ROLE OF NATIONAL CONSUMER DISPUTES REDRESAL COMMISSION (NCDRC) IN THE GROWTH AND CONSOLIDATION OF CONSUMER PROTECTION MOVEMENT IN INDIA

TABLE OF CONTENTS

CONTENTS OF THE THESIS PAGE NUMBERS

SUPERVISOR’S CERTIFICATE

CANDIDATE’S DECLARATION

PREFACE i-ii

ACKNOWLEDGEMENTS iii-v

GLOSSARY OF ABREVIATIONS AND ACRONYMS vi

TABLE OF CONTENTS vii-xvii

CHAPTER 1 - INTRODUCTION 1-28

1.1 Introductory 1-11
1.2 Object and Purpose of the Study 12-13
1.3 Hypothesis for the Study
<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>and the Resultant Outcome</td>
<td></td>
<td>13-14</td>
</tr>
<tr>
<td>1.4</td>
<td>Review of the Existing Literature</td>
<td>14-25</td>
</tr>
<tr>
<td>1.5</td>
<td>Data Base and Methodology</td>
<td>25-26</td>
</tr>
<tr>
<td>1.6</td>
<td>Research Questions</td>
<td>26-27</td>
</tr>
<tr>
<td>1.7</td>
<td>Significance of the Study</td>
<td>27-27</td>
</tr>
<tr>
<td>1.8</td>
<td>Likely Contribution of the Study</td>
<td>27-28</td>
</tr>
<tr>
<td>1.9</td>
<td>The Chapterisation Plan</td>
<td>28-28</td>
</tr>
<tr>
<td>CHAPTER 2</td>
<td>THE CONSUMER PROTECTION ACT, 1986: ITS TERMINOLOGY AND THE SALIENT FEATURES</td>
<td>30-80</td>
</tr>
<tr>
<td>2.1</td>
<td>Introductory</td>
<td>30-39</td>
</tr>
<tr>
<td>2.2</td>
<td>Development of Consumer Protection Movement As An Effective Socio-Legal Movement in India</td>
<td>39-43</td>
</tr>
<tr>
<td>2.3</td>
<td>Development of the Consumer Protection Law and Policy in India</td>
<td>43-45</td>
</tr>
<tr>
<td>2.4</td>
<td>The History and Philosophy Behind the Enactment, the Terminology and the Salient Features of the Consumer Protection Act, 1986</td>
<td>45-80</td>
</tr>
<tr>
<td>2.4.1</td>
<td>The History and Philosophy Behind the Enactment of the 1986 Act</td>
<td>46-49</td>
</tr>
<tr>
<td>2.4.2</td>
<td>The Terminology of the Consumer Protection Act, 1986: The Key Definitions Incorporated in the Act</td>
<td>49-63</td>
</tr>
<tr>
<td>2.4.2.1</td>
<td>The Concepts of ‘Complainant’ and ‘Complaint’</td>
<td>49-50</td>
</tr>
<tr>
<td>2.4.2.2</td>
<td>The Concept of ‘Consumer’</td>
<td>50-52</td>
</tr>
<tr>
<td>2.4.2.3</td>
<td>The Concept of ‘Consumer Dispute’</td>
<td>52-52</td>
</tr>
<tr>
<td>2.4.2.4</td>
<td>The Concepts of ‘Defect’ and ‘Deficiency’</td>
<td>52-53</td>
</tr>
<tr>
<td>2.4.2.5</td>
<td>The Concept of ‘Goods’</td>
<td>53-54</td>
</tr>
<tr>
<td>2.4.2.6</td>
<td>The Concept of ‘Manufacturer’</td>
<td>54-55</td>
</tr>
</tbody>
</table>
2.4.2.7 The Concept of ‘Person’ 55-55
2.4.2.8 The Concept of Restrictive Trade Practice 55-56
2.4.2.9 The Concept of ‘Service’ 56-58
2.4.2.10 The Concept of ‘Trader’ 58-58
2.4.2.11 The Concept of ‘Unfair Trade Practice’ 58-62
2.4.2.12 The Concept of ‘Unfair Contract’ 62-63

