the new Act of 2019 was passed by repealing the Consumer Protection Act, 1986. This Act aims to protect consumer rights by developing the mechanisms for prompt and efficient handling and resolution of consumer disputes. There is clear shift from the old doctrine of Caveat emptor to Caveat venditor. The new definition of consumer and various new changes in jurisdiction of commission is discussed. The redressal of consumer grievances is most important aspect of consumer protection. This paper highlights the mechanism of redressal of consumer disputes under Consumer Protection Act, 2019. This paper analyses the law and mechanism for redressal of consumer grievances, settlement of the disputes and the lacunas in the institutional framework provided for the consumer disputes redressal. The working of Himachal Pradesh State Consumer Dispute Redressal Commission is also highlighted in this paper. It identifies the lacunas in institutional framework for consumer dispute redressal, settlement of consumers and the suggestions for speedy disposal of the consumer disputes so that the faith of consumer remains on the consumer dispute redressal commissions.*

**INTRODUCTION**

Consumer protection is a vital concern and importance for every citizen of the country in the current economic and social environment, as each of them is a consumer in some way. Each person is a potential or actual consumer of the assets available on Earth for his or her activity and needs, whether they are scholarly, intellectual, affinitive, or recreational. The consumer is the sole goal and purpose of all productions, and the producer's interest should be pursued only to the extent that it is necessary to promote the consumer's. The industrial revolution introduced the concepts of standardisation and mass production, and the variety of goods and services available grew exponentially over time. With the advent of international trade reforms and in the era of globalisation and liberalisation, consumerism aims to eliminate injustice and unethical business practises so that consumers' interests are protected fairly and not infringed.

Consumer protection laws originated and evolved as a natural response to the recognition of consumer rights to be protected against exploitation and abuse done by any manufacturer or supplier of goods or services. Consumer protection can be traced back to every kind of social order and judicial mechanism, whether primitive or modern. Because of the changing role of the state, consumer protection has become highly significant. Consumer protection is a precondition for the system's credibility and legitimacy. The growing interdependence of the global economy, as well as the international nature of many business practises, has contributed to the development of a consistent and universal emphasis on consumer protection. Consumers have sought legal protection through legislations because general laws and market forces have failed to provide it. Many consumer protection laws are concerned with the terms and conditions of contracts that consumers enter into with suppliers for the supply of goods and services, or with conduct that encourages consumers to enter into such contracts. Due to changes such as modern industrial economies and the emergence of New and Emerging Technologies, the legislative and regulatory framework that underpinned consumer protection laws in the 1960s and 1980s lacked in protecting the rights of the consumers. New trends in digital marketing, commerce, and customer expectations have all been ushered in by the advent of the digital age. Access, a wide range of options, cost-effective instalment options, improved administration, and shopping according to convenience have all been made possible by digitization.

Consumer faces both increased opportunities and risks as a result of new developments. The Consumer Protection Act, 2019 was enacted in response to the aforementioned issues and to address the flaws and gaps in the previous Consumer Protection Act of 1986. By introducing the clear concept of product liability and a gradual shift from the old doctrine of *Caveat emptor* to *Caveat venditor*, the new law paved the way for some reforms in the old law. The new legislation aims to address the issue of consumer protection by strengthening the regulatory mechanism, criminalising anti-consumer behaviour, expanding the scope of consumer protection to include e-commerce, and establishing an excellent institutional support system for its implementation. Along with jurisdictional issues, the legislation recognises the importance of a global perspective.

**Meaning of Consumer and Consumer Dispute**

A consumer is a person who purchases a commodity-based on certain specific considerations: in the form of paying the price for it; or promising to pay or pay the amount partly. According to the Cambridge Dictionary, the term consumer is defined as, "a person who buys the goods or services for their use." According to Black Law Dictionary, "Consumer" means one who consumes. Individuals who purchase, use, maintain and dispose of products and services.

However, according to section 2(7) of the Consumer Protection Act, 2019 "Consumer means any person who buys any goods or hires any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment, when such use is made with the approval of such person includes any user of such goods or any beneficiary of such service but a person who obtains goods for resale or commercial purpose is excluded from the definition of consumer." The explanation to the definition specifies that "commercial purpose" does not include use by a person of goods bought and used by him exclusively to earn his livelihood, through self-employment. The new Act has recognized any person as a consumer who buys goods or hires services whether online or offline through electronic means or teleshopping or direct selling or multi-level marketing.

Contrary to the definition of 'goods' as per the 1986 Act, the term 'food' has been included and defined as per the Food Safety and Standards Act, 2006. This Act will contain the much-needed provision regarding food delivery which has seen a

phenomenal increase in demand.

