CHAPTER THREE

THE THREE TIER CONSUMER DISPUTES REDRESSAL MECHANISM (CDRM):
ESTABLISHMENT, COMPOSITION, JURISDICTION AND THEIR PERFORMANCE APPRAISAL
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THE THREE-TIER CONSUMER DISPUTES REDRESSAL MECHANISM:

ESTABLISHMENT, COMPOSITION, JURISDICTION, WORKING

AND THEIR PERFORMANCE APPRAISAL

3.1 Introductory

Chapter Three of the Consumer Protection Act, 1986 is entitled Consumer Disputes Redressal Agencies. Sections 9 to 27-A contained in this chapter deal with the topics like the establishment, composition, jurisdiction, manner and procedure for filing complaints under the Act; the procedure relating to transfer of cases, filing of appeals; enforcement of orders of the Consumer Disputes Redressal Agencies; and dismissal of frivolous or vexations complaints etc. According to section 9, for the purposes of the Consumer Protection Act, 1986, three types of Consumer Disputes Redressal Agencies shall be established. These three agencies are as follows:

(I) Consumer Disputes Redressal Forum - Also known as District Consumer Forum

(II) Consumer Disputes Redressal Commission - Also known as the State Commission

(III) National Consumer Disputes Redressal Commission - Also known as the National Commission

As the title of the present chapter suggests, the chapter contains a detailed and elaborate discussion on the provisions relating to the establishment, composition, jurisdiction and working of the Three-Tier Consumer Disputes Redressal Mechanism envisaged and established under the Consumer Protection Act, 1986. This chapter also contains discussion
on the performance appraisal of the redressal mechanism. The sole aim of writing this chapter is first to understand the statutory provisions relating to the establishment and actual working of the Consumer Disputes Redressal Agencies as well as to evaluate their performance, both analytically as well as critically in order to suggest suitable modifications in the Consumer Protection Act, 1986.

3.2 The Consumer Disputes Redressal Mechanism Established Under the Consumer Protection Act, 1986

As mentioned above, the Consumer Protection Act, 1986 envisages a Three-Tier Consumer Disputes Redressal Agencies. These are: (i) The District Consumer Disputes Redressal Forum; (ii) The State Consumer Disputes Redressal Commission; and (iii) The National Consumer Disputes Redressal Commission. A detailed discussion about each one of these Redressal Agencies is as follows.

3.2.1 The District Consumer Disputes Redressal Forum

Section 9(a) of the Consumer Protection Act, 1986 requires every state in the country to establish in every district a District Consumer Disputes Redressal Forum. As per the provisions of the original Consumer Protection Act, 1986, every state government, before it could go ahead with the establishment of a District Consumer Forum, needed the prior approval of the Central Government. However, keeping in view a large number of problems being faced by the respective state governments on various fronts while taking approval, this requirement has been dispensed with. This was done away with in the Consumer Protection (Amendment) Act, 1993.

3.2.1.1 The Composition of the District Consumer Disputes Redressal Forum

Section 10 of the Consumer Protection Act, 1986 deals with the composition of the District Consumer Disputes Redressal Forum. According to this section, each District Forum shall consist of the following:

(a) A person who is, or has been, or is qualified to be a District Judge, who shall be its President;
(b) Two other members,\(^1\) one of whom shall be a woman, who shall have the following qualifications, namely

(i) They must not be less than thirty five years of age;

(ii) They must possess a bachelor’s degree from a recognized university; and

(iii) They must be persons of ability, integrity and standing, and have adequate knowledge and experience of at least ten years in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs\(^2\) and administration.\(^3\)

However, a few categories of persons are disqualified from being appointed as members of a District Consumer Disputes Redressal Commission.\(^4\) Thus a person shall not be qualified for appointment as a member of a District Forum:

(a) If he has been convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involved moral turpitude; or

(b) If he is an undischarged insolvent; or

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\(^1\) This clause is likely to be amended by the Consumer Protection (Amendment) Bill, 2011, if passed. The opening words “two other members” are going to be substituted by the words “not less than two and not more than such number of members, as may be prescribed, and at least”.

\(^2\) The Consumer Protection (Amendment) Bill, 2011 proposes to substitute the words “public affairs” by the words “consumer affairs”

\(^3\) This clause is likely to be followed by an Explanation by virtue of the Consumer Protection (Amendment) Bill, 2011, if passed. It will be to the following effect: ‘Provided that not more than fifty per cent of the members shall be from amongst persons having a judicial background. This shall again be followed by another Explanation: For the purpose of this clause, the expression “persons having judicial background” shall mean persons who have served as a presiding officer for at least one year in a judicial court:”

\(^4\) By virtue of the Consumer Protection (Amendment) Bill, 2011, the following clause is also likely to be amended. In the opening portion, for the words “Provided that a person shall be disqualified for appointment”, the words “Provided further that a person shall be disqualified for appointment or for continuation as such” shall be substituted.
(c) If he is of unsound mind and stands so declared by a competent court; or

(d) If he has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or

(e) If he has, in the opinion of the State Government, such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a Member; or

(f) If he has such other disqualifications as may be prescribed by the Government.

According to the *Consumer Protection (Amendment) Act*, 1993, every appointment made under Section 10(1) shall be made by the State Government on the recommendations of a Selection Committee consisting of the following:

(i) The President of the State Commission - Chairman

(ii) The Secretary of the Law Department of the State - Member

(iii) The Secretary In-charge of the Department dealing with consumer affairs in the State - Member

The *Consumer Protection Act* also lays down a proviso which says that where the President of the State Commission is, by reason of absence or otherwise, unable to act as Chairman of the Selection Committee, the State Government may refer the matter to the Chief Justice of the High Court for nominating a sitting judge of that High Court to act as its chairman.

Section 10(2) of the 1986 Act deals with the tenure of the office being held by members of a District Consumer Disputes Redressal Forum. According to this section, every member of the District Forum shall hold office for a term of five years or up to the age of sixty five years, whichever is earlier. Thus no distinction has been made by the 1986 Act with regard to the tenure of the President of the District Forum and other members. However, this sub-section contains three provisos which are as follows.

In the first place, it is stated in the 1986 Act that a Member of a District Forum shall be re-eligible for re-appointment for another term of five years or up to the age of sixty five years,
whichever is earlier, subject to the condition that he/she fulfils the qualifications and other conditions for appointment mentioned in section 10(1)(b) and such re-appointment is also made on the basis of the recommendation of the Selection Committee.

In the second place, the law states that Member of a District Forum may resign his/her office in writing under his/her hand addressed to the State Government and on such resignation being accepted, his office shall become vacant and may be filled by appointment of a person possessing any of the qualifications mentioned in section 10(1) in relation to the category of the Member who is required to be appointed under the provisions of section 10(1-A) in place of the person who has resigned.

In the third place, the law further provides that a person appointed as the President or as a Member, before the commencement of the *Consumer Protection (Amendment) Act, 2002*, shall continue to hold such office as President or Member, as the case may be, till the completion of the term.

Section 10(3) deals with the issues like the salary, honorarium and allowances to be paid to the members of the District Forum. According to this section, the salary or honorarium and other allowances payable to, and the other terms and conditions of service of the Members of the District Forum shall be such as my be prescribed by the State Government. However, there is a proviso to this section, too. The proviso states that the appointment of a Member of a District Consumer Disputes Redressal Forum on whole-time basis shall be made by the State Government on the recommendation of the President of the State Commission taking into consideration such factors as may be prescribed including the work load of the District Forum.

A new section 10-A has been proposed to be inserted in the *Principal Act* by the *Consumer Protection (Amendment) Bill, 2011*, if passed. This shall be as under:

“Section 10.

(1) The State Government shall determine the nature and categories of the officers and other employees required to assist the District Forum in the discharge of its functions and provide the District Forum with such officers and other employees as it may think fit.”
(2) The officers and other employees of the District Forum shall discharge their functions under the general superintendence of the President.

(3) The salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees of the District Forum shall be such as may be prescribed by the State Government:

Provided that officers and other employees employed on or before the commencement of the Consumer Protection (Amendment) Act, 2011, in a District Forum, shall continue to be employed as such unless the nature and categories thereof has been determined by the State Government.”

3.2.1.2 The Jurisdiction of the District Consumer Disputes Redressal Forum

Section 11 of the Consumer Protection Act, 1986 deals with the subject of jurisdiction of a District Consumer Disputes Redressal Forum. The term ‘jurisdiction’ signifies and includes the following types of jurisdiction: (i) The Pecuniary Jurisdiction; (ii) The Subject Matter Jurisdiction; and (iii) The Territorial Jurisdiction. All the issues relating to jurisdiction of a District Consumer Form have been discussed in the following paragraphs.

