Voluntary consumer organizations in Tirunelveli district are found to be engaged in getting the grievances of consumers redressed through different District, State and National consumer disputes redressal mechanisms as their second major activity. Before the enactment of the Consumer Protection Act 1986 consumers especially from economically weaker sections resorted to the legal aid centres attached to the different courts for the redressal of their grievances. The Right to Information Act 2005 was also found to be quite useful and very helpful to voluntary consumer organizations and aggrieved consumers to get the necessary information and to resolve their grievances. The establishment of State Consumer Helpline and the Consumer Advice Centre (CAC) had enabled the development and growth of the voluntary consumer organizations. This chapter reviews the various attempts of the voluntary consumer organizations at getting the consumers disputes solved through different redressal mechanisms.

The Government of India had enacted more than 50 Acts/ laws which can be interpreted in favour of consumers. These enactments have empowered the government to control production, supply, price, distribution and quality of a large no. of goods and services. Most of these types of power or practices are mentioned in a number of business laws aimed at regulating trade and providing justice to consumers and protecting their rights and interests. Some of them are being mentioned here : The Indian Penal Code 1860, Indian contract Act 1872, Sale of Goods Act 1930, Agricultural produce grading and marking act 1937, Drugs and Cosmetics Act 1940, Drugs and Remedies (objectionable Advertisements) Act, 1954, Essential Commodities Act 1955, Trade and Merchandise Act 1958, Standards and Weights and Measures Act 1976, Supplies of Essential Commodities Act 1980, The Bureau of Indian Standard Act 1986, The Environment (protection) Act-1986, Banking Regulation Act 1949, Railways Act 1989, etc. These are just some names, the list is so long to be mentioned and described here. All these Acts/laws show that government has a well-established system or approach for
the protection of consumer's interests and for creating an healthy business environment. But at the end, still it can be said that the interests of the consumer were not being safeguarded due to many reasons. A number of objectives of the above pieces of legislations overlap. The multiplicity of laws for trade regulations and consumer protection has been characterized by weak implementation as a result of which unfair and exploitative practices abound in the Indian markets. Most of the legislations are punitive in nature and none of them is compensatory in nature. There were two legal mechanisms to protect the consumers. The first one was the legal aid centre, which is attached to courts at all levels.

Legal Aid scheme was first introduced by Justice P.N. Bhagwati under the Legal Aid Committee formed in 1971. According to him, the legal aid means providing an arrangement in the society so that the missionary of administration of justice becomes easily accessible and is not out of reach of those who have to resort to it for enforcement of its given to them by law" the poor and illiterate should be able to approach the courts and their ignorance and poverty should not be an impediment in the way of their obtaining justice from the courts. Legal aid should be available to the poor and illiterate. Legal aid deals with legal assistance to poor, illiterate, who don't have access to courts. One need not be a litigant to seek aid by means of legal aid. Legal aid is available to anybody on the road.

Article 39A of the Constitution of India provides that State shall secure that the operation of the legal system promotes justice on a basis of equal opportunity, and shall in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disability. Articles 14 and 22(1) also make it obligatory for the State to ensure equality before law and a legal system which promotes justice on a basis of equal opportunity to all. Legal aid strives to ensure that constitutional pledge is

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2 Pylee, M.V. *India's Constitution*, New Delhi, 1997, p.201.
3 Ibid.
fulfilled in its letter and spirit and equal justice is made available to the poor, downtrodden and weaker sections of the society.

Since 1952, the Government of India also started addressing to the question of legal aid for the poor in various conferences of Law Ministers and Law Commissions. In 1960, some guidelines were drawn by the Government for legal aid schemes. In different states legal aid schemes were floated through Legal Aid Boards, Societies and Law Departments. In 1980, a Committee at the national level was constituted to oversee and supervise legal aid programmes throughout the country under the Chairmanship of Justice P.N. Bhagwati then a Judge of the Supreme Court of India. This Committee came to be known as CILAS (Committee for Implementing Legal Aid Schemes) and started monitoring legal aid activities throughout the country. Expert committees constituted, from 1950 onwards, to advise governments on providing legal aid to the poor have been unanimous that the formal legal system is unsuited to the needs of the poor. The 1977 report of the committee of Justices Krishna Iyer and P.N. Bhagwati, both of the Supreme Court, drew up a detailed scheme which envisaged public interest litigation (PIL) as a major tool in bringing about both institutional and law reform even while it enabled easy access to the judicial system for the poor. Their report, as those of the previous committees, was ignored. This explained partly the impatience of these two judges, in the post-emergency phase, in making the institution appear responsive to the needs of the population that had stood distanced from it. The two judges played a major role in spearheading the PIL jurisdiction.

The introduction of Lok Adalats added a new chapter to the justice dispensation system of this country and succeeded in providing a supplementary forum to the litigants for conciliatory settlement of their disputes. In 1987 Legal Services Authorities Act was enacted to give a statutory base to legal aid programmes throughout the country on a uniform pattern. This Act was finally enforced on 9 November, 1995 after certain

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4 Dembowski, *Taking the State to Court - Public Interest Litigation and the Public Sphere in Metropolitan India*, New Delhi, 2001, p.85.
amendments were introduced therein by the Amendment Act of 1994. Justice R.N. Mishra the then Chief Justice of India played a key role in the enforcement of the Act.

National Legal Services Authority was constituted on 5 December, 1995. A.S. Anand, Judge, Supreme Court of India took over as the Executive Chairman of National Legal Services Authority on 17 July 1997. Soon after assuming the office, His Lordship initiated steps for making the National Legal Services Authority functional. The first Member Secretary of the authority joined in December, 1997 and by January, 1998 the other officers and staff were also appointed. By February, 1998 the office of National Legal Services Authority became properly functional for the first time. In October, 1998, Justice A.S. Anand assumed the Office of the Chief Justice of India and thus became the Patron-in-Chief of National Legal Services Authority. Justice S.P. Bharucha, the senior-most Judge of the Supreme Court of India assumed the office of the Executive Chairman, National Legal Services Authority.

Legal Services Authorities after examining the eligibility criteria of an applicant and the existence of a prima facie case in his favour provide him counsel at State expense, pay the required Court Fee in the matter and bear all incidental expenses in connection with the case. The person to whom legal aid is provided is not called upon to spend anything on the litigation once it is supported by a Legal Services Authority.

A nationwide network has been envisaged under the Act for providing legal aid and assistance. National Legal Services Authority is the apex body constituted to lay down policies and principles for making legal services available under the provisions of the Act and to frame most effective and economical schemes for legal services. It also disburses funds and grants to State Legal Services Authorities and NGOs for implementing legal aid schemes and programmes. In every State a State Legal Services Authority is constituted to give effect to the policies and directions of the Central Authority (NALSA) and to give legal services to the people and conduct Lok Adalats in

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the State. State Legal Services Authority is headed by the Chief Justice of the State High Court who is its Patron-in-Chief.\textsuperscript{7} A serving or retired Judge of the High Court is nominated as its Executive Chairman. District Legal Services Authority is constituted in every District to implement Legal Aid Programmes and Schemes in the District.\textsuperscript{8} The District Judge of the District is its ex-officio Chairman. Taluk Legal Services Committees are also constituted for each of the Taluk or Mandal or for group of Taluk or Mandals to coordinate the activities of legal services in the Taluk and to organise Lok Adalats. Every Taluk Legal Services Committee is headed by a senior Civil Judge operating within the jurisdiction of the Committee who is its ex-officio Chairman.

The Legal Services Authorities Act, 1987 was enacted to constitute legal services authorities for providing free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice were not denied to any citizen by reason of economic or other disabilities and to organize Lok Adalats to ensure that the operation of the legal system promoted justice on a basis of equal opportunity. The system of Lok Adalat, which is an innovative mechanism for alternate dispute resolution, has proved effective for resolving disputes in a spirit of conciliation outside the courts. However, the major drawback in the existing scheme of organization of the Lok Adalats under Chapter VI of the said Act is that the system of Lok Adalats is mainly based on compromise or settlement between the parties. If the parties do not arrive at any compromise or settlement, the case is either returned to the court of law or the parties are advised to seek remedy in a court of law. This causes unnecessary delay in the dispensation of justice. If Lok Adalats are given power to decide the cases on merits in case parties fails to arrive at any compromise or settlement, this problem can be tackled to a great extent. Further, the cases which arise in relation to public utility services such as Mahanagar Telephone Nigam Limited, Delhi Vidyut Board, etc., need to be settled urgently so that people get justice without delay even at pre-litigation stage and thus most of the petty cases which ought not to go in the regular courts would be settled at the pre-litigation stage itself which would result in reducing the workload of the regular courts to

\textsuperscript{7} Ibid.

\textsuperscript{8} Ibid.
a great extent. It is, therefore, proposed to amend the Legal Services Authorities Act, 1987 to set up Permanent Lok Adalats for providing compulsory pre-litigative mechanism for conciliation and settlement of cases relating to public utility services.

The Legal Aid Centre in Tirunelveli had been functioning in a separate building. Subashan Reddy, Chief Justice of the Madras High Court, inaugurated that new building for the Legal Aid Centre of the District Legal Services Authority on 27 February 2004. The building was constructed on an outlay of Rupees fifteen lakhs using funds allocated under the Member of Parliament's Constituency Development Scheme, when P.H. Pandian was the MP from the Tirunelveli constituency. The edifice houses separate rooms for the principal district judge and the subordinate judge, who are President and Secretary of the District Legal Services Authority, respectively, besides having a counselling centre, space for keeping records and toilets. Delivering address, Subashan Reddy said that the free service offered at the legal aid centres were of great help to the public who could not afford to pay hefty court fees. Asking the lawyers to remain honest always, he said judges and lawyers should render concerted efforts for speedy disposal of cases. Young lawyers should strive hard in their profession to excel, rather than expect to become popular and earn sizeable revenues from the day they got enrolled in the bar. He thanked Mr. Pandian for allocating funds for the construction of the Legal Aid Centre. In a similar manner, at the Taluk level, Taluk Legal Services Authorities were also established to help consumers who could avail the opportunities outside the normal court settlements and redress their grievances.

In spite of all these there was no separate mechanism for the redressal of consumer grievances and it were covered under civil courts, which are known for expensive, time-consuming, complex and inordinate delays. All these points show that there was a strong need in the economy, to set-up a Independent Act for the settlement of consumer grievances. So in order to overcome these limitations in different legislations and implementing machinery and keeping in view the UN guidelines, Consumer Protection Act 1986, came into existence, which proved to be the milestone in the sovereignty of the customers.

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In order to meet out the Legal Redressal of Consumer grievances under the Consumer Protection Act 1986, a three tier quasi-judicial machinery at the National, State and District levels are established as follows: National Consumer Disputes Redressal Commission, State Consumer Disputes Redressal Commission and District Consumer Disputes Redressal Fora. The District Consumer Disputes Redressal forum at Tirunelveli was opened in the year 1990. Until 1993 the Consumer Court was attached to the Tirunelveli District Court and with Justice. V. Jayaraman, the Principal District Judge, as its first President. A separate court was formed by the G.O. Ms. 641 Co-op and Consumer Protection dated 7 December 1993. It has been functioning in 4/993 Bell Amarces Colony, Shanthi Nagar, Palayamkottai. The list of judges from the inception of the court in Tirunelveli are given below. The following were the Principal District and sessions Judges holding additional charge of the President of the District Consumer disputes Redressal forum, Tirunelveli.

1. V. Jayaraman 1990 - 1992
3. Akbar Basha Kathiri 1993 - 1994

After the formation of Separate District Consumer Disputes Redressal Forum the following were holding the post of President.

1. P. Gomathinayagam 07.03.94 - 25.08.94
2. K. Subramanian 25.08.94 - 08.03.97
3. V. Jeyaraman 08.03.97 - 23.11.98
4. N. Subramanian 05.07.99 - 26.04.03
5. M. Kuppusamy 26.04.03 - 26.08.04
6. A. Ramachandran 27.08.04 - 27.10.05
7. A. Noor Mohamed 27.10.05 - 20.04.07

10 Antony, M.J., op. cit. p.73.

The problems raised in these cases relate to different departments like bus services, railway services, Aeroplane services, Bank services, services of Financial institutions such as Benefit funds and chits, services of LIC, co-operatives, courier services and Postal services. The following are some of the consumer complaints filed with the District Consumer Redressal Forum, Tirunelveli.