2.4.3 The Salient Feature of the Consumer Protection Act, 1986 63-79

2.4.3.1 An Act for Better Protection of the Interests of Consumers 63-64
2.4.3.2 The Consumer Rights Envisaged and Incorporated In the 1986 Act 64-66
2.4.3.3 Establishment of the Consumer Disputes Redressal Agencies 66-67
2.4.3.4 Establishment of the Consumer Protection Councils at the National, State and District Level 67-71
2.4.3.5 The Consumer Protection Act, 1986 as a Special Law and as an Additional Remedy for the Consumers 71-73
2.4.3.6 Provision for Inexpensive, Time-Bound and Quick Reliefs for the Consumers 73-74
2.4.3.7 Consumer Disputes Redressal Agencies are Vested with the Powers of a Civil Court 74-75
2.4.3.8 Proceedings Under the Consumer Protection Act, 1986 are Legal Proceedings 75-76
2.4.3.9 Consumer Disputes Redressal Agencies are Vested With the Power to Award Imprisonment in Case of Default of Compliance of their Orders 76-77
2.4.3.10 Non-Applicability of the Doctrine of Privity of Contract 77-77
2.4.3.11 Non-Applicability of the Doctrine of Caveat Emptor 77-78
2.4.3.12 Quick, Timely and Comprehensive
Amendments of the Act 79-79

2.4.3.13 A Consumer Friendly Legislation and a Step Towards Democratisation of Justice 79-79

2.5 Conclusion 80-80

CHAPTER 3 - THE THREE-TIER CONSUMER DISPUTES REDRESSAL MECHANISM: ESTABLISHMENT, COMPOSITION, JURISDICTION, AND THEIR PERFORMANCE APPRAISAL 82-120

3.1 Introductory 82-83
3.2 The Consumer Disputes Redressal Mechanism Established Under the Consumer Protection Act, 1986 83-110

3.2.1 The District Consumer Disputes Redressal Forum 83-90

3.2.1.1 The Composition of the District Consumer Disputes Redressal Forum 83-87
3.2.1.2 The Jurisdiction of the District Consumer Disputes Redressal Forum 87-90

3.2.1.2.1 The Pecuniary Jurisdiction 87-87
3.2.1.2.2 The Subject Matter Jurisdiction 87-89
3.2.1.2.3 The Territorial Jurisdiction 89-90

3.2.2 The State Consumer Disputes Redressal Commission 91-98

3.2.2.1 The Composition of the State Consumer Disputes Redressal Commission 91-94
3.2.2.2 The Jurisdiction of the State Consumer Disputes Redressal Commission 95-98
3.2.2.2.1 The Pecuniary Jurisdiction 95-95
3.2.2.2.2 The Subject Matter Jurisdiction 95-95
3.2.2.2.3 The Territorial Jurisdiction 96-96
3.2.2.2.4 The Appellate Jurisdiction 97-97
3.2.2.2.5 The Revisional Jurisdiction 98-98

3.2.3 The National Consumer Disputes Redressal Commission 98-102
3.2.3.1 The Composition of the National Consumer Disputes Redressal Commission 98-100
3.2.3.2 The Jurisdiction of the National Consumer Disputes Redressal Commission 100-00

3.2.3.2.1 The Pecuniary Jurisdiction 101-101
3.2.3.2.2 The Appellate Jurisdiction 101-101
3.2.3.2.3 The Revisional Jurisdiction 101-102

3.2.4 The Apex Judiciary and the Consumer Protection Act, 1986 102-105
3.2.4.1 The Consumer Protection Act, 1986 and the Supreme Court of India 102-102
3.2.4.2 Comity Between the Courts and Commissions 102-103
3.2.4.3 The Consumer Protection Act, 1986 And High Courts 104-104
3.2.4.4 The Jurisdictional Issues: Development of the Law by the Legislature 104-105

3.3 The Grievance Redressal Procedure Adopted by the Consumer Disputes Redressal Agencies 105-107
3.3.1 The Grievance Redressal Procedure Followed by the District Consumer Disputes Redressal...
3.3.2 The Grievance Redressal Procedure Followed by the National Consumer Disputes Redressal Commission

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

3.5 The Powers of the Consumer Disputes Redressal Agencies

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

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

3.8 The Provisions Relating to Dismissal of False and Frivolous Complaints by the Consumer Disputes Redressal Agencies

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

3.10 The Provisions Relating to Protection of Action Taken by the Consumer Disputes Redressal Agencies in Good Faith

3.11 Conclusion

CHAPTER 4 - THE NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION AND ITS DECISION MAKING IN THE ARENA OF CONSUMER PROTECTION LAW