3.2.1.2.1 The Pecuniary Jurisdiction

According to section 11(1), subject to the other provisions of the 1986 Act, the District Forum shall have jurisdiction to entertain complaints where the value of the goods or services and the compensation, if any, claimed does not exceed rupees twenty lakhs. In this connection, it may be appropriate to mention here that the original Consumer Protection Act, 1986 provided that the pecuniary jurisdiction of a District Consumer Disputes Redressal Forum shall be “less than one lakh”. However, this provision was substituted by virtue of the amendment of the Act in the year 1993. Thus the Consumer Protection (Amendment) Act, 1993 substituted the above expression of “less than one lakh” by the expression “does not exceed rupees five lakhs”

3.2.1.2.2 The Subject Matter Jurisdiction

5 Provision inserted by the Consumer Protection (Amendment) Act, 2002.
As per the provisions of sections 11 of the 1986 Act, the District Forum has jurisdiction over goods and services. However, the term ‘goods’ has not been defined in the Consumer Protection Act. It has been given the same meaning as given in the Sale of Goods Act, 1930. According to section 2(7) of the 1930 Act, the term ‘goods’ means every kind of moveable property other than actionable claims and money; and includes stock and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale.

However, the term service has been defined in section 2(1)(o) of the 1986 Act. The section says that the term ‘service’ means service of any description which is made available to potential users and includes, but not limited to, the provision of facilities in connection with banking, financing, insurance, transport, processing, supply of electrical or other energy, board or lodging both, housing construction, entertainment, amusement or the purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service.

As a matter of fact, the definition of the term ‘service’ as incorporated in the Consumer Protection Act, 1986 was sufficiently wide. However, in view of a large number of cases that were filed before the Consumer Disputes Redressal Agencies ever since the 1986 Act came into existence and the redressal mechanism was established and had started functioning, the definition was further widened. This was done first by way of amendment of the original Act of 1986 by passing the Consumer Protection (Amendment) Act, 1993 and by insertion of the words ‘housing construction’. The definition was further widened by insertion of the words “includes, but not limited to”.

Another sub-clause 2(i) was inserted in the Consumer Protection Act, 1986 by the Amendment Act of 2002 wherein the term ‘spurious goods and services’ was defined to mean such goods and services which are claimed to be genuine but they actually are not so.

It may, however, be appropriate to mention here that prior to the amendment of the Consumer Protection Act, 1986 by the Consumer Protection (Amendment) Act, 1993, every complaint relating to goods and services could not simply be entertained. But a complaint relating to defect in goods, deficiency in services and complaint against the unfair trade practices

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relating to goods and services could form the subject matter of a complaint. The Consumer Protection (Amendment) Act, 1993, however, enabled a District Consumer Disputes Redressal Forum to entertain complaints where a trader resorts to restrictive trade practices or in cases where the goods bought or agreed to be bought by a consumer or services hired or availed of or agreed to be hired or availed of by him suffer from any deficiency.\(^8\)

The Consumer Protection (Amendment) Act, 1993 has also enabled a District Consumer Disputes Redressal Forum established under the 1986 Act to entertain complaints regarding goods which will be hazardous to life and safety of the users and are being offered for sale to the public in contravention of the provisions of any law for the time being in force, requiring the traders or sellers to display the relevant information regarding the contents, manner and effect of use of such goods.

3.2.1.2.3 The Territorial Jurisdiction

Section 11(2) of the Consumer Protection Act, 1986 deals with the issues relating to the territorial jurisdiction of a District Consumer Disputes Redressal Forum. The aforesaid section lays down that a complaint shall be instituted in a District Forum within the local limits of whose jurisdiction:

(a) the opposite party or each of the opposite parties, where there are more than one, at the time of the institution of the complaint, actually and voluntarily resides or carries on business or has a branch office or personally works for gain, or

(b) any of the opposite parties, where there are more than one, at the time of the institution of the complaint, actually or voluntarily resides, or carries on business or has a branch office, or personally works for gain provided that in such case either the permission of the District Forum is given, or the parties who do not reside, or carry on business or have a branch office, or personally work for gain, as the case may be, acquiesce in such institution; or

(c) the cause of action, wholly or in part, arises.

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\(^8\) Gurjeet Singh, 1996, p. 142.
If one analyses the above section, one reaches an inescapable conclusion that the jurisdiction of the District Consumer Disputes Redressal Forum has certain territorial limits. For example, in a case of a consumer complaint, the defendant or the opposite party should, at the time of the institution of the complaint, be actually and voluntarily residing or carrying on business or personally working for gain within the territorial limits of the District Forum. However, exceptions to the rule are made in cases in which the opposite party / parties acquiesce in such institution or the permission of the Forum has been obtained in respect of such opposite parties as do not fall within the territorial jurisdiction as mentioned above. However, this exception will not operate if none of the opposite parties actually or voluntarily resides or works for gain within the territorial limits. Another important basis is accrual of cause of action. If the cause of action has arisen within the territorial limits of the District Forum, it will have jurisdiction over the consumer dispute.

Section 11 of the Principal Act is also proposed to be amended by the Consumer Protection (Amendment) Bill, 2011. After sub-section (2) of the 1986 Act, the following sub-section is proposed to be inserted.

“(3)(a) The jurisdiction, powers and authority of the District Forum may be exercised by benches thereof.

(b) A Bench may be constituted by the President with one or more members as the President may deem fit:

Provided that the single member bench shall exercise jurisdiction, power and authority in relation to such matters as may be prescribed by the State Government in consultation with the State Commission and it shall not, in any case, dispose of any case fixed for final hearing.”

A new section 11A is also proposed to be inserted by the Consumer Protection (Amendment) Bill, 2011. If passed, the following section shall be inserted in the Principal Act of 1986:

“11A. The District Forum shall ordinarily function in the district headquarters and perform its functions at such other place, as the State Government may, in consultation with the State Commission, notify in the Official Gazette from time to time.”
3.2.2 The State Consumer Disputes Redressal Commission

The *Consumer Protection Act*, 1986 also envisages the establishment of a State Consumer Disputes Redressal Commission in each and every state and union territory of the country. A State Commission is to consist of a President and not less than two and not more than such number of members, as may be prescribed. Further, a State Commission has an original, revisional and an appellate jurisdiction.

3.2.2.1 The Composition of the State Consumer Disputes Redressal Commission

Section 16 of the *Consumer Protection Act*, 1986 deals with the composition of the State Commission. According to Section 16(1) of the Act, each State Commission shall consist of:

(a) A person who is, or has been a Judge of a High Court, appointed by the State Government, who shall be its President;

(b) Not less than two, and not more than such number of Members, as may be prescribed, and one of whom shall be a woman, who shall have the following qualifications, namely

(i) They must not be less than thirty five years of age;

(ii) They must possess a bachelor’s degree from a recognized university; and

(iii) They must be persons of ability, integrity and standing, and have adequate knowledge and experience of at least ten years in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs and administration

A proviso to this section has been added by virtue of amendment of the *Consumer Protection Act*, 1986 by the *Consumer Protection (Amendment) Act*, 2002. The aforesaid proviso say that “not more than fifty percent of the members shall be from amongst persons having a judicial background.”\(^9\) Further, the *Amendment Act* of 2002 carries an Explanation wherein the expression “persons having a judicial background” has been explained. According to the aforesaid Explanation, the expression “persons having a judicial background” shall mean

persons having knowledge and experience for at least a period of ten years as a presiding officer at the district level court or any tribunal at equivalent level.

A few categories of persons are disqualified from being appointed as members of a State Consumer Disputes Redressal Commission. Thus a person shall not be qualified for appointment as a member of a State Commission:

(a) If he has been convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involved moral turpitude; or

(b) If he is an undischarged insolvent; or

(c) If he is of unsound mind and stands so declared by a competent court; or

(d) If he has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or

(e) If he has, in the opinion of the State Government, such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a Member; or

(f) If he has such other disqualifications as may be prescribed by the Government.

According to the Consumer Protection (Amendment) Act, 1993, every appointment made under Section 16(1) shall be made by the State Government on the recommendations of a Selection Committee consisting of the following members:

(i) The President of the State Commission - Chairman

(ii) The Secretary of the Law Department of the State - Member

(iii) The Secretary In-charge of the Department dealing with consumer affairs in the State - Member

By virtue of the passing of the Consumer Protection (Amendment) Act, 2002, a proviso has also been added to this section which says that where the President of the State Consumer
Disputes Redressal Commission, by reason of absence or otherwise, is unable to act as Chairman of the Selection Committee, the State Government may refer the matter to the Chief Justice of the High Court for nominating a sitting Judge of that High Court to act as Chairman.