The first one is the case about deficiency of service by a financial agency to a consumer. This case came up in the District Consumer Disputes Redressal Forum, Tirunelveli as consumer complaint No 156/2011 by R.Amirtharaj, s/o Rajendran, 39 A Illyankudi, Rajakudiruppu, Palayamkottai against the Manager, Bajaj Auto Finance Ltd, Susee Auto, 10 K /1 Trivandrum Road and the Manager Bajaj Auto Finance Ltd, Bye Pass Road Madurai. The complainant contended that he had availed financial assistance of Rs.25893/- to purchase motor cycle bearing registration No TN 72 P 7008 on 26 December 2006 and he had repaid the entire loan amount at the rate of 1612/- per month for eighteen months. After closure of the loan account he had requested the opposite parties to return the Registration certificate Book and spare key and to issue NOC but the opposite parties have not acted on his request. The opposite party had not issued any reply notice. therefore the complaint was allowed and the opposite parties were directed to return the Registration Certificate Book, spare key and issue No objection certificate to the complainant and to pay Rs. 20000/= as compensation for the mental agony and mental anguish.

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physical strain caused to the complainant and to pay Rupees 2000/- towards cost of the proceedings.

The second one is about the deficiency of service of a bank. These days consumers are aware that financial services could cheat them through various means. One such area is about the rate of interest; they fixing a rate of interest but charge another rate. This a case of deficiency of service by a financial institution. This was filed as consumer complaint No. 85/2006 by K.Manikandan, s/o.Krishnan, 1/58, Subramaniasamy Kovil Street, Thirumalaiyappa puram, Ambai Taluk, Tirunelveli District. against The Branch Manager, Indian Overseas Bank, Pottalputhur, Ambasamudram Taluk, Tirunelveli District. The complainant was a student of a Polytechnic College at Cheranmahadevi studying in Diploma course. The complainant obtained an educational loan from the opposite party by depositing the title deeds of his father M.Krishnan to the tune of Rs.56,000/- in four installments. The loan pass book No. is 1/2003. Ledger Folio No. is 73. As per the agreement the agreed rate of interest for the educational loan was seven percent per annum. The complainant had to pay the interest amount alone for the principal amount till fourth year from the date of receipt of this loan amount and after that he had to pay the principal amount and accruing interest within five years so the total period of repayment of the educational loan amount is nine years and the complainant had to pay Rs.1240/- per month from October 2005 as per the agreement. The interest rate of seven percent was also mentioned by the opposite party in the pass book. On 7 December 2004 issued a demand notice that for the education loan No.1/2003. The complainant had to pay interest at the rate of Rs.2528/- within 10 December 2004, as per the agreement the complainant had to pay seven percent interest only that too from October 2005 onwards and he had to pay monthly Rs.1240/- only as per the entries made in the pass book. The complainant approached the opposite party and questioned about the changes in the interest rates. To his surprise the opposite party told him that loan sanctioned to him was not an educational loan but an agricultural loan. For agricultural loan the interest rate was 11.3/4 percent per annum and the complainant

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had to pay Rs.2528/- per month towards interest. The opposite party had also changed the number of loan pass book from 1/2003 to 4106/1056 without giving any intimation to the complainant. The opposite party had got no right to change the provisions of the agreement already agreed between the parties. The act of the opposite party in terms of breaching the agreement and changing the educational loan into agricultural loan amounted to deficiency in service. Hence the complainant sent a legal notice to the opposite party on 29 August 2005. The opposite party received the notice on 30 August 2005 but so far not chosen to neither send any reply nor take any action to change the agricultural loan into educational loan as per the agreement. Hence the complainant has filed this complaint to direct the opposite party to change the character of the loan from agricultural loan into the educational loan as per the agreement and to pay Rs.1,00,000/- as compensation for this deficiency of service and mental agony caused to the complainant and the cost of the proceedings. The allegation that the rate of interest for the education loan was only seven percent per annum and the opposite party had changed the interest rate to 11.75 percent by changing the character of the loan was proved to be false with the available records from the Bank and therefore the case was dismissed.

The following is a case of deficiency in service. This came up as consumer complaint No. 3/2009 by A. Shanmugasundaram, S/o. Arumuga Nainar, 9/169 Pothaisuthi, Kallikulam, Pathmaneri (via) Nanguneri Taluk, Tirunelveli District as Complainant against the Post Master, Post Office, Kalakad, Tirunelveli District as the Opposite party. The complainant was residing in the address mentioned in the complaint and he is an agriculturist by profession. The opposite party is the Post Master, Post Office, Kalakad, Nanguneri Taluk who is solely responsible for all transactions in his office. The complainant is having cheque account in account no. 283233 in the opposite party’s office. The opposite party issued a cheque book to the complainant containing twenty leaves in it. From 18 February 2006 onwards, the complainant was depositing a sum of Rs.1,420/- periodically in his account. Meanwhile the complainant wanted to purchase a Bajaj CT 100 motor cycle from the Bajaj Company and he entered into an

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agreement with the Bajaj Finance Company. As per the agreement the complainant paid a sum of Rs.7,350/- to the Bajaj Company initially and the rest of the amount was paid to the Bajaj Company by Bajaj Finance with a condition that the complainant should repay the balance amount to the Bajaj Finance in seventeen installments, installment amount being Rs.1,417/- per month. The complainant also handed over seventeen post dated cheques to the Bajaj Finance for collection periodically towards the installment amount. Two cheques of the complainant posted for collection by Finance Company were returned by the opposite party with endorsement insufficient funds as if there was no money in the account of the complainant respectively on 5 May 2006 and 1 February 2007. The cheque Numbers were 352507 dated 20 April 2006 and 352515 dated 20 December 2006 respectively. The complainant had deposited money periodically to satisfy the amount due on the cheques without fail and the opposite party had made relevant entries in the pass book with the seal of the post office. But the complainant was informed by the Bajaj Finance Company that the two cheques were returned and dishonoured in the month of February 2007. Though there was sufficient funds in the account of the complainant and relevant entries have been made in the pass book the opposite party has dishonoured the cheques and thereby caused the complainant to incur a penalty of Rs.2500/- imposed by the Bajaj Finance Company. When the complainant approached the opposite party and questioned about this, the opposite party was reluctant to answer and negligent in discharging his official duties. This caused deficiency of service on the part of the opposite party. The complainant sent a complaint in this matter to the Senior Superintendent of Post Offices, Head Post Office, Tirunelveli Division, but no action was taken on it. The act of the opposite parties amounts to unfair trade practice as well as deficiency in service and gross dereliction of duties on the part of the opposite party. Hence this complaint is filed to direct the opposite party to pay the complainant a sum of Rs.2,00,000/- as compensation amount for the loss and mental agony caused to the complainant and the costs. The complaint was allowed and the opposite party was directed to pay Rs.50,000/- as compensation for the loss and mental agony caused to the complainant and to pay Rs.2000/- towards costs.

This case came up as consumer complaint No 38/2008 by T. Jebarani W/o D. Sathiasingh, 113 Teachers Colony, Meetparnagar, Tirunvelveli against Dewan
Housing Finance Limited, Palayamkottai and Dewan Housing Finance Limited, Mumbai. The complainant had availed a housing loan of Rs.2,90,000/= from the Madurai Branch of the opposite parties for construction of a new house. Since there was dispute in respect of rescheduling the loan and recovery of amounts from the complainant, she filed a complaint in CC No. 93/2004 before this forum and after an enquiry this Forum directed to reschedule the loan with interest at ten percent per annum and to refund Rs. 3600/- collected from her illegally and to pay Rs.5000/- towards damages and to pay Rs. 1000/- towards the cost of the complaint. But the opposite parties claimed three more instalments of Rs.3900/- and Rs.3336 /- in excess to a total of Rs.11,136/- which is illegal and made to offset the amounts directed to be paid by them as per the orders in CC.No. 93/2004. The opposite parties had collected tax on interest amount at fourteen percent which was not entitled. Hence the complainant had filed this complaint to direct the opposite parties to accept the future repayment schedule of the monthly EMI Payments as per the schedule and to pay Rs.2010 towards interest on the EMI amounts received in advance from February 2000 to June 2003 and pay Rs. 20000/- as compensation for damages and to pay the cost of the proceedings. The complainant was allowed partly and the opposite parties were directed to receive Rs.24000 from the complainant and close all the loan account within a period of two months from the date of this order.

This is a claim made by Permal s/o Mandiram , 3/28, Middle street, Pannaiyarkulam, Radhapuram Taluk against the secretary, of Agricultural Cooperative Bank Limited, Radhapuram. The complainant had pledged his gold ornament weighing 234,200 grams for Rs. 20,000/- on 29 April 2005 under receipt No 287321 in the above bank. Moreover the amount in savings bank account was also withdrawn unauthorisedly by bank authorities. When the complainant approached the bank to settle the amount, the bank authorities had informed that some malpractice had been committed by the bank authorities. On enquiry the complaint was allowed and the bank was directed to pay

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Rs.1,99,070/- for the value of the gold ornaments of 234.200 grams and Rs.80,711/- the credited amount in his savings bank account with nine percent interest and to pay Rs.10,000/= as compensation for the mental agony caused to the complainant and Rs. 5000/- towards cost of the proceedings.

This is a case about the deficiency of courier service which was registered as Consumer Complaint No 142/2010 by Chandran s/o Kanchiyappan from Mesiyapuram, Vannikonendal Village in Sankarankoil Taluk against S.T.Courier Sankarankoil, and S.T. Courier Chennai. The complaint was that a third party despatched a consignment through S.T.Couriers with receipt No. 015518032542 dated 23 September 2009. The above consignment had not reached its Maharashtra branch office. Hence the complainant had filed this petition to direct the opposite parties to pay Rs.1,35,000/- for the loss of the product and for the mental agony along with the cost of the proceedings. The complaint was allowed and the opposite parties were jointly directed to pay Rs.35,000/-, the value of the consignment and also to pay Rs. 20,000/= as compensation for the mental agony and to pay Rs. 3000/- towards the cost of the proceedings.

Several cases had been registered with regard to services provided by transport operators. The following is a case of Perumal of C.N. Village at Tirunelveli against the Managing Director of Tamilnadu State Transport Corporation, Tirunelveli and Rappani conductor of Tamilnadu State Transport Corporation Tirunelveli. The complainant boarded the Bus bearing No TN 33 1025 at Tirunelveli Bus stand for travelling to Kailasapuram. He gave Rupees ten to purchase a ticket for Rupees six and got a ticket No. 28322 GEU 1. The conductor asked for one Rupee so that he could give five Rupees back to the complainant. The conductor told the complainant that he would give Rupees five in due course. After issuance of tickets to all, the complainant requested the conductor to give the balance amount of Rupees five. The conductor replied saying that he had already given Rupees five to the complainant. The conductor stopped the bus at

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flour mill bus stop ten kilometers before Kailasapuram and forced the complainant to get down from the bus. The complaint was allowed and the opposite parties were directed to pay Rs.7000/= to the complainant as compensation and Rs.3000/= towards the cost of the proceedings.

There are also several cases found with regard to the medical negligence of doctors. This case was registered as CC No. 60/2011 on the file of the District Consumer Disputes Redressal Forum, Tirunelveli. The case was filed by Sivaperumal and his two children against the Management of M/s Sudharson Hospital, Tirunelveli. The facts of the case are Sivaperumal’s wife Parameshwari was admitted in the above hospital on 12 June 2010 for removal of kidney stone. Dr. Gokul conducted the removal of kidney stone on 13 June 2010 and she was discharged on 4 July 2010. When the said Parmeshwari was undergoing post operative treatment in the said hospital she complained of pain in her abdomen. The doctors informed that it would subsidize in due course. Even after two visits, after her discharge, the pain and the bulging had not been subsidized. So she contacted Dr. Prakash at Tirunelveli who advised her to get a scan report. Accordingly she got a scan report and the doctor after perusal told that a perforation had been made inadvertently in her intestine at the time of removal of kidney stone. So she was admitted in Tirunelveli Medical College hospital on 19 July 2010 and she was discharged on 2 September 2010. Even after that the same problem persisted and hence she was taken to Meenakshi Hospital Madurai on 3 September 2010. She was discharged on 1 October 2010. The same problem continued and hence she was again admitted to Meenakshi mission Hospital Madurai on 18 October 2010. She was advised for transplantation of kidney as otherwise she would endanger her life. Sivaperumal was not able to make up the money for the transplantation. Hence Parmeshwari died on 12 December 2010. Being aggrieved the said Sivaperumal made a complaint against Sudarson Hospital for the alleged medical negligence. The court after elaborate enquiry concluded that Sudarson Hospital was not the cause for her death and hence dismissed the complaint.