4.1 Introductory

4.2 The National Consumer Disputes Redressal
# Commission and its Decision Making in the
# Arena of Consumer Protection Law

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.2.1</td>
<td>The National Commission and Airlines</td>
<td>123-127</td>
</tr>
<tr>
<td>4.2.2</td>
<td>The National Commission and Banking Services</td>
<td>127-130</td>
</tr>
<tr>
<td>4.2.3</td>
<td>The National Commission and Educational Services</td>
<td>130-133</td>
</tr>
<tr>
<td>4.2.4</td>
<td>The National Commission and Electricity Services</td>
<td>134-134</td>
</tr>
<tr>
<td>4.2.5</td>
<td>The National Commission and Housing</td>
<td>134-135</td>
</tr>
<tr>
<td>4.2.6</td>
<td>The National Commission and Insurance Industry</td>
<td>136-142</td>
</tr>
<tr>
<td>4.2.7</td>
<td>The National Commission and Legal Profession</td>
<td>142-150</td>
</tr>
<tr>
<td>4.2.8</td>
<td>The National Commission and Medical Profession</td>
<td>150-170</td>
</tr>
<tr>
<td>4.2.9</td>
<td>The National Commission and Posts and Telegraph Services</td>
<td>170-174</td>
</tr>
<tr>
<td>4.2.10</td>
<td>The National Commission and Roadways (Transport) Services</td>
<td>175-177</td>
</tr>
<tr>
<td>4.2.11</td>
<td>The National Commission and Railways</td>
<td>178-185</td>
</tr>
<tr>
<td>4.2.12</td>
<td>The National Commission and Shareholders</td>
<td>185-187</td>
</tr>
<tr>
<td>4.2.13</td>
<td>The National Commission and Telecommunications</td>
<td>187-191</td>
</tr>
<tr>
<td>4.2.14</td>
<td>Decision Making by the National Commission in Other Areas</td>
<td>191-204</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Subsection</th>
<th>Title</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.2.14.1</td>
<td>The National Commission’s Decision-Making in Case of Entertainment Programmes</td>
<td>191-196</td>
</tr>
<tr>
<td>4.2.14.2</td>
<td>The National Commission’s Decision-Making in Case of Depositors Grievances</td>
<td>196-197</td>
</tr>
<tr>
<td>4.2.14.3</td>
<td>The National Commission’s Decision-Making in Case of Complaints Against Parking Places</td>
<td>198-200</td>
</tr>
<tr>
<td>4.2.14.4</td>
<td>The National Commission’s Decision-Making in Case of Complaints Against the Chit Fund Companies</td>
<td>200-203</td>
</tr>
<tr>
<td>4.2.14.4</td>
<td>The National Commission’s Decision-Making in Case of Complaints Against Dry-cleaners</td>
<td>203-204</td>
</tr>
</tbody>
</table>
4.3 Conclusion

CHAPTER 5 - PERFORMANCE APPRAISAL OF THE NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION AND SUGGESTIONS FOR STRENGTHENING ITS ROLE IN THE DEVELOPMENT OF THE CONSUMER PROTECTION LAW AND POLICY

5.1 Introductory

5.2 Working of the National Consumer Disputes Redressal Commission

5.2.1 Advising and Counselling the Consumer Disputes Redressal Agencies

5.2.2 Launching of a Campaign Against the Old and Obsolete Legislations and Offering Pleas for their Repeal

5.2.3 Resolution of the Jurisdictional Issues in Case of Prevalence of the Parallel Proceedings (Before a Civil Court and Before a Consumer Disputes Redressal Agencies)

5.2.4 Laying Down of the Guidelines and Norms for Determining and Awarding of the Compensation to the Aggrieved Consumers by the Consumer Disputes Redressal Agencies

5.2.5 Emphasising on the Need for Quick and Speedy Disposal of Consumer Complaints

5.3 Critical Evaluation of the Working of the National Consumer Disputes Redressal Commission
5.3.1 Entertainment of Revision Petitions
by the National Consumer Disputes
Redressal Commission 223-223

5.3.2 Inconsistent Approach of the National
Consumer Disputes Redressal Commission
With Regard to the Awarding of Compensation
to the Aggrieved Consumers 223-226