Further, according to section 16(1-B)(i), the jurisdiction, powers and authority of the State Commission may be exercised by Benches thereof. Similarly, clause (ii) envisages that a Bench may be constituted by the President with one or more Members as the President may deem fit.

Lastly, clause (iii) to Section 16(1-B) states that if the Members of a Bench differ in opinion on any point, the points shall be decided according to the opinion of the majority, if there is a majority, but if the Members are equally divided, they shall state the point or points on which they differ, and make a reference to the President who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more or the other Members and such point or points shall be decided according to the opinion of the majority of the Members who have heard the case, including those who first heard it.

According to section 16(2), the salary or honorarium and other allowances payable to, and the other terms and conditions of service of the Members of the State Commission shall be such as may be prescribed by the State Government. A proviso to this section has been inserted by the Consumer Protection (Amendment) Act, 2002 which says that the appointment of a Member on whole-time basis shall be made by the State Government on the recommendation of the President of the State Commission taking into consideration such factors as may be prescribed including the work load of the State Commission.

Section 16(3) states that every Member of the State Commission shall hold office for a term of five years or up to the age of sixty seven years, whichever is earlier. There is, however, a proviso annexed to this section which states that a Member shall be eligible for reappointment for another term of five years or up to the age of sixty seven years, whichever is earlier, subject to the condition that he/she fulfils the qualification and other conditions for appointment mentioned in clause (b) of sub-section (1) and such re-appointment is made on the basis of the recommendation of the Selection Committee. The proviso further provides that a person appointed as a President of the State Commission shall also be eligible for re-appointment in the manner provided in clause (a) of sub-section (1) of this section.
It is further also provided that a Member may resign his office in writing under his hand addressed to the State Government and on such resignation being accepted, his office shall become vacant and may be filled by appointment of a person possessing any of the qualifications mentioned in sub-section (1) in relation to the category of the Member who is required to be appointed under the provisions of sub-section (1-A) in place of the person who has resigned.

Section 16(4) states that notwithstanding anything contained in sub-section (3), a person appointed as the President or as a Member, before the commencement of the Consumer Protection (Amendment) Act, 2002, shall continue to hold such office as President or Member, as the case may be, till the completion of his term.

The Consumer Protection (Amendment) Bill, 2011 proposes to insert a new section, section 16A in the Principal Act. Thus, if passed, the forthcoming Amendment Act shall have a new section to the following effect:

“16A. (1) The State Government shall determine the nature and categories of the officers and other employees required to assist the State Commission in the discharge of its functions and provide the Commission with such officers and other employees as it may think fit.

(2) The officers and other employees of the State Commission shall discharge their functions under the general superintendence of the President.

(3) The salaries and allowances payable to and the other terms and conditions of service of, the officers and other employees of the State Commission shall be such as may be prescribed by the State Government:

Provided that the officers and other employees employed on or before the commencement of the Consumer Protection (Amendment) Act, 2011, in a State Commission shall continue to be employed as such unless the nature and categories thereof has been determined by the State Government.”
3.2.2.2 The Jurisdiction of the State Consumer Disputes Redressal Commission

As mentioned above, a State Commission has an original, a revisional and an appellate jurisdiction. All these types of jurisdiction of a State Commission have been discussed in the following paragraphs.

3.2.2.2.1 The Pecuniary Jurisdiction

According to section 17(1)(a)(i), subject to the provisions of the Consumer Protection Act, 1986, the State Commission shall have the jurisdiction to entertain the complaints where the value of the goods or services and compensation, if any, claimed exceed rupees twenty lakhs but does not exceed rupees one crore. In this connection, it may be appropriate to mention here that prior to the passing of the Consumer Protection (Amendment) Act, 1993, the State Commission could entertain claims where the value of the goods or services and compensation, if any exceeded rupees one lakh but did not exceed rupees ten lakhs. However, by virtue for the Amendment Act 1993, the upper limit of the pecuniary jurisdiction of the State Commission was raised from rupees ten lakhs to rupees twenty lakhs.

3.2.2.2.2 The Subject Matter Jurisdiction

Section 17(1)(a)(i) of the 1986 Act clearly restricts the original jurisdiction of the State Commission to entertaining complaints in respects of goods or services. A consumer dispute to be settled by a State Commission should, therefore, be limited to defect in goods bought by a consumer or agreed to be bought by him, deficiency in services hired or availed of or agreed to be hired or availed of by him, an unfair or restrictive trade practices or charging of price for goods in excess of the price fixed by the law or displayed by the trader on the package containing such goods.

However, by virtue of the amendment of 1993, the State Commission has also been able to entertain complaints regarding goods that are hazardous to life and safety of the users and are being offered for sale to the public in contravention of the provisions of any law for the time being in force requiring the traders or sellers to display the relevant information regarding the contents, manner and effect of the use of such goods.

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10 For more details, see: The Consumer Protection Act (The Principal Act), 1986.
The Territorial Jurisdiction

According to section 17(2) of the 1986 Act, a complaint shall be instituted in a State Commission within the limits of whose jurisdiction:

(a) the opposite party or each of the opposite parties, where there are more than one, at the time of the institution of the complaint, actually and voluntarily resides or carries on business or has a branch office or personally works for gain; or

(b) any of the opposite parties, where there are more than one, at the time of the institution of the complaint, actually and voluntarily resides, or carries on business or has a branch office or personally works for gain, provided that in such case either the permission of the State Commission is given or the opposite parties who do not reside or carry on business or have a branch office or personally works for gain, as the case may be, acquiesce in such institution; or

(c) the cause of action, wholly or in part, arises.

In the context of the above, it may be appropriate to mention here that the Consumer Protection (Amendment) Act, 1993 had considerably simplified some of the provisions of the Principal Act of 1986. Besides raising the pecuniary jurisdiction of the District Consumer Disputes Redressal Forum and the State Consumer Disputes Redressal Commission respectively, the 1993 Amendment had also enabled the consumers to file their complaints even at the branch offices of big companies or business firms, which was a long standing demand of consumer organisations from across the country.  

Section 17 of the 1986 Act has now been amended by the Consumer Protection (Amendment) Act, 2002. Now, by virtue of the aforesaid amendment, even the State Consumer Disputes Redressal Commission has also been enabled to entertain the complaints in the situations mentioned in sections 17(1)(a), (b) and (c).

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\[13 \text{ ibid., p. 147.} \]
3.2.2.2.4 The Appellate Jurisdiction

Under the *Consumer Protection Act*, 1986, a State Consumer Disputes Redressal Commission has been vested with the power to entertain appeals against the decisions of a District Consumer Disputes Redressal Commission. According to section 15, any person aggrieved by an order made by the District Forum may prefer an appeal against such order to the State Commission within a period of thirty days from the date of the order, in such form and manner as may be prescribed. However the above mentioned section also contains a proviso which says that the State Commission may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

It may be appropriate to mention here that the *Principal Act* of 1986 has once again been amended considerably by way of passing the *Consumer Protection (Amendment) Act*, 2002. By virtue of this amendment, another proviso has been added to section 15. The proviso reads as under: “Provided further that no appeal by a person, who is required to pay any amount in terms of an order of the District Forum, shall be entertained by the State Commission unless the appellant has deposited in the prescribed manner fifty per cent of that amount or twenty five thousand rupees, whichever is lesser.

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14 It may be appropriate to mention here that the “Date of Pronouncement of the Order” in the open court itself cannot be the starting point for determining the period of limitation under section 15 of the *Consumer Protection Act*, 1986. It has also to be shown that the order of the District Forum so pronounced was duly signed and dated by the Members of the District Forum constituting the Bench and the same was communicated to the parties free of charge. However, the *Consumer Protection Rules*, 1988, require that a copy of the said order has also to be communicated to the parties affected by the said order and the period of limitation in view of the above discussion will commence from the dated on which the copies of the order were ready and made available. For further details, see *Housing Board, Haryana v. Housing Board Colony Welfare Association*, AIR 1996 SC 92.