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20 District Consumer Disputes Redressal Forum, Tirunelveli, Order on the Consumer Complaint No. 60/2011, dated 23 January 2012.
Chitra of Vasudevanallur of Tirunelveli District filed a case against Dr. S.M. Sheriffunisha for medical negligence. Chitra aged thirty four years, got three children, two male and one female, she delivered the third child in Dr. Sheriffunisha’s clinic on 5 November 2011 and requested the doctor to perform family planning. The doctor had done the family planning and assured that there would be no further pregnancy. There was some pain during the last week of December 2004. Chitra immediately contacted Dr. Sheriffunisha who told that there was no symptom of conception and advised her to take some medicines. During January 2005, Chitra went to Rajapalayam where she took up a scan on 9 February 2005 based on the advice of a Doctor in Padma Hospital. The ultrasonographic report stated that Chitra was having twenty five weeks of gestation in vertex presentation. Again she confirmed it on 19 February 2005 in a medical camp organized by Government of Tamilnadu. Thus she conceived for a fourth time and delivered a female child on 2 June 2005. Chitra had paid Rs.2500/= for her family planning operation. Because of the medical negligence, she conceived again and underwent labour pain. She claimed Rs. 5,00,000/= as compensation. The court after enquiry, directed the opposite party to pay Rs. 2,00,000/= as compensation and a cost of Rupees 5,000/=.

The following is a case of false advertisement of Hamam Grihapravesham offer. One Shunmugam of Thatchanallur, Tirunelveli filed a case against Hindustan Unilever, a multi national company as CC No. 132/2010. The brief facts are as follows. Shunmugam used to purchase Hamam soap for himself and his family members. The Hindustan Unilever company is the manufacturer of the said soap. Hamam Grihapravesham offer 2010 was advertised in the back of soap cover and the participants had to complete the message “I love Hamam because …“ and send the same along with six original wrappers of Hamam soap with their complete residential address and send it to Hamam Grihapravesham offer 2010 C/o Alpha data centre Post Box No 3904, Girgam H.O.P. Mumbai 4 and the participants would by luck win a house. In that advertisement it

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was stated that there would be 12 houses, 250 gold coins, 750 mobile phones, 10,000 gift vouchers worth Rs.200/=. M/s Hindustan Uni Liver advertised the same through TV and newspapers. The consumers have lured by this advertisement to participate in the offer, purchased the Hamam soap more than their requirement. Being induced by the offer, Shunmugam purchased six Hamam soaps at Thangam Stores, Tirunelveli and participated in that offer. He checked the newspapers every day for declaration of the results. But the company had not declared. Hence Shunmugam sent a letter to the company on 28 May 2010 asking about the results. Since no reply was received, he sent another letter on 8 June 2010 for which also, there was no reply. Hence Shunmugam made a complaint to Tamilnadu people’s consumer federation on 7 July 2010 who issued a notice to the company on 19 July 2010. The company even after receiving the legal notice had not sent any reply which showed that they had not declared the results and withhold the prizes. It was an unfair trade practice hence, Shunmugam filed a complaint along with Tamilnadu People’s Consumer Federation claiming compensation of Rs.2,00,000/= payable to Consumer Welfare Fund and Rs. 1,00,000/= towards cost. After enquiry, the judgement was delivered directing the company to pay Rs. 75,000/= as compensation and Rs. 30,000/= as cost of the proceedings.

The Life Insurance Industry in Tirunelveli district is one of the hard core parts of the service sector. The competitive climate had changed the district’s insurance sector with the opening of private insurance companies over the last few years. Under such circumstances, the existence of the life insurance organization entirely depends on the consumers namely the policy holders. This necessitates the Life insurance corporation to have a consumer orientation. Inspite of this orientation consumers begin to have grievances. For the redressel of grievances, consumers have an in built mechanism as there are Grievance Redressal officers in the corporation and they can be approached and the grievances could be solved. Yet sometimes they had to resort to the District Consumer Disputes redressal Forum in Tirunelveli to get their problems solved.

The following is a such a case filed at the District Consumer Redressal Forum, Tirunvelveli as Consumer Complaint No 60/2012 filed by I Muthulakshmi wife of late S. Iyyasamy residing at 13/3, fourth street, Raja Nagar, Melapalayam, Tirunelveli against
the Branch Manager, LIC of India, Tiruchendur Branch and the Divisional Manager, LIC of India, Divisional Office, Palayamkottai, Tirunelveli.\textsuperscript{23} The complainant was a housewife living with her two minor sons. Her husband S. Iyyasamy of Sathankulam, took LIC Profit Plus Policy from the first opposite party under policy No 323131322 and date of commencement of the policy was 21 March 2009. The complainant was the nominee of the said policy holder. The complainant’s husband died on 30 April 2010 and as per the policy condition the policy holder had to pay a premium of Rupees two thousand five hundred quarterly on the months of March, June, September and December. The husband of the complainant was regular in paying the premium till he met with an road accident on 12 December 2009. He was immediately admitted at Sri Ramachandra Hospital, Porur, Chennai in a serious condition. Thereafter he could not recover from the serious condition and in spite of best treatment he succumbed to his injuries on 30 April 2010 in the same hospital after a prolonged treatment of four and half months in the hospital. He or wife, the complainant could not pay the premium for the month of March 2010. The complainant being the nominee of the policy holder was entitled to the assured amount of rupees two lakhs. The opposite parties paid the fund value of Rupees seven thousand eight hundred and ninety eight to the complainant which was baseless. The complainant sent a legal notice to the first opposite party on 13 February 2012 and he received the same on 14 February 2012. The second opposite party is the Divisional office of the first opposite party and he was added as a formal party. The complainant filed the complaint to direct the opposite parties to pay Rupees One lakh ninety two thousand one hundred and two to the complainant with interest at the rate of twelve percent per annum from 30 April 2010 till the date of payment and to pay the cost of proceedings. The second party argued that from March 2010 the premium remained unpaid. In the mean while the first opposite part received a death intimation along with death certificate, original policy, postmortem certificate, police enquiry report and claim form from the complainant. As the last premium before the death remained fully unpaid on the date of life assured’s death and the policy stood in a lapsed condition and the claim was an early claim namely

\textsuperscript{23} District Consumer Disputes Redressal Forum, Tirunelveli, Order on the consumer complaint No. 60/2012, dated 5 September 2012.
death of the life assured was within one year one month and nine days from the date of the policy. As per the terms and conditions of the policy the second opposite party sympathetically considered the claim and paid the fund value to the complainant. The sum was also accepted by her without any protest as she was well aware of the fact that she was not legally entitled to get more than that. As the claim was already settled, the claim was in fructuous. Hence the complaint was liable to be dismissed.

The counsel for the complainant relied on citation of Delhi High Court reported in 2004 (ACJ) page 1407 wherein it was held as follows. The assured met with an accident and went into coma immediately and incurred permanent disability which continued till his death. Clearly in terms of Clause 10, the liability of the assured for future premium stood waived during the continuance of this liability and additionally the LIC became liable to pay the disability installments as noted above. Hence there was no question of the policy lapsing on account of default in payment of premium. In the view of the above fact the stand taken by the LIC that the policy had lapsed on account of default in making the premium cannot be sustained. LIC a statutory corporation having monopoly of life insurance business owes a public duty to settle such claims promptly.

In the circumstances stated above, the District Forum came to the conclusion that the opposite party had committed deficiency in service by settling the claim of the complainant by paying the refund value instead of paying the assured amount and hence the complainant was entitled for the relief as prayed for and directed to settle the claim of the complainant by paying Rupees one lakh, the assured amount minus the fund value already paid to the complainant and to pay Rupees ten thousand as compensation for the mental agony and sufferings caused to the complainant and to pay Rupees three thousand towards the cost of the proceedings.

The applicability of Consumer Protection Act to Banking Sector was initially questioned in some cases. According to section 2(1)(d) of the Act, consumer is a person who hires or avails of any service for a consideration. Therefore a customer who has a bank account, a person who purchases a bank draft from a bank, a person hiring a locker facility available with a bank or a person who obtains a bank guarantee from a bank are
all consumers and can prefer complaints under the Act for deficiency in service on the part of a bank or for any other consumer problems. In the case of Vimal Chandra Grover versus Bank of India (2000 (2) CPJ 11 (SC) AIR 2000 Sc 2181), it was argued before the Supreme Court that the appellant, who took over draft facility from the bank by pledging shares was not a consumer within the meaning of Consumer Protection Act. The Supreme Court repelled the arguments of the bank and held that bank is rendering service by providing overdraft facility to a customer which was not without consideration. Bank was charging interest as well as other charges in providing the service. Provision for overdraft was certainly a part of banking service and certainly fell within the meaning of service as provided in section 2 (1)(0) of the Act. Moreover in Punjab and Sind Bank versus Manpreet Singh (1994(3) CPJ 532), it was held by the Punjab State Commission that a savings account holder of a bank was also a consumer under the Consumer Protection Act. It was observed that difference in the lending and borrowing rates is the consideration for rendering service by the bank. It was also observed that even if the bank did not charge for providing cheque facility to the account holder, it cannot be said that the same is given without consideration. Actually the cheque book facility is obtained by the depositor in consideration of depositing some funds at the disposal of the bank.

In this case the complainant had succeeded at the District Forum level and it was challenged in the State Consumer Forum by the opposite party. The complainant was S.Ruban residing at 1/258 Fifth Cross street Santhi Nagar, Palayamkottai. The complainant obtained a loan to pay his semester fees by LIC. The amount was sent as a cheque to be payable in the second opposite party bank namely Indian Overseas Bank Tiruchendur. The complainant presented the cheque in his account with the first opposite party namely the Central Bank of India, Samadhanapuram, Palayamkottai. He verified with the first opposite party daily whether the amount was credited to his account. Since the amount was not credited to his account till 17 December 2007, the complainant borrowed money to pay for his college fees. On 5 February 2008 the first opposite party informed him that the amount was credited. The complainant alleged deficiency in service against the first and second opposite party for the delay from 8 December 2007 to 5 February 2008 and prayed for relief. The District Forum after going through the records and submissions by the parties passed an order concluding that the delay was caused
because of deficiency in service on the part of the second party in honouring the cheque within the prescribed time and also in sending the advice to a wrong branch and so directed the second opposite party to pay a compensation of Rupees twenty five thousand and Rupees five thousand as costs relieving the first opposite party from all liability. The complaint against the first opposite party was dismissed. Aggrieved by this order the second opposite party preferred an appeal before the State Consumer Redressal Commission, Chennai. It concluded that the first opposite party had immediately cleared the cheque on 10 December 2007. The delay was only on the part of the second opposite party whose contention that Central Bank of India should have been impleaded as party is devoid of any merit when they admitted that it was sent by them wrongly to another bank. The cheque was finally credited on 4 February 2008. The delay was fifty six days due to the negligence of the appellant, namely Indian Overseas Bank, Tiruchendur after deducting fourteen eligible days. It was concluded that there was deficiency in service on the part of the applicant. But the complainant had not proved how he was entitled to a huge amount for his claim for mental agony. The District Forum had erroneously awarded Rs 25000/= for a cheque value of Rs 7231/= and the State Forum was not ready to blindly endorse the view of the District Forum and so the appeal was partly allowed to the extent of reducing the compensation from Rs 25000/= to Rs 5000/= and cost from Rs 5000/= to Rs 2000/=.

The following is a consumer case relating to the problems in the supply of gas filed by Madanagopal son of Paulraj residing at 55/1 north street Sivashunmugapuram, Kalakadu Tirunelveli district against Bharat Gas Distributor, Mangalam gas Agencies, Eruvadi as first opposite party and Bharat Petroleum Corporation Limited Mumbai. The complainant was a consumer under the first opposite party with consumer No 15723. He had registered with the first opposite party for the supply of gas cylinder on 12 October 2011. The first opposite party had not supplied cylinder before Deepavalli namely till 24 October 2010. Hence the complainant approached the first opposite party in person and requested the first opposite party to supply gas cylinder immediately but the first

opposite party refused to supply the gas cylinder. The complainant had sent a legal notice on 9 November 2011. Yet the first opposite party did not supply the gas cylinder. The complainant was left with no other alternative except to cook using fire woods and kerosene. Hence the complainant had filed this complaint to direct the opposite part to supply gas cylinder to the complainant immediately for his registration dated 12 October 2011 and to pay Rupees five lakhs as compensation for the mental agony and sufferings caused to him and to pay Rupees five hundred towards the cost of kerosene and fire woods purchased by the complainant because of the delay caused in supplying the gas cylinder and to pay Rupees five thousand toward the cost of the proceedings. The first opposite party had stated that an attempt was made by the complainant on 24 October 2011 under bill No 9754 for the registration made by the complainant on 12 October 2011. Then the salesman found that no empty gas cylinders with serial numbers supplied by the first opposite party were available in the complainant’s house. When the salesman enquired regarding this, the complainant threatened him that he was a Central Government servant and he was not entitled to ask such question and his duty was only to supply the gas cylinder after receiving the cash and empty gas cylinder. Hence the salesman did not supply the gas cylinder on 24 October 2011 and after this the first opposite party visited the complainant’s house for spot inspection on 25 October 2011. Since the empty gas cylinders with the serial number on them as supplied by the first opposite party were not available in the complainant’s house, the first opposite party returned back after making an endorsement in the blue book of the complainant. But the no cancelled cash memo dated 24 October 2011 had been filed before the District Forum. Hence the contention of the opposite parties that the salesman went to the complainant’s house to supply gas cylinder on 24 October 2011 was not proved. Moreover the complainant had not produced anything about the inspection made by the first opposite party. Hence both the opposite party and the complainant had not come before the Forum with clean hands.  

inclined to give any compensation to the complainant and the opposite party is directed to pay Rs 3000/= towards the cost of the proceedings.