Section 2(8) of the Consumer Protection Act, 2019 defines "Consumer Dispute". The dispute becomes a consumer dispute when the allegations made in a complaint filed by the complainant are denied or disputed by the party or parties against whom the complaint is made. The word "complaint" is defined under section 2(6) of the Consumer Protection Act, 2019 as any allegation made by the complainant in writing to obtain any relief provided under this Act. Clause (vii) is added to section 2(6) which provides that a complaint can be filed for product liability against the product manufacturer, product seller, or product service provider.

### Provisions under Consumer Protection Act, 2019 for Consumer Dispute Redressal

Consumers require not only some protection, but also that their grievances be properly addressed according to the law of the land. When his attempts to communicate with the manufacturer or marketer fail, he must seek legal redress of his grievances. Consumer complaints are the first step in seeking redress for the protection of one's interests. Consumer complaints and feedback have more power than ever before in the age of the internet and social media. The current government recognises that the consumer's purchasing power is critical to the economy's growth. With the goal of resolving new India, it has emphasised the importance of consumer grievance redress. The Consumer Protection Act, 2019 provides for redressal of grievances in cases of defects in goods or products and deficiency in services.

### Central Consumer Protection Authority

The Central Authority as an executive body is consumer-centric at all stages of consumer's engagement with the market i.e., prior, during, and post-purchase of goods or procurement of services, which was absent in the Consumer Protection Act, 1986. The authority is intended to operate like the Federal Trade Commission (FTC) in the United States of America, which will upgrade the implementation mechanism to global standards. It is an independent authority responsible to set standards in a specific activity or operation and enforce those standards.

Chapter III (Sections 10-27) of the Consumer Protection Act, 2019 deals with the establishment of the Central Consumer Protection Authority (CCPA) with its headquarters at the National Capital Region of Delhi. Central Government may decide to have its regional and other offices. It will regulate the matters relating to violations of the consumer rights, unfair trade practises, and false or misleading advertising. It has the authority to defend, advance, and uphold the rights of the consumers as class. The Consumer Protection Authority established with effect from 24 July 2020.

The Authority's motivation is to secure the rights and interests of shoppers by limiting cases identifying with unreasonable excuse rehearses, bogus or deluding advertisements, and mishandling of customer rights. Giving importance to the "complainant", the Authority was additionally instructed to permit them to fill in as gatekeepers for clients. The complaints to Authority can be filed only when something prejudicial to the interests of consumers as a class happens. The complaint can be submitted in writing or electronically to the District Collector, the Authority, or the Commissioner of the Central Authority's regional office. This regulatory body is vested with the power to take *suo motu* actions, order for recalling of goods and withdrawal of services, reimbursement of the prices discontinuation of practises that are unfair and detrimental to the interests of the consumer with regard to the recalled goods or services.

### Consumer Disputes Redressal Commission

The Consumer Protection Act, 2019 envisages a speedy, inexpensive, and hassle-free dispute redressal to the

consumers. To achieve this it established Consumer Dispute Redressal Commission across the country at various levels being the District, State, and National levels for adjudicating complaints filed by consumers. Similar to the earlier Act of 1986 the Consumer Protection Act, 2019 also replicates the three-tier redressal system called Consumer Disputes Redressal Commission. These Commissions are quasi-judicial bodies in terms of nature, power and are referred to as Consumer Courts. These redressal commissions aim for a simpler adjudication mechanism and make way for a review process. The fora established by the Consumer Protection Act, 1986 will continue to hear the cases brought before the enforcement of the Consumer Protection Act, 2019 and they will not be transferred.

Consumer Disputes Redressal Commission' is covered under chapter IV (sections 28 to 73) of the Consumer Protection Act, 2019. The "National Consumer Disputes Redressal Commission" is to be constituted by the Central Government. With the prior approval of the Central Government, the State Government will constitute the 'State Consumer Disputes Redressal Commissions' and 'District Consumer Disputes Redressal Commissions'. Every Consumer has the right to file a complaint and seek redressal through Consumer Dispute Redressal Commission in correspondence to: (i) prejudiced trade practices; (ii) faulty goods/services; (iii) overcharging/misleading charging and (iv) the contributing of supplies/services for sale which may be hazardous and threaten safety and life.

Before proceeding with the complaint, the consumer should determine the territorial and pecuniary jurisdiction to file the complaint. Provisions are made for the filing of online complaints electronically. The aggrieved party of the orders passed by the Consumer Disputes Redressal Commission can file appeals from the District to State Commission; from State Commission to National Commission and appeals will be heard by the Supreme Court of India from the National Commission. If the parties are not satisfied with the order passed then a review application in the same commission can be filed within 30 days from the date of pronouncement of judgment.