15 It may also be interesting to note that both the expressions “within a period of thirty days” and “sufficient cause” have been debated at length in a large number of cases. For further details, see: *Haryana Agro Industries Corporation Ltd. v. Virender Pal Singh*, I (1991) CPJ 672; *Haryana State Electricity Board v. Dinesh Kumar*, I (1992) CPJ 359; *Marikkar (Motors) Ltd. v. Marry Poulouse*, II (1991) CPJ 283; *Public Health and Engineering Department v. District Forum and Others*, 1991 (2) CPR 101; *Shashi Radio and Electric Company v. Sudeesh Singhal*, I (1993) CPJ 2; *Hindustan Paper Corporation Ltd. v. Dhir Copy House*, II (1992) CPJ 528 (NC); *Master Mould Works v. S.D.O. Sub- Division, PSEB*, 1994 (2) CPR 290; and *Housing Board, Haryana v. Dr. S.L. Chaudhary and Others*, I (1991) CPJ 140.
3.2.2.2.5 The Revisional Jurisdiction

According section 17(1)(b) of the *Consumer Protection Act*, 1986, subject to the provisions of the Act, the State Commission shall have jurisdiction to “call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any District Forum within the State, where it appears to the State Commission that such District Forum has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested or has acted in exercise of its jurisdiction illegally or with material irregularity.”

According to most leading consumer law experts, the aforesaid power conferred by the 1986 Act on the State Consumer Disputes Redressal Commission is akin to that of section 115 of the *Code of Civil Procedure*, 1908 and that it could be exercised suo moto or on the application of a party to a consumer dispute.\(^\text{16}\) As a matter of fact, the bare wording of the above mentioned section indicates that the jurisdiction can be exercised in pending proceedings also against an order. Further, if a District Consumer Disputes Redressal Forum has assumed jurisdiction which it does not actually have, that order is liable to be revised by the State Commission. In addition, as it has perhaps rightly been argued, that even in case of interlocutory orders passed by the District Forum, the State Commission can call for records from the said Forum and pass appropriate orders. This is primarily because the intention of the legislature to invest the State Commission with this power is clear inasmuch as the whole scheme of the Act is to expedite such matters and with this object in view, the State Commission has been invested with this power.\(^\text{17}\)

3.2.3 The National Consumer Disputes Redressal Commission

In the hierarchy of the three tier consumer disputes redressal mechanism envisaged and established under the *Consumer Protection Act*, 1986, the National Consumer Disputes Redressal Commission is at the apex level. The National Commission (as it is popularly called) is a unique institution having original, subject matter, appellate and the revisional jurisdiction. On the top of it, the authority of the National Consumer Disputes Redressal Commission extends to the whole of India.

3.2.3.1 The Composition of the National Consumer Disputes Redressal Commission

\(^\text{17}\) *id.*
According to section 20 of the Consumer Protection Act, 1986, the National Commission shall consist of:

(a) A person who is, or has been a Judge of the Supreme Court, to be appointed by the Central Government, who shall be its President;

(b) Not less than four, and not more than such number of Members, as may be prescribed, and one of whom shall be a woman, who shall have the following qualifications, namely:

(i) They must not be less than thirty five years of age;

(ii) They must possess a bachelor’s degree from a recognized university; and

(iii) They must be persons of ability, integrity and standing, and have adequate knowledge and experience of at least ten years in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs and administration.

It may be appropriate to mention here that there are two provisos annexed, one each to section 20(1)(a) and to section 20(1)(b) of the 1986 Act. The proviso to section 20(1)(a) says that no appointment under this clause shall be made except after consultation with the Chief Justice of India. Similarly, the proviso to section 20(1)(b) says that not more than fifty per cent of the Members shall be from amongst the persons having a judicial background. Further, there is an Explanation which states that for the purposes of this clause, the expression “persons having a judicial background” shall mean persons having knowledge and experience for at least a period of ten years as a presiding officer at the district level court or any tribunal at equivalent level.

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18 The words “and one of whom”, are proposed to be substituted by the words “at least one of whom” by virtue of the Consumer Protection (Amendment) Bill, 2011.

19 The words “thirty five years” are proposed to be substituted by the words “fifty five years” by the Consumer Protection (Amendment) Bill, 2011.

20 The words “ten years” are proposed to be substituted by the words “thirty years” by the Consumer Protection (Amendment) Bill, 2011.

21 The words “public affairs” are proposed to be substituted by the words “consumer affairs” by the Consumer Protection (Amendment) Bill, 2011.

However, a few categories of persons are disqualified from being appointed as members of the National Consumer Disputes Redressal Commission. Thus a person shall not be qualified for appointment as a member of the National Commission:

(a) If he/she has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude; or

(b) If he/she is an undischarged insolvent; or

(c) If he/she is of unsound mind and stands so declared by a competent court; or

(d) If he/she has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or

(e) If he/she has, in the opinion of the Central Government, such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a Member; or

(f) If he/she has such other disqualifications as may be prescribed by the Central Government.

According to the Consumer Protection (Amendment) Act, 1993, every appointment made under Section 20 shall be made by the Central Government on the recommendations of a Selection Committee consisting of the following:

(a) A person who is a Judge of the Supreme Court to be nominated by the Chief Justice of India - Chairman

(b) The Secretary of the Department of Legal Affairs in the Government of India - Member

(c) The Secretary of the Department dealing with Consumer Affairs in the Government of India - Member
3.2.3.2 The Jurisdiction of the National Consumer Disputes Redressal Commission

The National Commission being the apex consumer disputes redressal agency in the hierarchy of the three tier consumer disputes redressal mechanism, has been vested with the pecuniary, the appellate and the revisional jurisdictions. These have been discussed in detail in the following paragraphs.

3.2.3.2.1 The Pecuniary Jurisdiction

According to section 21(a), subject to the provisions of the Consumer Protection Act, 1986, the National Commission shall have jurisdiction to entertain consumer complaints where the value of the goods or services and compensation, if any, exceeds rupees one crore. It may be appropriate to mention here, that in the Principal Act of 1986, the pecuniary jurisdiction of the National Commission was rupees ten lakhs. However, by virtue of the passing of the Consumer Protection (Amendment) Act, 1993, the limit of the pecuniary jurisdiction was raised from rupees ten lakh to rupees twenty lakhs. Later on when the Consumer Protection (Amendment) Act, 2002 was passed, the pecuniary limit was raised to rupees one crore.

3.2.3.2.2 The Appellate Jurisdiction

Section 21 of the Consumer Protection Act, 1986 empowers the National Consumer Disputes Redressal Commission to entertain appeals against the orders of any State Commission. However, the procedure for filling the appeals has been laid down in the Consumer Protection Rules, 1987 framed by the Central Government.

3.2.3.2.3 The Revisional Jurisdiction

The National Consumer Disputes Redressal Commission has also been vested with jurisdiction for the purpose of ensuring that the State Commissions exercise their powers within the limits of jurisdiction fixed for them by the law. According to section 21(b), the National Commission shall have the jurisdiction to call for the records or pass appropriate orders in any consumer dispute which is pending before or has been decided by any State Commission where it appears to the National Commission that such State Commission has

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23 For more details, see: The Consumer Protection Act (the Principal Act), 1986.
exercised jurisdiction not vested in it by law or has failed to exercise a jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity.

3.2.4 The Apex Judiciary and the Consumer Protection Act, 1986

3.2.4.1 The Consumer Protection Act, 1986 and the Supreme Court of India

The Supreme Court of India is the apex court of our country. It has control over all the High Courts functioning in the states. The Supreme Court exercises the appellate jurisdiction, the original jurisdiction, the advisory jurisdiction. The Supreme Court also entertains and deals with the References. Section 23 of the Consumer Protection Act, 1986 provides for an appeal to the Supreme Court of India from an order of the National Consumer Disputes Redressal Commission, passed whether in exercise of its appellate jurisdiction, the revisional jurisdiction or in exercise of its original jurisdiction.26

3.2.4.2 Comity Between the Courts and the Commissions

By virtue of Article 141 of the Constitution of India, the law declared by the Supreme Court of India is binding on all courts within the territory of India and as such all courts in the country are subordinate to the Supreme Court of India, the latter being the apex court of the country. Thus the Supreme Court exercises its writ jurisdiction conferred on it under Part III Article 32 of the Constitution and a High Court exercises its writ jurisdiction by virtue of Article 226 of the Constitution. The Supreme Court has very wide territorial jurisdiction and it is throughout India while a High Court has the power to issue writs throughout the territory of the state in relation to which it exercises its jurisdiction for the enforcement of all the rights conferred by Part III of the Indian Constitution.27

An aggrieved party can approach either the Supreme Court or a High Court seeking protection against infringement of his fundamental rights. However, the Supreme Court does not encourage direct approach to it, except for good reasons, in the matters which have been taken to the High Court and found against without obtaining leave to appeal therefrom as was held in M.K. Gopalan v. State of Madhya Pradesh.28