As per Consumer Protection Act there must be a District Consumer Protection Council in each district headed by the District Collector. The District Supply and Consumer Protection Officer is the secretary of the Council. Two members from the consumer organizations, a lady social worker, a member from the Chamber of Commerce, Two Members of Legislative Assembly, a Member of Parliament, Two Panchayat Presidents, Two Union Chair Persons and the District Panchayat President constitute the Council. The term of the Council will be three years. The Council will meet once in six months to discuss the issues affecting the consumers and take suitable actions. In Tirunelveli the District Protection Council lastly met on 20 December 2012. The Council was constituted in Tirunelveli in 1993 when R.Jeyaraman, I.A.S. was the District Collector. The Council took up two issues against cinema theatres. Charging of Rupees two for the parking of cycles was enforced by the theatre owners against the Cinematograph Act. The Council strongly ordered the theatres not to collect parking charges. The canteens inside the cinema theatres were selling the packaged commodities at a rate higher than the MRP. The Council instructed the Labour Department to conduct surprise raids and consequently the menace was curtailed.

Moreover it was reported that a Circuit Bench of State Commission had been constituted at Madurai by the Government for speedy disposal of cases within the period of three months as envisaged under Consumer Protection Act 1986 and also for the convenience of consumers in the southern districts.

Speaking to Augustine about the usefulness of consumer forum, it was found that disputes do arise during the performance of business contracts. There is a need to narrow down areas of conflict and to bring it into the Consumer forum and the dispute can be easily solved through this method. There is saving of time and it is easy to use. It can be a good method to resolve consumer disputes. He said that the consumer

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26 Minutes of the meeting of District Protection Council, Tirunelveli, dated 20 December 2012.
27 Personal Interview with Bashyam, Chairman, FEDCOT, dated 22 February 2011.
28 Personal Interview with Augustine, B., Vice-President, Tirunelveli District Consumer Rights Protection Society, dated 8 February 2011.
consciousness came into existence after the enactment of Consumer Protection Act, 1986. But every law perishes as the faith in justice delivery system is not made and there arises a need to for an alternative method. This is what is being done by Department of Consumer Affairs as there is delay and pendency in consumer forum. The persons heading the law should have protected the interest of the consumer forum at any cost. The forum are required to protect the interest of consumers at whatever cost it may be. The law provides each and every aspect of consumer protection has to be provided for by the trader and service providers. Consumer has to be compensated and given redressal within few months. When the courts failed the people moved towards the consumer fora for quick and inexpensive justice. At the Tamilnadu level the consumer activities of Tirunelveli is very appreciated and recognized.\textsuperscript{29}

In Tirunelveli, the consumer movement as a social force originated with the necessity of protecting and promoting the interests of consumers against unethical and unfair trade practices. Problems such as food shortage, hoarding, black marketing, adulteration of food-products, high prices, etc. gave birth to the consumer movement in an organized form in the 1960s. At the initial stage, consumer organizations were largely engaged in writing articles and holding exhibitions. Then they formed consumer groups to look into the malpractices in ration shops and controlling of overcrowding in the bus transport. More, recently, Tirunelveli witnessed an upsurge in the number of consumer groups. This is because of more and more cases of consumer exploitation by the private traders. The activities of various consumer forums have gained momentum with the enactment of the Consumer Protection Act, 1986, popularly known as the COPRA by the government.

Right to Information is a Basic Human Right. According to this Act all citizens shall have the Right to freedom of speech and expression which shall include the freedom of the press and other media, the freedom to hold opinions and to seek receive and impart information and ideas. In a democracy, government is of the people, by the

\textsuperscript{29} Personal Interview with B. Augustine, Vice-President, Tirunelveli District Consumer Rights Protection Society, dated 8 February 2011.
people and for the people.\textsuperscript{30} The demand for openness in the democratic form of government is based principally on two reasons. It is now widely accepted that democracy does not consist merely in people exercising their franchise once in five years to choose their rulers and, once the vote is cast, then retiring in passivity and not taking any interest in the government. Today it is a common ground that democracy has a more positive content and its orchestration has to be continuous and pervasive. This means \textit{inter alia} that people should not only cast votes rationally and intelligently but should also exercise sound judgment on the conduct of the government and the merits of public policies so that Indian democracy does not remain merely a sporadic exercise in voting but becomes a continuous process of governance – an attitude and habit of mind. But this important role people can fulfill in a democracy only if it is an open government where there is full access to information with regard to the functioning of the government.

Where a society has chosen to accept democracy as its creedal faith, it is elementary that the citizens ought to know what their government is doing. The citizens have a right to decide by whom and by what rules they shall be governed and they are entitled to call on those who can survive without accountability, and the basic postulate of accountability is that the people should have information about the functioning of government. It is only if people know how government is functioning that they can fulfill the role which democracy assigns to them and make democracy a really effective participatory democracy. Knowledge will forever govern ignorance and a people who meant to be their own governors must arm themselves with the power knowledge gives. A popular government, without popular information or the means for obtaining it, is but a prologue to force or tragedy or perhaps both. The citizens’ right to know the facts, the true facts, about the administration of the country is thus one of the pillars of a democratic State. And that is why the demand for openness in the government is increasingly growing in different parts of the world.

There is also in every democracy a certain amount of public suspicion and distrust of government, varying, of course, from time to time according to its performance, which prompts people to insist upon maximum exposure of its functioning. It is axiomatic that

\textsuperscript{30} Antony, M.J.,\textit{op. cit.},p.106.
every action of the government must be actuated by public interest but even so we find
cases, though not many, where government action is taken not for public good but for
personal gain or other extraneous considerations. Sometimes governmental action is
influenced by political and other motivations and pressures, and, at times, there are also
instances of misuse or abuse of authority on the part of the executive. Now, if secrecy
were to be observed in the functioning of government and the processes of government
were to be kept hidden from public scrutiny, it would tend to promote and encourage
oppression, corruption and misuse or abuse of authority, for it would all be shrouded in
the veil of secrecy without any public accountability. But if there is an open government
with means of information available to the public, there would be greater exposure of the
functioning of government and it would help to ensure better and more efficient
administration. It has been truly said that an open government is clean government, and is
a powerful safeguard against political and administrative aberration and inefficiency.

The freedom of speech and expression includes right to acquire information and
to disseminate it. Freedom of speech and expression is necessary for self-fulfillment. It
enables people to contribute to debates on social and moral issues. It is the best way to
find a truest model of anything, since it is only through it that the widest possible range of
ideas can circulate. It is the only vehicle of political discourse so essential to democracy.
Equally important is the role it plays in facilitating artistic and scholarly endeavours of all
sorts. The purpose of the press is to advance the public interest by publishing facts and
opinions without which a democratic electorate cannot make responsible judgments.
Freedom of expression has four broad social purposes to serve: it helps an individual to
attain self-fulfillment; it assists in the discovery of truth; it strengthens the capacity of an
individual in participating in decision-making; and it provides a mechanism by which it
would be possible to establish a reasonable balance between stability and social change.
All members of society should be able to form their own beliefs and communicate them
freely to others. In sum, the fundamental principle involved here is the people’s right to
know. Freedom of speech and expression should, therefore, receive a generous support
from all those who believe in the participation of people in the administration.

31 Ibid., pp.124-130.
The right to impart and receive information is a species of the right of freedom of speech and expression guaranteed by Article 19(1) (a) of the Constitution. A citizen has a fundamental right to use the best means of imparting and receiving information and as such to have an access to telecasting for the purpose. However, this right to have an access to telecasting has limitations on account of the use of the public property. In modern constitutional democracy, it is axiomatic that citizens have a right to know about the affairs of the Government which having been elected by them, seeks to formulate sound policies of governance aimed at their welfare. However, like all other rights even this right has recognized limitations; it is, by no means, absolute. The concept of an open Government is the direct emanation from the right to know which seems to be implicit in the right of free speech and expression guaranteed under Article 19(1) (a). Therefore, disclosure of information in regard to the functioning of the Government must be the rule and secrecy an exception. To conclude, right to information is a basic human right and even Article 19 of the International Covenant on Civil and Political Rights (ratified in 1978)\(^\text{32}\) declares that everyone has the right to freedom of opinion and expression: the right includes freedom to hold opinion without interference, and to seek, and receive and impart information and ideas through any media and regardless of frontiers. The Supreme Court of India while interpreting Article 19(1) (a) of Constitution of India held that the right to information is a facet of the freedom of speech and expression as contained in Article 19(1) (a) of the Constitution of India. Right of information, thus, indisputably is a fundamental right, a basic human right.\(^\text{33}\)

The history of legislation of the Right to Information Act begins with the framing of the Indian Constitution.\(^\text{34}\) The concept of democracy in India is enshrined in the Preamble to the Constitution of India wherein opening words provide that “We, the People of India”, and in the end it lays down “give to ourselves this Constitution”. The citizens have the fundamental right to know what the government is doing in its name. Freedom of speech is the lifeblood of democracy. The free flow of information and ideas informs political debate. It is a safety valve; people are more ready to accept decisions


\(^{33}\) Supreme Court of India, Judgement on Writ Petition (civil) No 210/2012, pp.1-13.

that go against them if they can in principle seek to influence them. It acts as a brake on
the abuse of power by public officials. It facilitates the exposure of errors in the
governance and administration of justice in the country. With the globalization of trade
and industry and well knit world today, the disclosure of information – may be of the
purity, potency and price of commodities in the market or the functioning of the
government is necessary and for this purpose various Conventions have been held at
national and international levels, which suggested imparting of the information qua the
working of the government to its citizens subject to some restrictions being imposed by
the law in the interest of security of the country etc.

In this behalf, provisions were made in various Acts passed by the legislature for
imparting information to the citizens from time to time. Sections 74 to 78 of the Indian
Evidence Act, give right to the person to know about the contents of the public
documents and in this connection section 76 of the Indian Evidence Act lays down that
the public officials shall provide copies of public documents to any person, who has the
right to inspect them. Under the Factories Act, compulsory disclosure of information has
to be provided to factory workers regarding dangers including health hazards arising from
their exposure to dangerous materials and the measures to overcome such hazards. Under
section 25(6) of the Water (Prevention and Control of Pollution) Act, every state is
required to maintain a register of information on water pollution and it is further provided
that so much of the register as relates to any outlet or any effluent from any land on
premises shall be open to inspection at all reasonable hours by any person interested in or
affected by such outlet, land or premises. Under section 33A of the Representation of the
People Act, a candidate contesting elections is required to furnish in his nomination paper
the information in the form of an affidavit concerning accusation of any offence
punishable with two or more years of imprisonment in any case including the framing of
charges in pending cases and conviction of an offence and sentence of one or more than
one year imprisonment.

It is not out of place to mention here that the Justice V.R. Krishna Iyer, former
Judge of Supreme Court of India and an eminent jurist and philosopher had taken up the
matter regarding right to information to the citizens with the then Prime Minister of India
in his open letter dated 26 December, 1989, in which it was categorically highlighted that the right to know and the freedom of information are inalienable components of the freedom of expression and participation in public affairs, which Constitution confers on every citizen of the country.\textsuperscript{35} Accepting this postulate, some things require to be done immediately so that the credibility of the Indian community in the changed ethos of open government may be created.

Para 6.10.1 of the Report of National Commission for Review of Working of the Constitution (NCRWC) under the Chairmanship of Justice M.N. Vntatachaliah recognized the right to information wherein it is provided that major assumption behind a new style of governance is the citizen’s access to information.\textsuperscript{36} Much of the common man’s distress and helplessness could be traced to his lack of access to information and lack of knowledge of decision-making processes. He remains ignorant and unaware of the process which virtually affects his interest. Government procedures and regulations shrouded in veil of secrecy do not allow the litigants to know how their cases are being handled. They shy away from questioning officers handling their cases because of the latter’s snobbish attitude and bow-wow style. Right to information should be guaranteed and needs to be given real substance. In this regard government must assume a major responsibility and mobilize skills to ensure flow of information of citizens. The traditional insistence on secrecy should be discarded. In fact, we should have an oath of transparency in place of an oath of secrecy. Administration should become transparent and participatory. Only then it is possible to minimize the manipulative and dilatory tactics of the present day and can exert pressure and place a check on graft and corruption.