5.4 Suggestions for Improving the Working
of the National Consumer Disputes
Redressal Commission 226-227

5.5 Conclusion 227-228

CHAPTER 6 - AN OVERVIEW AND THE CRITICAL
EVALUATION OF THE CONSUMER
PROTECTION (AMENDMENT) ACTS OF 1991,
1993 AND 2002 AND THE SUGGESTED
AMENDMENTS TO STRENGTHEN THE
THE ROLE OF THE CONSUMER
DISPUTES REDRESSAL AGENCIES 230-256

6.1 Introductory 230-231

6.2 The Preamble and Statement of Objects
and Reasons for the Enactment of the
Consumer Protection Act, 1986
(The Principal Act) 232-234

6.2.1 The Preamble to the Consumer
Protection Act, 1986 232-232

6.2.2 Statement of the Objects and Reasons
for the Enactment of the Consumer
Protection Act, 1986 232-234

6.4 Statement of the Objects and Reasons for the Enactment of the Consumer Protection (Amendment) Act, 1993 235-236

6.5 Statement of the Object and Reasons for the Enactment of the Consumer Protection (Amendment), 2002 236-238


6.7 Critical Evaluation of the Consumer Protection Act, 1986 242-248

6.8 Suggested Amendments in the Consumer Protection Act, 1986 248-255

6.9 Conclusion 255-256

CHAPTER 7 - CONCLUSION AND SUGGESTIONS 258-302

7.1 Introductory 258-263

7.2 The Suggested Measures to Strengthen the Consumer Protection Movement 264-299

7.2.1 Need for the Consumer Disputes Redressal Agencies to be More Consumer Friendly and be Easily Accessible to the Consumers 264-269

7.2.2 Need for Consumer Disputes Redressal Agencies to Act both Judicially as well as Judiciously 269-270

7.2.3 Need for Laying Down and for Strictly Adhering to the Parameters Fixed for Determination of the Amount of Compensation 271-280
| 7.2.4 | Need for Absolute Cordiality and Complete Co-Ordination Between the National Consumer Disputes Redressal Commission and the State Consumer Disputes Redressal Commissions | 280-281 |
| 7.2.5 | Need for the Consumer Disputes Redressal Agencies to Remain Confined to their Jurisdictional Limits and Not to Pass the General Orders | 281-282 |
| 7.2.6 | Need for the Consumer Disputes Redressal Agencies to Lay Emphasis and Lean Towards Public Accountability | 282-285 |
| 7.2.7 | Need for the State Administrative Agencies to Avoid Violating the Provisions of the Consumer Protection Act, 1986 | 286-288 |
| 7.2.8 | Need for Spreading Consumer Education And Awareness Through Mass Media | 288-289 |
| 7.2.9 | Need to Faithfully Follow the United Nations Guidelines on Consumer Protection as well as Other Internationally and Universally Acknowledged Policies and Principles On the Subject | 290-00 |
| 7.2.9.1 | Greater Emphasis on the Physical Safety of the Consumers | 290-291 |
| 7.2.9.2 | Need for Promotion and Protection of Economic Interests of Consumers | 291-292 |
| 7.2.9.3 | Need for Maintenance of Standards for the Safety and Quality of the Consumer Goods and Services | 293-293 |
| 7.2.9.4 | Need for Rationalisation of the Distribution Facilities for the Essential Consumer Goods and Services | 293-293 |
| 7.2.9.5 | Need for Undertaking Measures Enabling the Consumers to Obtain Quick Redress for their Grievances | 293-294 |
7.2.9.6 Need for Launching and Implementing Consumer Education and Information Programmes 294-295

7.2.9.7 Need for Launching and Implementation of the Programmes for Promotion of Sustainable Consumption 295-296

7.2.9.8 Need to Take Measures Relating to the Specific Consumer Protection Related Areas 296-297

7.2.9.9 Need for Greater International Co-operation and Co-ordination in the Arena of Consumer Protection 298-298

7.2.9.10 Need for Enactment of Beneficent and Consumer Friendly Legislation and Their Effective and Whole-Hearted Implementation 299-299

7.3 Conclusion 300-302

TABLE OF STATUTES xxvi-xviii

GLOSSARY OF CASE LAW xxx-xxxix

BIBLIOGRAPHY xli-