26 ibid., p. 40.
27 id.
28 AIR 1964 SC 362.
Section 21(b) of the *Consumer Protection Act*, 1986 confers revisional jurisdiction on the National Commission in respect of a consumer dispute pending before or decided by a State Consumer Disputes Redressal Commission. A High Court exercises revisional jurisdiction under Articles 226 or 227 respectively of the Indian Constitution. However, the scope of revision under section 21(b) of the *Consumer Protection Act*, 1986 is larger than that is provided under Articles 226 and 227 respectively of the Indian Constitution. If the National Commission and a High Court simultaneously exercise their respective revisional jurisdictions, the National Consumer Disputes Redressal Commission under section 21(b) of the *Consumer Protection Act* and the High Court under Article 226 of the Constitution in respect of the same order of a District Consumer Disputes Redressal Commission, in such an even an anomalous situation is likely to arise.\(^\text{29}\) For instance, an order of the District Consumer Disputes Redressal Forum confirmed by a State Consumer Disputes Redressal Commission is carried by way or revision by one of the opposite parties to the National Consumer Disputes Redressal Commission and while the stay of operation of the order granted by the National Commission is in force and the other opposite party approaches the High Court invoking its revisional jurisdiction under Article 226 of the Constitution and the High Court allows the writ petition by setting aside the order remands the matter to the District Forum for fresh disposal of the case and meanwhile one of the opposite parties prefers appeal against the order of the District Forum to the State Commission and having not succeeded in the State Commission prefers appeal to the National Commission where ultimately he succeeds in obtaining stay of the operation of the impugned order. In both the cases, anomaly is experienced. In this situational context, it is relevant to refer to the decision of the Andhra Pradesh High Court in *Nazeer Ahmad v. Executive Engineer, A.P. Housing Board*\(^\text{30}\) wherein the High Court held that the writ petition filed invoking the revisional jurisdiction of the High Court under Article 227 of the Constitution is not maintainable against the order of the District Forum as efficacious alternative remedy is provided under section 17 of the *Consumer Protection Act* conferring jurisdiction on the State Consumer Disputes Redressal Commission.\(^\text{31}\)

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\(^{30}\) As cited in *ibid.*, p. 41.

\(^{31}\) *ibid.*, p. 41.
3.2.4.3  *The Consumer Protection Act, 1986 and High Courts*

A High Court is the highest court in a state. It has original jurisdiction as well as the appellate jurisdiction. The decision of a High Court is binding on all the courts and tribunals within the territory in relation to which it exercises jurisdiction. In exercising its power conferred by the Articles 227 of the *Constitution of India*, a High Court will not review nor reweigh the evidence based on which the decision of the inferior court or tribunal is rendered. Supervisory jurisdiction of the High Court under Article 227 of the Constitution of India is different from the appellate jurisdiction. When a lower court fails to exercise its jurisdiction on the wrong assumption of law resulting in grave injustice, the High Court can interfere under Article 227 of the Constitution of India to render justice. However, High Court has to be cautious in exercising its revisional jurisdiction under Article 226 or 227 of the Constitution when an alternate and an efficacious remedy is provided in the statute.\(^\text{32}\)

3.2.4.4  *The Jurisdictional Issues: Development of the Law by the Legislature*

The jurisdiction of the consumer disputes redressal fora conferred on them by the *Consumer Protection Act*, 1986 has considerably been enhanced by the various Amendment Acts. As is well known, the *Consumer Protection Act*, 1986 has undergone amendment three times: for the first time by the Act No. 34 of 1991; then by the Act No. 50 of 1993; and then by the Act No. 62 of the 2002. By the first *Amendment Act*, amendment to the limited extent only was made with regard to conducting of the proceedings of the Forum and filing up of the vacancy in the office of the President. By the Act No. 50 of the 1993, a broad range of amendments were made by including the restrictive trade practice, and the most important amendment being the restriction of the scope of commercial purpose by excluding from its ambit the goods purchased for the purpose of earning livelihood and conferring power on the Consumer Fora to issue the directions preventing the use of goods hazardous to life and safety of the consumers. By this Amendment Act, the pecuniary jurisdiction of the District Forum was enhanced from Rs. 1 lakh to Rs. 5 lakhs, the pecuniary jurisdiction of the State Commission was increased from Rs. 5 lakhs to Rs. 20 lakhs and the jurisdiction of the National Consumer Disputes Redressal Commission was confined to claims exceeding Rs. 20 lakhs.

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The Consumer Protection (Amendment) Act, 2002, was quite exhaustive and introduced a sea change in the consumer protection laws; the sub-clause (v) in clause (b) was inserted by including the legal heir or representative within the definition of consumer. The scope of meaning of ‘excess of price’ was enlarged by inserting in section 2(1). That where a trader charged for goods or service provider collected for the service rendered a price in excess of the price than that was agreed to be charged in excess of the price displayed on the price list.  

A complaint can be made against sale of the goods that are hazardous to life and safety and are in contravention of the prescribed standards set up by the law for the time being in force. Similar provision was made with respect to services by adding a new sub-clause. The definition of manufacturer that has been in clause (j) of section 2 was expanded. Another significant amendment brought by this Amendment Act is the exclusion of hiring service for commercial purpose. Similarly, the definition of ‘spurious goods and services’ contained in section 2(1) clause (oo) and the definition of ‘unfair trade practices’ under section 2(1)(r) have been widened.

The pecuniary jurisdiction for the District Forum is subsequently revised from Rs. 5 lakhs to Rs. 20 lakhs, for State Commission from Rs. 20 lakhs to Rs. 1 crore. Fee on filing of the complaint has been introduced. A provision has been made for the speedy disposal of complaints fixing time limit for issuing notice, filing written version by the opposite party etc. Another important change brought in by the Amendment Act, 2002 is by inserting sub-section (3B) in section 13, it has empowered the Consumer Fora to pass the interim orders.

3.3. The Grievance Redressal Procedure Adopted by the Consumer Disputes Redressal Agencies

Sections 12, 13 and 14 respectively contain detailed provisions concerning the procedure to be followed by the District Forum and State Commission while entertaining a complaint and settling consumer disputes. Before the enactment of the Consumer Protection (Amendment) Act, 1993, section 22 of the original Consumer Protection Act, 1986 only provided that in the disposal of any complaints or of any proceedings before it, the National Commission shall have the powers of a civil court and shall follow such procedure as may be prescribed by the

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33 *id.*
34 *id.*
central government. However, the *Consumer Protection (Amendment) Act*, 1993 made certain modifications in this section. Though the National Commission continue to have the powers of a civil court in the disposal of any complaints or any proceedings before it, it had also been vested with the power to issue an order to the opposite party to do any one of more of the things referred to it in section 14(1)(i)(a). It had further been laid down that the National Consumer Disputes Redressal Commission shall follow the procedure prescribed by the Central Government. There are, however, no material differences in the provisions of the 1986 Act laying down the procedure for the District Forum and the State Commission on the one hand and the procedure prescribed by the Central Government for the National Commission on the other.\(^{35}\)

### 3.3.1 The Grievance Redressal Procedure Followed by the District Consumer Disputes Redressal Forum and by the State Consumer Disputes Redressal Commission

Section 12 of the *Consumer Protection Act*, 1986 which was considerably modified by the *Consumer Protection (Amendment) Act*, 1993, laid down the procedure for filing a complaint before the District Consumer Disputes Redressal Forum. The complaint could be filed in relation to any goods sold or delivered or any service provided or agreed to be provided by various categories of consumers. Section 12 was once again amended by the *Consumer Protection (Amendment) Act*, 2002. According to the amended version of the aforesaid section, a complaint may be filed before the District Forum by:

(a) the consumer to whom such goods or agreed to be sold or delivered or agreed to be sold or delivered or such service provided or agreed to be provide;

(b) any recognized consumer association whether the consumer to whom the goods sold or delivered or agreed to be sold or delivered or service provided or agreed to be provided is a Member of such association or not;

(c) one or more consumer, where there are numerous consumers having the same interest, with the permission of the District Forum, on behalf of, or for the benefit of, all consumers so interested; or

(d) the Central Government or the State Government, as the case may be, either in its individual capacity or as a representative of interests of the consumers in general.