During the last decade, the right to information has got such a momentum as never before and on the civil societies side also some organizations, social activists and individuals did excellent work in this field. The Mazdoor Kissan Shakti Sangathan (MKSS), established in 1990, has done a great job in the field of right to information in


The Freedom of Information Act, 2002 (5 of 2003) was enacted by the Government of India to provide for freedom to every citizen to secure access to information under the control of public authorities, consistent with public interest, in order to promote openness transparency and accountability in administration and in relation to matters connected therewith or incidental thereto.\(^{37}\) The Statement of Objects and Reasons appended to the Freedom of Information Act, 2002 laid down that the Freedom of Information Bill sought to achieve the following objects:

The need to enact a law on right to information was recognized unanimously by the Chief Ministers Conference on ‘Effective and Responsive Government’ held on 24 May, 1997 at New Delhi.\(^{38}\) In its thirty eighth Reports relating to Demands for Grants of the Ministry of Personnel, Public Grievances and Pension, the Parliamentary Standing Committee on Home Affairs recommended that the Government should take measures for enactment of such legislation.

In order to make the Government more transparent, and accountable to the public, the Government of India appointed a Working Group on Right to information and Promotion of Open and Transparent Government under the Chairmanship of H.D. Shourie. The working group was asked to examine the feasibility and need for either full-fledged Right to Information Act or its introduction in a phased manner to meet the needs of open and responsive governance and also to examine the frame work of rules with


The draft Bill submitted by the Working Group was subsequently deliberated by the Group of Ministers constituted by the Central Government to ensure that free flow of information was available to the public, while inter alia, protecting the national interest, sovereignty and integrity of India, and friendly relations with foreign States.

The proposed Bill was in accord with both Article 19 of the Constitution as well as Article 19 of the Universal Declaration of Human Rights, 1948. In our present democratic frame work, free flow of information for the citizens and non-Government institutions suffered from several bottlenecks including the existing legal frame-work, lack of infrastructure at the grass root levels and an attitude of secrecy within the Civil Service as a result of the old frame work of rules. The Government proposed to deal with all these aspects in a phased manner so that the Freedom of Information Act became a reality consistent with the objective of having a stable, honest, transparent and efficient Government.

It was envisaged that the proposed Bill will enable the citizens to have an access to information on a statutory basis. With a view to further this objective, clause 3 of the proposed Bill specified that subject to the provisions of this Act, every citizen shall have right to freedom of information. Obligation was cast upon every public authority under clause 4 to provide information and to maintain all records consistent with its operational requirements duly catalogued, indexed and published at such intervals as may be prescribed by the appropriate Government or the competent authority.

However, with the passage of time, it was found that even this Act did not fulfill the aspiration of the citizens of India. In order to ensure greater and more effective access to information, it was thought that the Freedom of Information Act, 2002 must be made

39 Ibid.
more progressive, a participatory and meaningful.\textsuperscript{40} In view of the significant changes proposed in the existing Act, the government decided to repeal the Freedom of Information Act and in the proposed legislation to provide an effective frame-work for effectuating the right to information. Thus, the Right to Information Act, 2005, which came into force in India in totality with effect from 12 October, 2005 is regarded as a milestone in the history of social legislation to impart information to citizens of India regarding working of the government and its corporations etc. to make them more transparent as a result of which corruption, it not eliminated at all, would be checked to a greater extent.\textsuperscript{41}

The preamble to the Right to Information Act, 2005 lays down that whereas the constitution of India has established democratic Republic; and whereas democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed; and whereas revelation of information in actual practice is likely to conflict with other public interests including efficient operations of the Governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information and whereas it is necessary to harmonise these conflicting interests while preserving the significance of the democratic ideal and, therefore, it is expedient to provide for furnishing certain information to citizens who desire to have it. It is not out of place to mention here that most of the problems today are the result of non-observance of moral values by the younger generations after the independence which have prompted them to make money by fair or foul means. The absence of availability of information on the working of the government generally generate corruption and nepotism and, therefore, the enactment of this Act is an important milestone in furtherance of the democratic process whereby it shall be possible for the citizens to get information on all important issues and decisions affecting them and thereafter to adjudge the performance of the government, which they elected, for themselves.

\textsuperscript{40} Ibid.
\textsuperscript{41} Ibid., pp.67-70.
In a democracy like ours, people and not the government is supreme. It is in these circumstances that every citizen of country has a right to know what the government is doing in its name to adjudge the performance of the government by getting information on each and every decision being taken by the government. This right of information is, however, subject to certain limitations and conditions, which can be imposed by the government under law in the interest of the security and integrity of the country.\(^\text{42}\) The voice of the public to get information from the government got momentum during the last decade and various state Governments enacted Right to Information Acts in the years 2000-2002, which were applicable in the respective States. The Freedom of Information Act, 2002 was enforced. However, with the passage of time, it was found that even this Act did not fulfill the aspiration of the citizens of India. In order to ensure greater and more effective access to information, it was thought that the Freedom of Information Act, 2002 must be made more progressive, participatory and meaningful and accordingly National Advisory Council suggested certain important changes to be incorporated in the Act to ensure greater access to information and after examining the suggestions of National Advisory Council and the public, the Government of India decided that in view of the significant changes proposed by the National Advisory Council and others, the Freedom of Information Act, 2002 should be repealed and to enact another law for providing effective freedom qua the right to information and thus, the Right to Information Act, 2005 has been enacted by the Parliament, which is considered as a landmark step in the field of fundamental right of life and liberty guaranteed under Article 19 of the Constitution of India.

The Right to Information Bill was passed by Lok Sabha on 11 May 2005 and by Rajya Sabha on 12 May, 2005 and it received assent of the President of India on 15 June 2005 and has come on the statute book as the Right to Information Act, 2005 (22 of 2005).\(^\text{43}\) This Act, therefore, is the outcome of efforts of Civil Social Organizations, Peoples’ Movements and the suggestions of the National Advisory Council set up to monitor the promises made by the U.P.A. Government in its Common Minimum Programme because one of the promises of the U.P.A. Government was to make the right

\(^{42}\) Ibid.

\(^{43}\) Ibid., pp.5-10.
to information more participatory, progressive and meaningful. This Act is applicable to the whole of India except Jammu & Kashmir. However, Jammu & Kashmir has passed the Jammu and Kashmir Right to Information Act, 2004. As per section 1(3) of the Right to Information Act, the provisions of sub-section (1) of section 4, sub-sections (1) and (2) of section 5, section 12, 13, 15, 16, 24, 27 and 28 shall come into force at once, and the remaining provisions of this Act shall come into force on the one hundred and twentieth day of its enactment. Therefore, the entire Act came into force with effect from 12 October 2005.\textsuperscript{44}

The preamble to the Right to Information Act, 2005 lays down that whereas the Constitution of India has established democratic Republic; and whereas democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold governments and their instrumentalities accountable to the governed; and whereas revelation of information in actual practice is likely to conflict with other public interests including efficient operations of the governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information and whereas it is necessary to harmonize these conflicting interests while preserving the paramount of the democratic ideal and, therefore, it is expedient to provide for certain information to citizens who desire to have it. It sets out the following objectives to be achieved through the Right to Information Act:\textsuperscript{45} It aimed at setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities in order to promote transparency and accountability in the working of every public authority through the constitution of a Central Information Commission and State Information Commissions.

The importance of Right to Information can be judged from the report of National Commission to Review the Working of Constitution under the Chairmanship of Justice M.N. Venkatachaliah.\textsuperscript{46} Major assumption behind a new style of governance is the

\textsuperscript{44} Lajapathi Rai, \textit{Right to Information Act}, 2005, p.78.
\textsuperscript{45} Ibid.
\textsuperscript{46} \textit{The New Indian Express}, Judicial Reforms can not Ignore Public Perceptions, dated 28 October 2012.
citizen’s access to information. Much of the common man’s distress and helplessness could be traced to his lack of access to information and lack of knowledge of decision-making processes. He remains ignorant and unaware of the process which vitally affects his interest. Government procedures and regulations shrouded in veil of secrecy do not allow the clients to know how their cases are being handled. They shy away from questioning officers handling their cases because of the latter’s snobbish altitude and bow-wow style. Right to information should be guaranteed and needs to be given real substance. In this regard government must assume a major responsibility and mobilize skills to ensure flow of information to citizens. The traditional insistence on secrecy should be discarded. In fact, we should have an oath of transparency in place of an oath of secrecy. Administration should become transparent and participatory with the Right to minimizing manipulative and dilatory tactics of the babudom, and, last but most importantly putting a considerable check on graft and corruption.

Democracy means government of the people, by the people and for the people. However, if the citizens are ignorant of the decisions taken by the government and reasons advanced for the same, there can be no government by the people. The public has a fundamental right to know what the government has been doing in its name. The address of the Prime Minister Dr. Manmohan Singh in the Lok Sabha on the Right to Information Bill on 10 May 2005 emphasized the following points. 47 Freedom of expression constitutes one of the essential foundations of society. The fundamental right of free expression and imparting information has been recognized at common law of England for many years. The freedom of expression constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and each individual’s self fulfillment. Subject to Article 10(2) of Rome Convention it is applicable not only to information or ideas that are favourably received or regarded as inoffensive or as a matter of difference, but also to these that offend shock or disturb. Such are demands of that pluralism, tolerance and broadmindedness without which there is no democratic society.

Thus, Right to information would lead to openness in the administration as the citizens would get information about various issues and would, thus, promote transparency in the Government, increasing the efficiency of the Government by making officers accountable and ultimately reducing the corruption, if not eliminating the same totally. The freedom of speech and expression is a right given to every citizen of this country and not merely to a few. Freedom of speech and expression is basic to and indivisible from a democratic polity. It encompasses freedom of press. It includes right to impart and receive information. The right of free speech and expression includes the right to receive and impart information. For ensuring the free speech right of the citizens of this country, it is necessary that the citizens have the benefit of plurality of views and a range of opinions on all public issues. A successful democracy posits an aware citizenry. Diversity of opinions, views, ideas and ideologies is essential to enable the citizens to arrive at informed judgment on all issues touching them.

After the enactment of the Right to Information Act, a few questions of the following type were constantly raised. It was raised whether section 22 of Right to Information Act had any overriding effect on the provision of the Consumer Protection Act. It was discussed whether section 23 of RTI ousted the jurisdiction of the Consumer Forum. The last and the most important issue was whether the complainant was a consumer who hires or avails the service for consideration. 48

The National Commission had held in the case of S.P.Thirumalai Rao vs Municipal Commissioner of Mysore Corporation reported in III (2012) Consumer Protection Journal page 72 that section 22 of RTI Act did not have any overriding effect on the Consumer Protection Act 1986. On the question of bar of jurisdiction of courts the National Commission had held that section 3 of the Consumer Protection Act provided an additional remedy that the bar of jurisdiction under this section was only against the courts as also in respect of the order made under the act but in this case the averment of the complainant is that the opposite party had not passed any order on account of which the question of bar of jurisdiction did not arise. The National Commission had held in

the above case that the complainant had availed of services under the said Act for consideration by paying fee and had sought information under the said act which was not supplied to him which amounted to deficiency of service. The complainant is thus a consumer vis-avis information sought on payment under the said Act.

At the same time in the case of T. Pundalika vs Revenue Department (Service Division) Government of Karnataka in R.P. No. 4061/2010 in which the Karnataka State Commission had held that the complainant cannot be considered as a consumer as defined under Consumer Protection Act since there was a remedy available for the complainant to approach the appellate authority under section 19 of the RTI Act of 2005. The National Commission had agreed with the above view taken by the State Commission and they had held that the petitioner was not eligible to claim as a consumer under Consumer Protection Act. The National Commission had held the above view since there was a remedy available for the complainant to approach the appellate authority and therefore the complainant cannot be claimed to be a consumer.