### Pecuniary Jurisdiction

For the complaint to be filed in the Consumer Dispute Redressal Commissions the pecuniary limit provided under the Act are as follows:

1. District Consumer Dispute Redressal Commission is up to Rupees 1 crore.
2. State Consumer Dispute Redressal Commission is between Rupees 1 crore and Rupees 10 crores.
3. National Consumer Dispute Redressal Commission claims above Rupees 10 crores.

Under the new Act the pecuniary jurisdiction depends upon the value of the goods or services paid as consideration. In the case of *Pyaridevi Chabiraj Steels (P) Ltd. v. National Insurance Company Ltd.*, Consumer Case No. 833 of 2020, decided on 28-08-2020 by National Consumer Dispute Redressal Commission, held that the value of goods or services paid as consideration alone must be taken into account while determining the pecuniary jurisdiction of District Commissions, State Commissions, or National Commission and the value of the goods or services purchased is not to be considered. To remove the burden from the National Consumer Dispute Redressal Commission, the legislature imposed new limits for the pecuniary jurisdiction of different Commissions. The changes done are unreasonable and arbitrary which is pointed out by the Minister of Consumer Affairs, Food and Public Distribution, that the majority of consumer matters in India is where consideration paid is below one crore.

### Cognizance by Supreme Court

The Supreme Court has taken a *suo motu* case against the Indian government for failing to appoint the President and members of the staff of the District and State Consumer Disputes Redressal Commissions, as well as for failing to provide adequate infrastructure. The apex court ordered the government to conduct a legislative impact assessment of the Consumer Protection Act, 2019. It is also observed that *"The very purpose of settling up these tribunals and providing consumer remedy goes if these tribunals are not being manned."*

The Centre for Consumer Affairs, India Institute for Public Administration, conducted the Legislative Impact Assessment, which found that:

1. Due to an increase in pecuniary jurisdiction, there has been a decrease in original complaints filed both in State Consumer Dispute Redressal Commission and National Consumer Dispute Redressal Commission. After the enactment of the Consumer Protection Act of 2019, there has been a 6.3 percent increase in complaints filed with District Commissions.
2. 50.4 percent of member posts in State Commissions are vacant, compared to 45.4 percent in District Commissions.
3. 54 percent of District Commissions have inadequate infrastructure, 50 percent face financial constraints, and 37 percent lack adequate storage space.

The following suggestions are recommended by the Legislative Impact Assessment Study to make the working of Commission more effective as follows:

- (i) The pecuniary jurisdiction is to be revised as to District Commission- 50 Lakhs, State Commission- 50 lakhs to 2 Crore, National Commission beyond 2 crores,
- (ii) additional benches at District Commissions, to deal with increased jurisdiction along with regional benches for state Commission and National Commission should be constituted,
- (iii) State Government to make 'standing panel' and the Presidents and Members who have a very good record be considered for re-appointment,
- (iv) creating for permanent cadre to ensure continuity up to 60 years with the power of removal,
- (v) improvements in the infrastructure and manpower and financial powers of Commissions.

The Central Government on 30<sup>th</sup> December 2021 notified the Consumer Protection (Jurisdiction of the District Commission, the State Commission and the National Commission) Rules, 2021 as follows:

- (a) jurisdiction of district commission is where the value of goods and services paid as consideration does not exceed fifty lakhs,
- (b) the jurisdiction of State commission is above fifty lakhs but does not exceed two crore rupees,
- (c) the jurisdiction of National Commission is above two crore rupees.

### **Territorial Jurisdiction**

Earlier, a consumer could file a complaint only where the product was purchased or where the seller of the product has registered office but a complainant can now file a complaint where he resides or works for gain. The new provision is beneficial for the consumers in the present day owing to the rise in e-commerce and electronic transactions and the fact that the service providers or the sellers may have their offices registers in any part of the world.

### **Mediation**

Mediation is a form of Alternative Dispute Redressal (ADR) system to resolve disputes by appointing a third neutral party with the consent of parties by settlement. The Consumer Protection Act, 2019 under chapter V (sections 74-81) provides for the settlement of the consumer disputes outside

the court through the Alternative Dispute Redressal mechanism of mediation, thereby simplifying the entire adjudicatory mechanism and reducing the number of consumer disputes in the consumer forums. Now a complaint can be transferred by the Consumer Commission to the Mediation Cell if the parties agree to it. No appeal would go against the settlement arrived by the parties through mediation. Further, the parties can opt-out for mediation for the redressal of disputes from any place and time thereby reducing the hassles of the consumers. This is a speedy and less expensive method for the settlement of consumer disputes. The growing number of online consumers could impact the rising numbers of complaints. The forum of mediation would save time cost and energy for the consumers, using mediation for the settlement of grievances would be a time saver for all kinds of consumers.