Thus four types of complainants have been given *locus standi* under the *Consumer Protection Act*, 1986 to file a complaint. Perhaps the greatest step that the government had taken through the *Consumer Protection (Amendment) Act*, 1993 was the introduction of a provision whereby one or more consumers could be able to file complaints on behalf of even a large number of consumers having similar cause of action and interests to be represented by others.\(^{36}\)

It may be appropriate to mention here that the amendment of the 1986 Act in the year 1993 certainly encouraged group actions on the part of similarly situated consumers, though primarily through the various consumer organizations. This also, to an extent, definitely deterred at least some of the unscrupulous traders and unethical businessmen from resorting to unfair and restrictive trade practices and also helped in reducing the exploitation of a vast majority of consumers. Above all, the aforesaid provision also considerably facilitated the job of some of the prominent and highly active consumer activists and organizations who could represent a large number of consumers.\(^{37}\)

### 3.3.2 The Grievance Redressal Procedure Followed by the National Consumer Disputes Redressal Commission

According to section 22 of the *Consumer Protection Act*, 1986 [as amended by *Consumer Protection (Amendment) Act*, 2002], the provisions of sections 12, 13 and 14 and the rules made thereunder for the disposal of complaints by the District Forum shall, with such modifications as may be considered necessary by the Commission, be applicable to the disposal of disputes by the National Consumer Disputes Redressal Commission.

### 3.4 The Remedies Available to the Consumers Under the *Consumer Protection Act*, 1986

The *Consumer Protection Act*, 1986 enables a consumer to avail certain remedies. If, for example, a Consumer Disputes Redressal Agency is satisfied that the ‘goods’ complained

\(^{36}\) *ibid.*, p. 62.

\(^{37}\) *id.*
against suffer from any of the defects specified in the complaint or that any of the allegations contained in the complaint about the services are proved, it shall issue an order to the opposite party directing him to do one or more of the following things:

(a) to remove the defects pointed out by the appropriate laboratory from the goods in question;

(b) to replace the goods with new goods of similar description which shall be free from any defect;

(c) to return to the complainant the price or, as the case may be, the charges paid by the complainant;

(d) to pay such amount as may be awarded by it as compensation to the consumer for any loss or injury suffered by the consumer due to the negligence of the opposite party: [Provided that the District Forum shall have the power to grant punitive damages in such circumstances as it deems fit.]\(^{38}\)

(e) to [remove the defects in goods] \(^{39}\) or deficiencies in the services in question;

(f) to discontinue the unfair trade practice or the restrictive trade practice or not to repeat them;

(g) not to offer the hazardous goods for sale;

(h) to withdraw the hazardous goods from being offered for sale;

[(ha) to cease manufacture of hazardous goods and to desist from suffering services which are hazardous in nature;

(hb) to pay such sum as may be determined by it, if it is of the opinion that loss or injury has been suffered by a large number of consumer who are not identifiable conveniently:]

\(^{38}\) Inserted by the Consumer Protection (Amendment) Act, 2002.

\(^{39}\) Inserted by the Consumer Protection (Amendment) Act, 2002.
Provided that the minimum amount of sum so payable shall not be less than five per cent of the value of such defective goods sold or service provided, as the case may be, to such consumers.

Provided further that the amount so obtained shall be credited in favour of such person and utilized in such manner as may be prescribed;

(hc) to issue corrective advertisement to neutralize the effect of misleading advertisement at the cost of the opposite party responsible for issuing such misleading advertisement;] 40

(i) to provide for adequate costs to parties.

3.5 The Powers of the Consumer Disputes Redresal Agencies

By virtue of having been established under the Consumer Protection Act, 1986, the Consumer Disputes Redressal Agencies are vested with the powers of a civil court. These agencies are invested with the aforesaid powers by clauses (4), (5) and (6) of sections 13 and 22 respectively of the 1986 Act. These powers are in respect of the following matters:

(i) the summoning and enforcing the attendance of any defendant or witness and examining the witness on oath;

(ii) the discovery and production of any document or other material object producible as evidence;

(iii) the reception of evidence on affidavits;

(iv) the requisitioning of the report of the concerned analysis or test from the appropriate laboratory or from any other relevant source;

(v) issuing of any commission for the examination of any witness, and

(vi) any other matter which may be prescribed.

It may be appropriate to mention here that section 22 of the Consumer Protection Act, 1986 was amended by the Consumer Protection (Amendment) Act, 1993. And by virtue of this

40 Inserted by the Consumer Protection (Amendment) Act, 2002.
amendment, more powers were conferred on the National Consumer Disputes Redressal Commission to issue an order to the opposite party in a consumer dispute directing him to do anyone or more of the things referred to in section 14(1)(a)(i). The central government had been given the power to confer more powers on the Consumer Disputes Redressal Agencies under the Code of Civil Procedure, 1908 in addition to the powers enumerated in the above paragraphs from point number (i) to (vi). Every proceeding before a District Consumer Disputes Redressal Forum is deemed to be a judicial proceedings within the meaning of section 193 and 228 respectively of the Indian Penal Code, 1860. No mention was, however, made of the powers of a State Consumer Disputes Redressal Commission, apart from the procedure to be followed by it.

It may be appropriate to mention here that the Consumer Protection Act, 1986 was once again amended to a substantial extent by virtue of the enactment of the Consumer Protection (Amendment) Act, 2002. A few new sections were inserted vide the Amendment Act of 2002. For example, for section 22 of the principal Act of 1986, a new section entitled ‘Power and Procedure Applicable to the National Commission was substituted. According to newly substituted section 22, the provisions of sections 12, 13 and 14 and the rules made thereunder for the disposal of complaints by the District Consumer Disputes Redressal Forum shall, with such modifications as may be considered necessary by the Commission be applicable to the disposal of disputes by the National Commission. The amended section further says that without prejudice to the provisions contained in the sub-section (1), the National Commission shall have the power to review any order made by it, when there is an error apparent on the face of record.

Another section 22-A entitled: Power to Set Aside Ex-Parte Orders was also inserted through the Consumer Protection (Amendment) Act, 2002. This section says that where an order is passed by the National Consumer Disputes Redressal Commission ex-parte against the opposite party or a complaint, as the case may be, the aggrieved party may apply to the Commission to set aside the said order in the interest of justice. Section 22-B which was also inserted by the Amendment Act of 2002, deals with the crucial issue relating to the ‘Transfer of Cases. The section says that on the application of the complainant or of its own motion, the National Commission may, at any stage of the proceeding, in the interest of justice, transfer

41 Section 13(5)
any complaint pending before the District Forum of one State to a District Forum of another
State or before one State Commission to another State Commission.

Section 22-C has also been inserted by the *Amendment Act* of 2002. This section deals with
the provision relating to the establishment and functioning of the Circuit Benches of the
National Consumer Disputes Redressal Commission. According to this section, the National
Commission shall ordinarily function at New Delhi and perform its functions at such other
places as the Central Government may, in consultation with the National Commission, notify
in the Official Gazette, from time to time.

On the basis of the above discussion, one reaches the inescapable conclusion that the powers
of the National Commission appears to have been substantially increased due to the insertion
of a few new sections, that is, sections 22-A (Power to Set Aside Ex-Parte Orders), 22-B
(Transfer of Case), 22-C (Circuit Benches) and 22-D (Vacancy in the Office of the
President).

### 3.6 The Provisions Relating to Limitation for Filing Complaints Before the Consumer
Disputes Redressal Agencies

With the enactment of the *Consumer Protection (Amendment) Act*, 1993, a new section 24A
was inserted in the Act of 1986. By virtue of this amendment, limitation period was laid
down for filing a consumer complaint before the Consumer Disputes Redressal Agencies.
According to section 24A(1), a consumer can file a complaint before the District Forum, the
State Commission or the National Commission within two years from the date on which the
cause of action had arisen. However, by virtue of section 24(A)(2), the various Consumer
Disputes Redressal Agencies have also been authorized to entertain any complaint after the
specified period, if the complainant is able to satisfy them that he had sufficient cause for not
filing the complaint within that period. Notwithstanding all this, a proviso has also been
inserted into section 24(A) which states that “no such complaint shall be entertained unless
the National Commission, the State Commission or the District Forum, as the case may be,
records its reasons for condoning such delay”.

On the basis of the above discussion, it is crystal clear that whereas on the one hand, an
endeavour has been made to accommodate those consumers, who due to one reason or the
other might not have been able to file a complaint before any of the consumer disputes
redressal agencies to get their grievance/s redressed, it has also been ensured on the other
hand that this provision is not misused by anybody. This is evident from the fact that the proviso to the section clearly says that the Consumer Disputes Redressal Agency, be it the District Forum, the State Commission or the National Commission, shall have to record reasons for condoning any delay on the part of complainant in the filing of complaint.