The Supreme Court had held in the case of National seeds Corporation Ltd vs M. Madhusudhan Reddy and another reported in (2012) 3 MLJ page 166 (SC) that the remedy of arbitration was not the only remedy available to the consumer. Rather it was an optional remedy. He was eligible either to seek reference to an arbitrator or file a complaint under the Consumer Protection Act. If the complainant opts for the remedy of arbitration then it may be possible to say that he cannot subsequently file complaint under the Consumer Protection Act. However if he chooses to file a complaint in the first instance before the competent Consumer Forum, then he cannot be denied relief by invoking section 8 of the Arbitration and Conciliation Act 1996. Moreover the plain language of Section 3 of the consumer Act made it clear that the remedy available in that Act was in addition to and not in derogation of the provisions of any other law for the time being in force. On the same analogy if appeal provision was available in the Act the complainant cannot be compelled to file a complaint before the appellate authority since

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49 Karnataka State Consumer Redressal Commission, T.Pundalika vs Revenue Department (Service Division) Government of Karnataka in R.P. No. 4061/2010.
under section 3 of the Consumer Protection Act the remedy was available in addition to and not in derogation of the provisions of any other law for the time being in force.

The Supreme Court had also held in the case of Trans Mediterranean Airways vs Universal Exports reported in 2011(8) MLJ page 570 that the protection provided under Consumer Protection act to consumers is in addition to the remedies available under any other statute. It did not extinguish the remedies under another statute but provided an additional or alternative remedy.

In the case of Skypay couriers Limited Vs Tata Chemicals Limited reported in 2000 (3) MLJ page 74 the Supreme Court had held that even if there existed an arbitration clause in an agreement and a complaint is made by the consumer, in relation to a certain deficiency of service, then the existence of an arbitration clause will not be a bar to the entertainment of the complaint by the Redressal Agency, constituted under the Consumer Protection Act, since the remedy provided under the Act is in addition to the provisions of any other law for the time being in force.

In the case of secretary, Thirumurugan Co-operative Agricultural Credit Society Versus M. Latha reported in 2004 (IV) MLJ page 94, the Supreme Court had held that the trend of the decisions of this Court is that the jurisdiction of the Consumer Forum should not and would not be curtailed unless there was an express provision prohibiting the Consumer Forum to take up the matter which falls within the jurisdiction of civil court or any other Forum as established under some enactment. The above observation of the Supreme Court made it clear that even if there was another remedy available for the complainant to approach the appellate authority, the Forum cannot direct him to approach the appellate authority and there was no bar in taking the case on file by the Consumer Forum.

Quite a number Cases relating to Right to Information Act had been filed in the Consumer Redressal Forums. J Eskalin daughter of John Bosco of Door No 30/58/2 Theerspuram had filed a consumer complaint No 186/2012 on 17 October 2012 at the
District Consumer Disputes Redressal Forum of Tirunelveli against the Public Information Officer, Divisional Engineer (Maintenance) Highways, Tirunelveli.50

The Complaint sent a petition under RTI Act seeking some information and certified copies regarding the laying of a four way track road and encroachment removal and some other particulars on 25 August 2012. The complainant had filed the above petition to get information from the opposite part to file Public Interest Litigation. The opposite party received the above petition on 25 August 2012. But he did not provide any information to the complainant even after the expiry of thirty days stipulated period. Hence he had committed deficiency in service which had caused mental agony and sufferings to the complainant. Hence the complainant had filed this complaint to direct the opposite party to furnish the information as sought for by the complainant in his petition dated 25 July 2012 and to pay Rs 25000/= as compensation for the mental agony and sufferings caused to him and to pay the cost of the proceedings.

The averments in the counter of the opposite party were as follows. The complaint is not maintainable either in law or on facts. It was true that the petition of the complainant seeking information dated 25 July 2012 was received by the opposite party on 27 July 2012. And the opposite party had provided the necessary information to the complainant in his office letter No 3677/2012/ E.Va. Aa2/ dated 24 September 2012. Hence the opposite party had not committed any deficiency in service. As per section 19(1) of the RTI Act 2005 any person who did not receive a decision within the stipulated time can prefer an appeal to the appellate authority. Further as per section 19(3) a second appeal would lie to the state Information Commission. In this case, the complainant had not exhausted the remedies available under the RTI Act, hence the complaint is not maintainable before this Forum. Section 22 of RTI Act provides overriding effect to the Act over any other law for the time being in force. Section 23 of the RTI Act 2005 provided that no court shall entertain any suit, application or other proceedings in respect of any order made under the RTI Act 2005 and No such order shall be called in question otherwise than by way of appeal. Moreover as per section 2(d) of the Consumer

50 District Consumer Disputes Redressal Forum, Tirunelveli, Order on the Consumer Complaint No.186/2012, dated 17 October 2012.
Protection Act, 1986 consumer means a person who hires or avails of any service for consideration. Since the opposite party had furnished the particulars within the statutory period of thirty days had had not committed any deficiency in service. Hence the complaint was liable to be dismissed.

Moreover the counsel for the opposite party had argued that in some cases relating to the Right to Information Act, the Madurai Branch of the Madras High Court had stayed the proceedings of this Forum under article 226 of the Constitution of Indian on the ground that the complainants are having alternate remedy of filing appeal before the statutory authority. The Supreme Court also held in the case of Cisily Kallarackal versus Vehicle factory reported in 2012(VI) CTC page 217 that the order passed by the National Commission were incapable of being questioned under the Writ jurisdiction of the High Court as a statutory appeal in terms of section 27 (a) would lie to the Supreme Court. On the same analogy since statutory appeal lies on the orders passed by the District Forum to the state Commission and then to the National Commission the writ jurisdiction of the High Court under article 226 of the Constitution of Indian cannot the exercised.

In the above circumstances, the District Forum came to the conclusion that the complainant was a consumer as per the provisions of the Consumer Protection Act. And just because there was appeal provision in the Right to Information Act, the complainant was not barred to file a case before the Consumer Forum since under section 3 of the Consume Protection Act the remedy available to a consumer is an optional remedy and it was in addition to and not in derogation of the provisions of any other law for the time being in force. The complainant had specifically stated that he had not received the particulars from the opposite party even after thirty days of stipulated period and he has also stated in his proof affidavit that he had not received any particulars dated 24 September 2012 from the opposite party. Hence it was for the opposite party to prove that he had sent the particulars to the complainant by acceptable means. Therefore the District Forum came to the conclusion that the opposite party had not furnished the particulars as alleged by him and he had committed deficiency in service and the complainant is

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51 Ibid.
entitled for the relief as prayed for. In the result the complaint is allowed and the opposite party is directed to furnish the information as sought for by the complainant and to pay Rupees fifteen thousand as compensation for the mental agony and sufferings caused to the complainant and to pay Rs 3000/= towards the cost of the proceedings within a period of two months from the date of this order, failing which the complainant is at liberty to execute this order under section 25 and 27 of the Consumer Protection Act 1986.52

This is also a case with regard to the consumers’ Right to Information. Arunachalam of Kothaicheri, Nanguneri Taluk filed the Consumer Complaint No 59/2012 against the Public Information Officer, Tirunelveli District Co-operative Bank Limited, Vannarpettai, Tirunelveli.53 The complainant is a retired staff of District Co-operative Bank, Tirunelveli. He filed a petition before the Labour Court Tirunelveli in ID No. 30/1996 and obtained an order in favour of him on 21 April 2010. To claim the arrears of salary based on the above orders, he filed a petition before the opposite party on 15 April 2011 seeking information under RTI Act. But the opposite party had not furnished the particulars even after the expiry of 30 days statutory period. With the result the complainant could not claim his arrears of pay. The act of the opposite party amounts to deficiency in service and the complainant filed this complaint to direct the opposite party to furnish particulars and to pay Rs.1,00,000/= as compensation for the deficiency in service and to pay Rs.50,000/= as compensation and Rs.5000/= as cost of the proceedings. After enquiry, the deficiency in service was confirmed and the complaint was allowed and the opposite party was directed to furnish the particulars as sought by the complainant and to pay Rs.10,000/= as compensation and Rs.3000/= towards the cost of the proceedings.

It is very much significant to note that National Consumer Disputes Redressal Commission, New Delhi had given a verdict in the revision petition No 1017 of 2002 filed from the order dated 10 April 2002 in OP No.104/00 of the State Commission, Tamil Nadu in

52 Ibid.
the matter of Authorized Representative of the Parties.\textsuperscript{54} Another revision petition of No 1003 of 2002 was filed by the Voluntary Organization in Interest of Consumer Education (VOICE) against the Registrar Tamilnadu state Consumer Disputes Redressal Commission. One more revision petition of No 1149 of 2002 was filed by Tamilnadu Consumer Welfare Centre against Mrs Madhavi and Others. With regard to the same matter, one more revision petition of No 1627 of 2002 was filed by the Citizen Consumer and Civic Action Group against the Chairman, Apollo Hospital and others.

A complaint was filed before the State Commission by the widow mother and two minor children of deceased K.N. Subramanian. The complaint relates to medical negligence of Dr. Rangabashyam and the Apollo Hospital Chennai. The complaint was filed through N. Chandrasekaran as an authorized agent.\textsuperscript{55} He is the Secretary of Consumer Welfare Foundation, Chennai. State Commission noticed that the complaint was signed only by the widow and N. Chandrasekaran also signed the complaint as a Counsel for the complainant. A vakalat has also been filed in the name of S. Natarajan, Advocate and N. Chandrasekaran as Counsel for the complainant. It appears at a later stage on 14 February 2002, N. Chandrasekaran suo motu revoked the vakalat in favour of S. Natarajan. N. Chandrasekaran has also filed an authorization letter from the widow to represent her case before the State Commission. This authority was not signed by the widow as the guardian of her minor children. Mother of the deceased did not give any authority in favour of N. Chandrasekaran to represent her case. Deceased Subramanian had breathed his last on 3 May 1998. The complaint was filed within a period of limitation and it came for admission before the State Commission on 14 February 2002, almost four years after the death of Subramanian. State Commission immediately raised a doubt as to whether it was legally permissible for an authorized agent like N. Chandrasekaran to have a right of audience before even the complaint was admitted. State Commission in order to answer this question, issued notices to various Bar Associations and Consumer Associations and also affixed a notice on the Notice

\textsuperscript{54} National Consumer Disputes Redressal Commission, New Delhi, Order on the Revision Petition No. 1017/2012, dated 23 November 2012.
\textsuperscript{55} State Consumer Disputes Redressal Council, Chennai, Order on the Consumer Complaint No. 207/2012, dated 14 February 2002.
Boards of the State Commission and District Forums based in Chennai. State Commission was of the view that Rule-4 subclause (8) of the Tamil Nadu Consumer Protection Rules, 1988 could not at all have any legal effect and the said sub-rule must have to be struck down as null and void or must have to be read down in conformity with the statutory provisions of the Consumer Protection Act, 1986. According to the State Commission, the Act itself did not contain any statutory provisions at all empowering the parties to engage an authorized representative on their behalf to represent their case. In this view of the matter the State Commission felt that such an authorized representative of the litigant complainant-consumer not being an Advocate could not at all be given the right of audience though there was no prohibition for the party himself to represent his own case under the Act. After quite marathon discussion expressing its views on some of the questions which we will consider at a later stage, the State Commission did not permit N. Chandrasekaran the right of audience.

During the course of discussion, State Commission referred to the provisions of the Constitution of India, Advocates’ Act 1961, Consumer Protection Act, 1986 and the rules framed there under by the Central Government and the Tamil Nadu State Govt., Civil Procedure Code and the Civil Rules of Practice of Madras High Court, Criminal Procedure Code and various Judgements of the High Courts and the Supreme Court. Thereafter, the State Commission had observed as under:- It is crystal clear that the provisions adumbrated under the Act, 1986 enables a voluntary consumer organization registered under the Companies Act, 1956 or under any other law for the time being in force to present a complaint for and on behalf of the aggrieved complainant/consumer in the absence of himself virtually figuring and filing a complaint as a complainant. Authorised agent appear for and on behalf of the complainant or the opposite party in their absence before the Forum on the hearing dates. The authorized agent either for the complainant or for the opposite party is not at all empowered to make a representation for and on behalf of the party he is appearing for. His appearance before the hearing date is actually to dispense with the presence of the complainant or the opposite party on the date of hearing and nothing further. As such, the statutory provisions adumbrated under the Act, 1986 does not give the right of audience either to
the voluntary organizations registered under the provisions of the Companies Act, 1956 or any other law for the time being in force or in favour of the authorized agents either for the complainant or for the opposite party. It appears that the salient provisions in the Act, 1986 had been adumbrated in rather a bid to avoid an order being passed, dismissing the complaint for the default of the complainant or an order being passed ex parte on merits or for the avoidance of the technical objection of locus-standi that may emerge for the complaint to be filed by such associations instead of by the aggrieved party/complainant/consumer and nothing further.\footnote{56}

This raised a substantial issue of law which, as stated earlier, had far reaching effect. It appeared, prima facie, the State Commission had acted in exercise of its jurisdiction illegally and/or with material irregularity. The National Consumer Disputes Redressal Commission in exercise of our jurisdiction under clause (b) of Section 21 of the Consumer Protection Act, 1986 called for the records of the State Commission limited to the aforesaid questions while, at the same time, allowing the complaint pending before the State Commission to proceed as per the directions issued by the State Commission.\footnote{57}

Various pronouncements of the Supreme Court and of the High Courts on Order III of Code of Civil Procedure were taken into consideration. It was observed that under the general prevailing law no authorized agent could claim to possess a right of audience in the Court of Law unless specific permission of the Court was obtained and that the word ‘appear’ in Order III does not include right of audience before a Court. But then the objects of the Act and various pronouncements of the Supreme Court rather showed that authorized representative can certainly have a right of audience and his right is not merely confined to appearance before a Consumer Forum. The Division Bench judgment of the Bombay High Court in the case of Sanjay R. Kothari & Anr. Vs.