### **Working of the Himachal Pradesh State Consumer Disputes Redressal Commission**

In India, we have one National Commission, 35 State Commissions, and 678 District Commissions. The numbers of cases pending in all the forums are as follow- National Commission (22160), State Commission (124223), and District Commission (406493). The percentage of disposal of consumer complaints at different forums is as follows -National Commission (84.01%), State Commission (86.43%), and District Commission (90.74%). Major changes are done by the enactment of the Consumer Protection Act, 2019 in the constitution of State Consumer Redressal Commission and pecuniary jurisdiction. The seats of President and member/staff of Districts, State and National Consumer Disputes Redressal Commission are vacant and there is inadequate infrastructure across India. Under Consumer Protection Act, 2019 the number of members in the State Commission is increased from two to four. In the State of Himachal Pradesh, there is State Commission and twelve whole time District Commissions. The seat of the President of Himachal Pradesh State Consumer Redressal Commission was vacant from the year 2020. On 9 February 2022, Justice Inder Singh Mehta is appointed as President of the State Commission. Two members are working presently in State Commission, and notification issued by the State Government in Gazette of Himachal Pradesh regarding an increase in the number of members to four. Various posts of members and ministerial of State and District commissions are also vacant. E-filing was launched by National Consumer Dispute Redressal Commission (NCDRC) on 7th September 2020. Delhi was the first state to implement it on 8th September 2020. The e-filing of a complaint is also started in Himachal Pradesh. The numbers of cases pending in all the forums are as follow State Commission 32050, and District Commission 66615. The percentage of disposal of consumer complaints at different forums is as follows State Commission 97.74%, and District Commission 96.36%. The mediation cells in District and State Consumer Dispute Redressal Commission is yet not constituted in the State of Himachal Pradesh.

However, the enactment of the Consumer Protection Act, 2019 had strengthened the institutional framework for the redressal of consumer disputes. The Hon'ble Supreme Court by taking *suo motu* cognizance had addressed various issues like vacancies in the consumer disputes redressal commissions, lack of infrastructure across the country, and overburdening of District Commissions due to increasing in pecuniary jurisdiction. The apex court has also directed all State Governments to set up mediation cells and e-filing system for the District and State Consumer Dispute Redressal Commission. These issues must be resolved so that objective of the consumer protection Act 2019 is achieved and the complainants do not lose faith in the commission for speedy disposal of consumer disputes.

### **Sum-up**

Consumer protection is crucial in the present economic and



social system. With industrialization, globalization, and liberalization the need for the protection of consumer interest is also felt due to an increase in unfair trade practices. The need for a uniform consumer protection system has become highly significant due to the expanding interdependence of the global economy and the international nature of business practises. In this digital era, the rapid development in commerce and digital marketing led to a new delivery system which increased the expectations and risk for the consumers. To address these vulnerabilities in the digital age Consumer Protection Act, 2019 was passed. A holistic approach is adopted in the new law and institutional support is provided for redressal of consumer disputes. Structurally, the Consumer Protection Act, 2019 has established a regulatory body in the form of the Central Consumer Protection Authority (CCPA) and Consumer Disputes Redressal Commission for speedy, inexpensive, and hassle-free dispute redressal to the consumers. The pecuniary jurisdiction of the District, State, and National Consumer Protection Commissions is also increased. Unlike the 1986 Act, where the jurisdiction in which the complaint must be filed was based on the value of the goods and services paid as well as the amount of compensation, if any, claimed, it is now based on the value of the goods and services paid. The provision related to mediation is also introduced as an alternative resolution method of resolution of consumer disputes to reduce the burden of commissions.

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Despite considerable changes in laws aiming to adapt to the new developments, a strong institutional framework, and consumer disputes redressal mechanism, its efficiency in speedy disposal of consumer disputes due to vacancies and lack of infrastructure across the country is a challenge for India. So that the consumers do not lose their faith in consumer redressal mechanism for speedy disposal of consumer disputes as envisaged under the Consumer Protection Act, 2019 the following measures are suggested:

1. There should be a penalty for frivolous or vexatious complaints to speedy disposal of genuine complaints of the consumers.
2. Nations should adopt uniform consumer protection laws and arrangements should be made for enforcing the laws in consumer interest.
3. The provision for the online dispute redressal method should also be added by way of amendment.
4. The recommendations of the Legislative Impact Study should be adopted wholly.
5. The authorities under the Act should be empowered to issue interim injunctions or cease-desist orders until the consumer dispute is resolved.

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