To conclude the discussion on the issue, it must be reiterated that giving two years to a consumer to file a complaint from the date on which the cause of action had arisen is indeed a commendable step that has certainly gone a long way in getting justice to the consumer. This is a liberal provision which enables the consumers to get their grievances redressed at any time within two years of the occurrence of cause of action.

3.7 The Provisions Relating to Administrative Control in Case of the Consumer Disputes Redressal Agencies

As I have mentioned earlier also, the Consumer Protection Act, 1986 was radically amended by the Consumer Protection (Amendment) Act, 1993. Once again the Amendment Act of 1993 had inserted a new section, namely 24B in the 1986 Act. This new section, that is, section 24B lays down the complete procedure regarding the administrative control of the consumer disputes redressal agencies. According to the aforesaid section, the National Consumer Disputes Redressal Commission “shall have administrative control over all the State Commissions”. In the same breadth, the section also enables the State Commission to have “administrative control over all the District Fora within its jurisdiction”. In the first instance, the National Commission shall have the administrative control over all the State Commission in the following three matters:

(i) In the first place the National Commission has been given the power to call for the periodical return regarding the institution of cases, disposal of cases and pendency of cases;

(ii) Secondly, the National Commission has been given the power with regard to the issuance of instructions regarding adoption of the uniform procedure in the hearing of matters, prior service of copies of documents produced by one party to the opposite parties, furnishing of English translation of judgments written in any language, speedy grant of copies of documents;
(iii) Thirdly, the National Commission has been given the power of generally overseeing the functioning of the State Commissions or the District Fora to ensure that the objects and purposes of the Consumer Protection Act, 1986 are best served without in any way interfering with their quasi-judicial freedom.

As mentioned above, section 24B also authorises the State Consumer Disputes Redressal Commission to have “administrative control over all the District Fora within its jurisdiction in all matters referred to in sub-section (1) of section 24B.

3.8 The Provisions Relating to Dismissal of Frivolous or Vexatious Complaints by the Consumer Disputes Redressal Agencies

Section 26 of the Consumer Protection Act, 1986 is entitled as: Dismissal of Frivolous or Vexatious Complaints. The section says that “where a complaint is instituted before the District Forum, the State Commission or the National Commission, as the case may be, is found to be frivolous or vexatious, it shall, for reasons to be recorded in writing, dismiss the complaint and make an order that the complainant shall pay to the opposite party such cost, not exceeding ten thousand rupees as may be specified in the order.”

In this connection, it may be appropriate to mention that ever since the enactment of the Consumer Protection Act, 1986 and establishment of the Consumer Disputes Redressal Mechanism thereunder, a large number of consumer complaints have been filed before the Consumer Disputes Redressal Agencies. And quite surprisingly, a sizeable number of these complaints have been false, frivolous, fictitious, concocted and motivated ones. In addition, some of the consumers have also filed some grossly inflated claims. It goes without saying that all these types of complaints and claims, whatsoever, have accordingly been dismissed. Further, in some of the cases, the Consumer Disputes Redressal Agencies have put heavy costs also on the complainants and the litigants.

It is heartening to note that in some of the cases the Consumer Disputes Redressal Agencies have even put costs on the complainants for filing false and frivolous complaints, so as to

43 See, for example: Rajendra and Brothers v. Bank of India and Ors., 1991 (1) CPR 450.
44 See, for example: Rajiv Arora v. Gurmeet Singh, 1 (1992) CPJ 22 and Anup Kumar v. S.M. Kanwar and Ors., 1993 (1) CPR 113 (NC).
discourage the unhealthy practice and trend to take the consumer protection justice system for a ride. The Consumer Disputes Redressal Agencies have certainly been unanimous in bringing home the message, loud and clear, that the Consumer Protection Act, 1986 is a beneficent and a benevolent piece of legislation that has been enacted with the sole aim of promoting and protecting the genuine consumer interests and that each and every complainant, whosoever he/she may be, must come before these redressal agencies honestly with the legitimate claims and above all, with clean hands. In one of the earliest cases decided by one of the State Consumer Disputes Redressal Agencies, namely, Sushil Kumar v. Senior Division Manager, Oriental Insurance Co. Ltd., the Haryana State Commission had made the following observations:

[T]he present Act is a beneficent statute specially enacted to confer additional consumer rights and to preserve and guard the existing ones under the law. It is suffice to mention that this concise statute provides a simple, inexpensive and expeditious remedy for the enforcement of these rights . . . . Now once it is found as above that these beneficent provisions are contained in a special statute creating an extra-ordinary jurisdiction, it is somewhat elementary that this would cast a corresponding duty on consumers approaching the special redressal agencies for relief . . . . It has now become settled law therein that a petitioner in this jurisdiction, apart from the merits of his case, must first come therein with meticulously clean hand. If he fails to do so, then howsoever meritorious his claim may be, he must be denied relief on that score alone.

Similarly, in another earliest case, namely, R.S. Metals Pvt. Ltd. v. New India Assurance Co. Ltd., the National Consumer Disputes Redressal Commission had made the following important observations that have perhaps gone a long way in consolidating consumer protection jurisprudence on this particular issue. The National Commission had observed as under:

[T]he Consumer Protection Act provides cheap and quick redressal of genuine consumers’ grievances and it is a matter of paramount public importance that no person should misuse the remedies available under this Act for lodging false

46 ibid., pp. 635-636.
complaints on the basis of fabricated evidence and harass the persons who supply goods or render services.\footnote{ibid., p. 3.}

To conclude the discussion on the above sub-topic, I would like to state and submit that there is no denying the fact that when the Consumer Protection Act, 1986 was amended in the year 1993 by the Consumer Protection (Amendment) Act, 1993, it was hoped that there will be substantial change in the consumer protection justice scenario, the reality has been mixed one. Take for instance, the amendment of section 26 that was carried out with the sole objective of curbing the menace and evil practice of filing false and frivolous complaints. The amendment could not really stop it completely, though it could check the same to an extent.

3.9 The Provisions Relating to Enforcement of Orders of the Consumer Disputes Redressal Agencies and Imposition of Penalties

The provisions regarding the enforcement of the orders made by the Consumer Disputes Redressal Agencies and regarding the enforcement of penalties in the event of their violations had been incorporated in sections 25 and 27 respectively of the Consumer Protection Act, 1986. Both these important sections have either been substituted or been amended by the Consumer Protection (Amendment) Act, 1993. However, before I discuss the current position, it is required that I must give a brief background of the entire scenario.

Section 25 laid down that every order made by the Consumer Disputes Redressal Agencies may be enforced by them in the same manner as if it were a decree or an order made by a court in a pending suit. It further said that in the event of their liability to execute their order, it shall be lawful for these disputes redressal agencies to send such orders for their execution to the court within the local limits of whose jurisdiction an individual voluntarily resided or personally worked for gain or a business corporation was situated, against whom any order had been passed respectively. According to section 27 incorporated in the Principal Act, where a trader or a person against whom a complaint was made failed or omitted to comply with any order made by any of the consumer disputes redressal agencies, such trader or person was to be punished with imprisonment for a term which was not to be less than one month but which might have extended to three years, or with fine which was not to be less than two thousand rupees but which might have extended to ten thousand rupees, or with both.
Prior to the passing of the Consumer Protection (Amendment) Act, 1993, the word ‘complainant’ was not there in this section. However, with the 1993 Amendment coming into force, in the event of non-compliance with the orders of the consumer disputes redressal agencies, even the complainant could also be punished with imprisonment or with fine or with both. Further, a proviso was also added to this section that empowered the Consumer Disputes Redressal Agencies in certain circumstances to impose a sentence of imprisonment or fine, or both, for a term lesser than the minimum term and an amount lesser than the minimum amount stipulated in the Act. It goes without saying that the main purpose behind the provisions contained under section 27 of the Principal Act was to seek compliance with the orders passed by the consumer disputes redressal agencies.\textsuperscript{49} It was quite forcefully and repeatedly reiterated by the various consumer disputes redressal commissions that the section 27 was in a way “a king-pin in the execution of the orders of the redressal agencies”\textsuperscript{50}