\footnote{56} Ibid.  
\footnote{57} National Consumer Disputes Redressal Commission, New Delhi, Order on the Revision Petition No. 1017/2012, dated 23 November 2012.
the South Mumbai Consumer Disputes Redressal Forum was referred and as it laid a correct law.

It had concluded that a party to the proceeding before the District Forum/State Commission has right to authorize a person of his choice to represent him and appearance of such agent authorized by the party on the date of hearing before District Forum/State Commission is not restricted to physical appearance but includes in terms of Rule 4(7) 4(8) or 9(6) of Rules of 2000 to examine and cross examine the witness, address the court and take part in the proceedings as the case may be. Any other view may defeat the very objectives for which Act of 1986 was enacted.

This judgment of the Bombay High Court was also quoted in extenso to show that the impugned order of the Tamil Nadu State Commission was not correct. The impugned judgment of the learned State Commission was also noticed in the judgment of the Bombay High Court. The right to appear, therefore includes right of addressing the Court, examining, cross-examining witnesses, oral submissions etc. Once the complaint is filed by aggrieved consumer through recognized consumer association, the authorized agent appearing for such recognized consumer association is expected to take the complaint to logical conclusion by full participation in the complaint proceedings which may include addressing the Forum, examining and cross-examining the witnesses etc.

In view of this, National Consumer Disputes Redressal Commission had no hesitation in giving wider and comprehensive meaning to the expression ‘to appear’ appearing in Rule 4(7) and 8(7) of the Rules of 2000 to include addressing the Court, examining and cross-examining witnesses etc. Moreover National Consumer Disputes Redressal Commission was of the view in the light of statutory provisions like section 2(1)(b)(ii) and section 12 of the Act of 1986 and Rule 4(7) and 8(7) of Rules of 2000 the right of audience inheres in favour of authorized agents of the parties to the proceedings before District Consumer Forum and State Commission and such right is not inconsistent or in conflict with the provisions of Advocates Act.

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58 Ibid.
It was a well settled position of law that the right conferred on advocates under the provisions of the Advocates Act is a statutory right and not a fundamental right guaranteed under the Constitution. A person who is not an advocate cannot practice law. Any person other than party to the proceedings or advocate cannot claim right of audience before the Court, tribunal or authority until it is provided by law or such person is specifically permitted by such court, tribunal or authority. This is in sum and substance is the scheme of Sections 29, 32 and 33 of the Advocates Act, 1961 and Section 14 of Bar Councils Act, 1926 which is still operating as Chapter IV of Advocates Act, 1961 has not fully come in operation and Section 14 of Bar Council’s Act, 1986 cannot be said to have been repealed.59

It may also be noticed that the ‘agent’ as defined in the Central Consumer Protection Rules, 1987 means ‘a person duly authorized by a party to present any complaint, appeal or reply on its behalf before the National Commission’ and this definition of ‘agent’ is same as in the Rules of Tamil Nadu and Maharashtra. It may also be noticed that when definitions are given in any Act/Rules these always start with the words ‘unless the context otherwise requires’.

When the Act specifically refers to certain provisions of the Code of Civil Procedure as applicable to proceedings before a Consumer Forum it is not the requirement of law to refer to other provisions of the Code. Some of the provisions of the Code may be made use of on the ground of justice, fair play, equity and good conscience. Even then those provisions can be modified to suit the procedure for deciding a consumer dispute before a Consumer Forum. In this view of the matter it was not at all necessary for the State Commission to refer to Order III of the Code which contains provisions for recognized agents and pleaders for their appearance before a court of law. There cannot be any distinction before a Consumer Forum for an authorized agent for appearing or acting before a Consumer Forum. Authorized agent and voluntary consumer organization as defined in the Act have certainly right of audience before the Consumer Forum and that right cannot be taken away by referring to the provisions of the Code which have no application. Act itself is a departure from the

ordinary procedure prescribed in the Code. The shackles of a procedure which is too technical in civil jurisprudence need to be broken.

S. Pushpavanam, Secretary, Consumer Protection Council, Tiruchirappalli, in his written submissions pointed out the difficulties which a consumer might face in engaging a lawyer. He said anyone who tried to get the service of free legal aid would know how cumbersome it was and how unhelpful were the lawyers. He said one could not expect professionals like lawyers to function like service-minded NGOs. He also submitted that the question posed in the impugned order of the Tamil Nadu.

Written submissions were also filed by Consumer Co-ordination Council, New Delhi, Consumer Protection Council, Rourkela through its Secretary, B. Vaidyanathan, SMN Consumer Protection Council, though its Secretary V.Y. Yegnaraman, Federation of Consumer Organization, Orissa through its President K.N. Jena, Common Cause, through H.D. Shourie, Director, Consumer Welfare Foundation, Chennai through its Secretary N. Chandrasekaran, World of Mothers through K. Acharya, Member Secretary, Mumbai Grahak Pachayat through Shirish V. Deshpande and Consumer Education and Research Centre (CERC). They all speak with one voice that the order of the State Commissions is not correct. It was submitted by H.D. Shourie that a representative of recognized Consumer Organization could not only file a complaint but could also continue to appear before the Consumer Forum and pursue the case on behalf of the consumer. CERC said that the impugned order was retrograde step for the consumer movement and that the impugned order is opposed to the legislative intent as set out in the Act and against the judicial pronouncements giving meaning to the objectives of the Act.

Keeping in mind that the composition of consumer courts that it includes not only judicial members but also non-judicial members from the field of administration and social work this envisages a new approach, which is to be shorn of the shackles of procedural law so that access to justice is easy and simple. In this context, to say, that a

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60 Written petition submitted by S. Pushpavanam, Secretary, Consumer Protection Council, Tiruchirappalli, dated 15 November 2003.
consumer association cannot plead the case of the consumer or an association cannot appear before a consumer court will be to defeat the purposes of the Act itself. Therefore Recognized Consumer associations should have the right of audience before the fora under the Act. To the extent aforesaid impugned order of the Tamil Nadu State Consumer Disputes Redressal Commission was modified.

The establishment of State Consumer Helpline and the Consumer Advice Centre (CAC) was another major activity in the promotion of consumer protection. The State Consumer Helpline (SCH) was formally inaugurated on 2 November 2009 as an alternate consumer dispute redressal mechanism to cater to consumers in rural and backward areas. State Consumer helpline is provided with recurring grant for five years from the date of establishment and concerned State Government will run state consumer helpline from sixth year. Based on instructions of Government of India, State Government has established State Consumer Helpline, an alternate consumer disputes redressal mechanism. For this purpose GOI have provided grant-in-aid of Rs. 38,96,616/- for the first year. Government of India, sanctioned a grant-in-aid of Rs. 22,71,616/- to the State of Tamil Nadu as second year instalment for running the State Consumer Helpline as an alternate consumer disputes redressal mechanism.

Action is being taken for utilization of sanctioned grant during financial year 2011-12. Tamil Nadu State Consumer Helpline was inaugurated on second November, 2009 and functioning in the Office of Commissioner of Civil Supplies and Consumer Protection, Ezhilagam, IV Floor, Chepauk, Chennai – 600 005. Consumer can make complaints / seek clarification about PDS and consumer related issues other than PDS in Tamil, English and in Hindi. Trained four call centre operators and one Manager are handling consumer complaints and providing proper counseling to the needy consumers. From 2 November 2009 till 31 March 2010, 25170 calls were received of which 13315 were IVRS calls. Out of 11855 attended calls, 1749 were disposed off immediately as they were related to queries or advise. 10106 calls were treated as complaint calls for follow up and 7916 have been

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61 National Consumer Disputes Redressal Commission, New Delhi, Order on the Revision Petition No.75/2012, dated 18 September 2012.
disposed off successfully so far. Out of the 10106 calls treated as complaint calls, seventy four percent were PDS related, twenty six percent were related to service sector, open market products and other issues. From 1 April 2010 till 31 March 2011, 63637 calls were received of which 33328 were IVRS calls. Out of 30309 attended calls, 8810 were disposed off immediately as they were related to queries or advise. 21499 calls were treated as complaint calls for follow up and 18453 have been disposed off successfully so far. Action is being initiated against 3046 calls remain unresolved. Out of the 21499 calls treated as complaint calls, seventy six percent were PDS related, twenty four percent were related to service sector, products and other issues.

The SCH is functioning under the dynamic leadership of the Commissioner, Civil Supplies & Consumer Protection, at fourth floor, Ezhilagam, Chepauk, Chennai 600 005 and has jurisdiction over entire state of Tamil Nadu. Funded by Govt. of India, this new venture is run by TANSSCOPE.\(^\text{64}\) The SCH software is developed and maintained by HCL Infosystems Ltd. The SCH receives consumer’s grievances through phone with IVRS facility, email, online, postal / courier and also in person with a unique integration plan. Consumers can submit their complaints on PDS, Products, and Services. Many grievances have been redressed due to the intervention of SCH in the areas of Products, Services and PDS. SCH has made creditable performance and earned appreciations of the consumers. SCH aims to be at the top of all Consumer Help lines and an icon among other such organizations.

The mission of the State Consumer Helpline was to empower and create an awareness about the rights of the consumers as envisaged in the Consumer Protection Act, 1986 and protect the consumer rights against deficiency in services by the service providers or defective products and deficiency by the seller/manufacturer, any Unfair Trade Practices, and other information. And the vision to enable the people of Tamilnadu to be awakened, empowered, responsible and smart consumers and socially and legally responsible manufacturers / service providers rendering trade / commerce with morality. Major activity of this is to minimize complaints before DCDRF through Alternate Disputes Redressal System Mechanism adopted by State Consumer Help Line. In this

\(^{64}\) Ibid.
connection the services such as resolving Consumer Complaints through alternate disputes redressal mechanism, pre purchase and post purchase advices on goods or services, advices towards filing of complaints before DCDRF / SCDRC, dealing with complaints and providing information towards Public Distribution System in Tamil Nadu are provided by the State Consumer Helpline.

The following is the methodology adopted by State Consumer Helpline. Complaints are analyzed first and returned back to complainant if consumer is found to have produced insufficient documents such as non receipt of purchase bill, non availability of warranty conditions. Etc. Then complaints are forwarded to concerned Service Provider / Manufacturer / Supplier for redressal within a time frame. It also undertakes follow-ups with reminders. If complaint is redressed, reply received will be forwarded to consumer. If a complaint is not resolved or no reply received, the consumer will be intimated with details of action taken by State Consumer Help Line with information and directing to file complaint before DCDRF under CPA 1986.

The following are the different categories of grievances handled in State Consumer Helpline. The first category of grievances is about the Public Distribution System. SCH is receiving and resolving complaints like delay and difficulties in getting new family cards, endorsement like address change, addition, deletion, verifications, against the functioning of shop, against shop keeper like under weight and measurements, non issue of eligible quantity and quality of the commodities, correct price, poor service / malpractices in shops / offices of C.S. The second category is about problems in purchase of some products. Issues that arise here are like deficiency in after sale services, defect in products, refusal by seller/manufacturer to repair / service / replace the products carrying warranty, overpricing, adulteration in food items, malpractices, Unfair Trade Practices, misleading advertisements, information on standardization, expired commodities and unethical trading, and selling of substandard agricultural inputs, drugs, etc are dealt with under this category. The third category of problems are about lack of services such as deficiency in service by the Service providers like Transport, Airlines,


The Times of India, PDS Woes Top Consumer Complaint, dated 9 August 2010.
Railways, Banks, Insurance, Real Estate, Telecom, Healthcare, EB TWAD Board, LPG / Petroleum companies etc.