According to some of the consumer law experts, notwithstanding the provisions contained in the Principal Act and their subsequent amendment by the Consumer Protection (Amendment) Act, 1993, the scheme for enforcement of the orders of the Consumer Disputes Redressal Agencies had to be necessarily viewed from a larger perspective\textsuperscript{51} However, this involved the correlating of section 25 and 27 respectively of the Act.\textsuperscript{52} Both these provisions were, as a matter of fact, were directed towards speedy enforcement of the orders of the District Consumer Disputes Redressal Forum, the State Consumer Disputes Redressal Commission or the National Consumer Disputes Redressal Commission respectively. It was held that both sections were in the nature of “execution proceedings of the orders made by the three redressal agencies”\textsuperscript{53} According to some of the consumer disputes redressal agencies, while section 25 visualised “the enforcement of such orders by a civil process, as if they were a decree or order made by a court of law in a suit pending therein”\textsuperscript{54}, “section 27 conferred a

\textsuperscript{49} For more details, see: Rajani Gas Company v. V.P. Jawalekar, II (1992) CPJ 786.
\textsuperscript{50} For more details, see: Indian Bank Madras v. Sukhder Singh and Ors., (1994) 2 CTJ 840, at p. 844.
\textsuperscript{51} See, for example: Gurjeet Singh, 1996, p. 180.
\textsuperscript{52} For more details, see: Suman Lata v. Anand Constructions (Delhi) Pvt. Ltd., 1993 (1) CPR 352.
\textsuperscript{53} \textit{ibid}.
\textsuperscript{54} For more details, see: Aurora Sales (India) v. Transport Corporation of India Ltd. and Ors., 1992 (2) CPR 387.
quasi-criminal sanction for their enforcement by way of punishment with the imprisonment or imposition of monetary penalties.”

On the amendment of the Principal Act of 1986 by the Consumer Protection (Amendment) Act, 1993, a very important and crucial question that arose with regard to applicability of section 25 and 27 respectively was as to how the provisions of these two sections could be invoked and that as to what procedure was required to be adopted in view of the penalty of imprisonment up to three years as had been prescribed under section 27 of the statute. Surprisingly, no rules had allegedly been framed as to how this power was to be exercised. As a result thereof, both sections 25 and 27 respectively had been debated a number of times before the consumer disputes redressal agencies. Once again, according to some of the leading consumer law experts, the above situation had led to the pronouncement of somewhat “conflicting decisions” by the various State Consumer Disputes Redressal Commissions. This is right also. For instance, whereas the Gujarat, Haryana and Rajasthan State Consumer Disputes Redressal Commissions had held that the proceedings under section 27 of the Consumer Protection Act (as amended by the 1993 Act) were “quasi-criminal in nature”, the Delhi State Consumer Disputes Redressal Commission had declared these proceedings as “criminal in nature”.

It must also be mentioned prominently that till the year 1996, the National Consumer Disputes Redressal Commission did not have any opportunity to express its opinion on this issue. Another one area where the various State Consumer Disputes Redressal Commissions had given apparently conflicting and contradictory decisions was on the issue concerning the right to appeal under section 15 against the imposition of penalty by the District Consumer Disputes Redressal Forum in exercise of its power under section 27.

As mentioned above, the Consumer Protection Act, 1986 was once again radically amended in the year 2002 by the Consumer Protection (Amendment) Act, 2002. In the first place,

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55 For more details, see: Kohinoor Carpets, Panipat and Ors. v. Rajinder Arora, II (1991) CPJ 429.
56 For more details, see: Joint Secretary, Gurjarat Secondary Education Board and Anr. v. Daksha Ishwarlal Dhorajiya, 1993 (1) CPR 203.
57 For more details, see: Kohinoor Carpets, Panipat and Ors. v. Rajinder Arora, II (1991) CPJ 429.
58 For more details, see: Agarwal Sales Corporation v. Jagdish Prasad Vyas, 1993 (1) CPR 70.
59 See for example: Vikmans and Anr. v. Rakesh Kumar, 1992 (1) CPR 287. It may, however, also be appropriate to mention here that the Delhi Consumer Disputes Redressal Commission in a later case, namely, Suman Lata v. Anand Construction (Delhi) Pvt. Ltd. and Anr., 1993 (1) CPR 352 modified its stand on the lines of the Haryana State Consumer Disputes Redressal Commission.
section 25 of the Principal Act was substituted by a new section which was titled as: Enforcement of Orders of the District Forum, the State Commission or the National Commission. The provisions of the amended section are as under:

In the first place, the section says that where an interim order made under the Consumer Protection Act, 1986 is not complied with, the District Forum or the State Commission or the National Commission, as the case may be, may order the property of the present person complying with such order to be attached. Thus there is a provision for attachment of the property if the orders of the consumer disputes redressal commission are not complied with.

However, according to the section, no attachment made under sub-section (1) shall remain in force for more than three months at the end of which, if non-compliance continues, the property attached may be sold and out of the proceeds thereof, the District Forum or the State Commission or the National Commission may award such damages as it thinks fit to the complainant and shall pay the balance, if any, to the party entitle thereto.

Finally, the section further states that where any amount is due from any person under an order made by a District Forum, State Commission or the National Commission, as the case may be, the person entitled to the amount may make an application to the District Forum, the State Commission or the National Commission, as the case may be, and such District Forum or the State Commission or the National Commission may issue a certificate for the said amount to the Collector of the district (by whatever name called) and the Collector shall proceed to recover the amount in the same manner as arrears of land revenue.

In line with the above amendment, section 27 was also re-numbered by the Consumer Protection (Amendment) Act, 2002. The re-numbered section 27, entitled as ‘Penalties’ reads as under:

According the re-numbered section, in the first place, where a trader or a person against whom a complaint is made or the complainant fails or omits to comply with any order made by the District Forum, the State Commission or the National Commission, as the case may be, such trader or person or complainant shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to three years, or with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees, or with both.
The section further states that notwithstanding anything contained in the *Code of Civil Procedure*, 1973, the District Consumer Disputes Redressal Forum or the State Consumer Disputes Redressal Commission or the National Consumer Disputes Redressal Commission, as the case may be, shall have the power of a Judicial Magistrate of the first class for the trial of offences under this Act, and on such conferment of powers, the District Forum or the State Commission or the National Commission, as the case may be, on whom the powers are so conferred, shall be deemed to be a Judicial Magistrate of the first class for the purpose of the *Code of Criminal Procedure*, 1973.

In the third place, the section says that all offences under this Act may be tried summarily by the District Forum or the State Commission or the National Commission, as the case may be.

It may be interesting to note that by virtue of the *Consumer Protection (Amendment) Act*, 2004, a new section 27-A entitled: Appeal Against Order Passed Under Section 27 was inserted. The section states that notwithstanding anything contained in the *Code of Criminal Procedure*, 1973, an appeal under section 27, both on facts and on law, shall lie:

(a) From the order made by the District Forum to the State Commission;

(b) From the order made by the State Commission to the National Commission;

(c) The order made by the National Commission to the Supreme Court

The section, however, makes an exception in this regard. The section says that except as aforesaid, no appeal shall lie to any court from any order of the District Forum or the State Commission or the National Commission. Lastly, the section says that every appeal under this section shall be preferred within a period of thirty days from the date of an order of a District Consumer Disputes Redressal Forum or a State Consumer Disputes Redressal Commission or the National Consumer Disputes Redressal Commission, as the case may be.

Finally, the section refers to a provision which states that the State Consumer Disputes Redressal Commission or the National Consumer Disputes Redressal Commission or the Supreme Court of India, as the case may be, may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days.
3.10 The Provisions Relating to Protection of Action Taken by the Consumer Disputes Redressal Agencies in Good Faith

Perhaps the last string in the scheme of things with regard to the powers, privileges and position of the consumer disputes redressal agencies is section 28 of the *Consumer Protection Act*, 1986 entitled: Protection of Action Taken in Good Faith. The sections states that no suit, prosecution or other legal proceedings shall lie against the Members of the District Consumer Disputes Redressal Forum, the State Consumer Disputes Redressal Commission or the National Consumer Disputes Redressal Commission for executing any order made by it or in respect of anything which is in good faith done or intended to be done by such Member, officer or person under this Act or under any rule or order made thereunder.

3.11 Conclusion

On the basis of the detailed discussion on the establishment, composition, jurisdiction, actual working and performance appraisal of the various consumer disputes redressal agencies in the arena of consumer protection leads one to safely conclude that though these agencies have done a commendable job in their designated area, there is still a lot of scope for improvement, as far as their working in particular is concerned. The fact that the *Consumer Protection Act*, 1986 has been amended three times (though at the gap of ten years or so), demonstrates that there is still considerable scope for improvement. The scope of the present study being limited, that is, the study being confined to the working primarily of the National Consumer Disputes Redressal Commission, the next chapter is focussed solely on the actual working of the body that is the apex one in the hierarchy of the three tier consumer disputes redressal mechanism.