In case of PDS complaints, when a call is attended the integrated system automatically generates three SMS: the first one to the Taluk Supply Officer / Asst. Commissioner, Civil Supplies, the second one to the District Consumer Protection Officer / Deputy Commissioner Civil Supplies and the third one to the complainant with the details of the docket no and a message. Simultaneously the system generates three e-mails to the said three to settle the grievance within the stipulated timeframe and concerned officers are intimated through phone also to look into the grievances and do the needful for redressal. Once SCH receives the grievances, the Consumer is advised and provided with the contact Numbers and details of the Officer concerned and forwards the complaint to the concerned redressal officer. When a consumer mails a complaint, SCH forwards the complaint to the concerned Customer Care Department /Nodal Officer of the concerned manufacturer / service provider with a covering letter for an amicable redressal. If there is no response within the stipulated period then SCH sends reminders and if there is no response for the final reminder also, then SCH recommends the consumer to file a complaint in before DCDRF depending on the merit of the case and provides necessary legal guidance. By the intervention of SCH, most of the issues have been resolved amicably.

Establishment of Consumer Advice Centre (CAC) is the second major activity. Department of Consumer Affairs, Government of India had entered into Bilateral Agreement with Government of Germany for implementing a project titled Strengthening Consumer Protection in India. Gessellschaft fur Technische Zusammenarbeit (GTZ), a German Agency for Technical Co-operation, is the implementing agency on behalf of German Government and Government of India. A project involving study of various issues through National & International experts on matters relating to effective consumer protection in India has been taken up and States of Rajasthan, Gujarat and Andhra Pradesh were chosen for pilot activities. The first phase of the project came to an end on 31 December 2008. The second phase period started from 1 April 2009, involving

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greater focus on vast areas of consumer protection by taking into account the activism in consumer protection field and keeping the coverage of various regions of India. The Staff of CAC are deputed for outdoor campaigns in areas / market places where people gather in large numbers. During the period from May 2010 to March 2011, 5350 consumers have contacted CAC and necessary advices / suggestions to resolve their problems were given. Further CAC team has also made visits at public places to propagate consumer awareness messages. Civil Supplies and Consumer Protection Department, Govt. of Tamil Nadu has been serving the society effectively in the area of Consumer Awareness & Protection. As an ingredient of this service, Consumer Advice Centre has been established in April 2010, a pilot project with German Technical Co-operation – GTZ, under TANSSCOPE at the premises of Civil Supplies and Consumer Protection Department with the intention of giving pre – purchase and post purchase counseling to the society, consecutively to Consumers.

With the objective of giving minimum 300 counselings per month, Consumer Advice Centre conducts awareness campaigns at places where public flow is more. Consumer Advice Centre disseminates consumer awareness information verbally besides through hand bills designed by Civil Supplies and Consumer Protection Department, Govt. of Tamil Nadu. Furthermore Consumer Advice Centre campaigns with primary stakeholders like State Designated Authority, Citizen Consumer Clubs-CCC, Voluntary Consumer Organization-VCO, Self Help Groups – SHG, Residential Welfare Association and Exnora organizations.

The German Technical Cooperation (GTZ/GIZ)\(^{68}\) is providing technical support to the Department of Consumer Affairs (DoCA), Ministry of Consumer Affairs, Food and Public Distribution, Under the project “Consumer Protection and Sustainable Consumption in India” as a part of the Advisory Services in Environmental Management Programme of the Indo German Bilateral Programme. Establishment of Consumer Advice Centres (CAC) at the five States of India namely TamilNadu, Madhya Pradesh, Gujarat, Orissa and West Bengal is one of the activities identified under the project which will provide Consumers information. The CAC is functioning in close collaboration

\(^{68}\) Ibid., p.8.
with the SCH and share resources as effectively as possible. This way both approaches, providing advice over the telephone and providing pre/post purchase advice to consumers could be compared and evaluated to draw conclusions for the future of a coordinated consumer advice giving system in India. In TamilNadu, Consumer Advice Centre-CAC has been established at the premise of Civil Supplies and Consumer Protection Department where the State Consumer Help line also operates. This facilitates both the SCH and CAC to share database and to harvest quality outcome. The Consumer Advice Centre was thus established during April 2010 with one Project Manager and three Advisors.  

The consumer advice centre aims to enable the Indian system of consumer protection to safeguard consumer interest in a more effective and efficient manner, to give consumers pertaining to pre/post purchase information on what to look out for when searching for specific products, on sustainable shopping choices, on how to avoid scams and inform about their rights as consumers, to provide advice for those whose rights have been violated due to unfair trade practices or other means guidance for reimbursement and redress mechanisms as well as inform about legal avenues to enforce consumer laws and to inform consumers about their rights, thus slowly strengthen the demand side and ensuring a higher standard of service and quality from the suppliers/retailers. It also plans to regularly go out into the community and offer its services at public spaces and markets with the help of information Education Communication materials and to organize and carryout awareness campaigns using various media like street theatres, public events, DVDs, signposts, community radio, regional TV etc. It also provides assistant and advice on “next steps” – complaints, redress, lawsuits etc. incase threes rights have been violated through unfair trade practices, scams, deceit, or other measures.

To conclude, three prominent developments in the arena of consumer protection in Tirunelveli district are observed. These are increased amount of business self regulation, growth and development of social action litigation vis-à-vis consumer

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protection and emergence of environmental litigation before Tirunelveli district consumer forum. The increasing ambit and amplitude of the Consumer Protection act, 1986 had compelled the public as well as the private sector to regulate itself in the interests of consumers. The impact is accordingly visible in case of banks, insurance sector, railways, roadways, airlines, education, and telecommunications. On the other hand self regulation by the private sector has primarily been reflected in their business norms and codes of ethics. Consumers find that once they get ready to make complaints about any problem with sales, the article is replaced although it is mentioned that goods one sold will not be taken back. A sense of fright had come now. The manufacturers do want to earn a bad name for their products. The moment a complaint is filed before a state commission, they offer to replace the article. Thus there is now a greater demand for accountability on the part of both public as well as the private sector. A significant number of decisions by the consumer forums against the corporate sector had brought home the message that consumers were not going to tolerate the unethical practices and irresponsible behavior of the public or private corporate sector any more.

It is also found that the range of the consumer Protection act is widening in the society which is fast moving towards globalization, industrialization and privatization. So the Legislature had taken all the possible steps by making timely amendments to the Act in accordance with the needs of the hour. In fact all the amendments made to the Consumer Protection Act by the 2002 Amendments aim at furthering the competence of the Act and doing away with bureaucratic delays which render the consumers disheartened and dissatisfied. These Amendments had been fertile in providing fortification to the consumers in the real sense of the term and served the purpose of the Act. Moreover these Amendments aimed at even more efficiency and rendered the position of the consumers much stronger in this era of globalization and privatization where the sudden unchecked advent of multinational companies had to be balanced with the protection of the rights of the consumers by the legislature and the judiciary.
CONCLUSION

Consumer movement is an organized means of protection of interests and rights of consumers. It aims at the protection of consumers from unscrupulous and unethical malpractices by the business environment such as overcharging, black marketing, misleading advertisements etc and to provide a just and speedy redressal of their grievances. Consumers were facing these types of problems even during the ancient period. And that is why ancient Christian religious books such as the Book of Leviticus and the first book of Kings and the Talmud, the religious book of Jews speak about the gravity of the misconduct in using false measures.

*Manu Smriti*, the most authoritative text of Dharmas in India, said that one commodity mixed with another must not be sold as pure, nor a bad one as good, not less than the proper quantity or weight nor anything that is at hand or that is concealed. Kautilya observed that the superintendent of standardization should cause factories to be established for the manufacture of standard weights and measures and the stamping of the weights and measures to be made every four months. The penalty for unstamped weights was twenty seven *panas* and a quarter. It is also found that measures of standardization existed in the Indus Valley Civilization which dates back to 3200 B.C. The civilization is noted for its cities built of bricks of same size, roadside drainage system, and multistoried houses where the process of standardization in the making of bricks of same length, breadth and height is observed.

The beginning of consumer movement during the British rule is observed with the formation of the Passengers and Traffic Relief Association and the Women Graduates Union, Bombay in 1915. The laws passed during the British regime concerning consumer interests were the Indian Contract Act of 1872, the Sale of Goods Act of 1930, the Indian Penal Code of 1860, the Drugs and Cosmetics Act of 1940, the Usurious Loans Act of 1918, and the Agriculture Products (Grading and Marketing) Act of 1937. However, the Sale of Goods Act of 1930 [SGA] was the exclusive source of consumer protection in India.

The various Consumer protection legislation enacted after India’s independence include the Essential Commodities Act of 1955, the Prevention of Food Adulteration Act of 1954 and the Standard of Weights and Measures Act of 1976. Industries (Development and Regulation)
Act, 1951, The Standards of Weights and Measures Act, 1956, Monopolies and Restrictive Trade Practices Act, 1969, Prevention of Black-marketing and Maintenance of Essential Supplies Act, 1980 and Bureau of Indian Standards Act, 1986. Indian National leaders like Gandhi, Vinoba Bhave, Jayaprakash Narayanan, V.V.Giri and Lal Bahadur Shastri, expected the business community to regulate itself as an expression of responsibility to contribute to society. The consumer Protection Act 1986 was enacted for the protection of the interests of the consumers by providing cheap, speedy and efficacious remedy for the redressal of the grievances of the poor consumers. It is found that India enacted this Act, after the adoption of the UN guidelines as a milestone in the history of socio-economic legislation in India and only then the Consumer movement in India received a boost. Under this Act a three tier quasi judicial machinery the Apex National Forum at Delhi, a State Commission at each state and the District Forums at each district headquarters have been established.

With the building up of the consumer movements in different parts of India, there were also some policy changes. Earlier the ruling of the Supreme Court was that consumer Protection Act will apply only when consumer pays for the goods and services; the consumer is not charged in the Government Hospitals and therefore services by government hospitals will not come under the purview of the Act. But according to the judgement of the Supreme Court in the case of Indian Medical Association vs V.P. Shantha and others, services rendered by Medical Practitioners in Government Hospitals was also covered by the expression ‘service’.

Consumer protection in Tamilnadu seemed to have emerged from the Sangam era. Silappathikaram speaks about Manu Neethi Cholan, who reigned the Chola country from Thiruvarur, for having implemented a novel system of notifying any grievance directly to the king, by ringing a bell kept in front of his palace. Even a cow could express its grievance. *Pattinappaalai* while telling the story of the hero who has to travel away from Puhar Port in order to earn his livelihood, gives an idealized description of the merchants plying their fair trade in Puhar.

The formation of voluntary consumer organization in Tamilnadu plays vital role in creating consumer awareness. CONFET has been registered in 1991 under the Societies Registration Act 1975. It focuses on creating awareness amongst all classes of consumers about
their rights & duties and to empower the consumers. CONFET is imparting training to consumer activists, lead organizations, Panchayat leaders, NGOs, Government Officials and the Women SHGs. The Consumer Protection Council in Tiruchi is one the oldest one in India as well as in Tamilnadu. It was established in the year 1974, after the consumer councils of Bombay and Calcutta. It has under taken several consumer issues and faced them successfully. Various programmes such as consumer awareness programme, seminar on Gold – Concerns of Consumer, consumer awareness programmes to electricity consumers, school and college students, conferences on environmental issues, organizing consumer awareness rallies and conducting quiz competitions. Voluntary consumer organizations VCOs offer substantial support to Government to the cause of consumer welfare and checking rights violations. Currently, there are 112 general purpose VCOs that are registered with the Civil Supplies and Consumer Protection department.

The consumer associations in Tirunelveli district have provided collective resistance against all kinds of consumer related issues. In Tirunelveli District there are five registered consumer associations who play an important active role in consumer protection along with a number of associated volunteer groups spread throughout the District. The main function of consumer associations are to educate and protect the consumers.

Consumer education is a process that equips people to function as responsible consumers in a complex, technological society. Tirunelveli district was known as the Oxford of South India during the British rule with increased number of educational institutions. But consumer education in schools and colleges in Tirunelveli district is a recent phenomenon. They were only started in the year 2005 and 2007. It is important to note that only a few schools and colleges have consumer clubs. These clubs aim at educating children about rights of the consumers by conducting seminars, conferences, consumer-fest, competitions, publishing articles on consumer issues, etc., and by celebrating National Consumer Day on every 24th December and World Consumer Rights Day on every 15th March. They could play a more significant role in terms of promoting consumer awareness among themselves and among the public at large. The citizen consumer clubs have to be formed in all schools and colleges. Women account for almost of all domestic purchases including health care and sustain their family as a homemaker. But it is reported that women consumers showed low level of awareness about consumer rights.
because of lack of education and low socio-economic status. The upper class of women are least bothered about consumer issues.

Promoting awareness through dissemination of information about how consumers are affected is the fundamental task that the media can make towards the development of consumerism. Media has played a vital role in welfare of consumers through books, magazines, newspaper, broadcasting, radio, telephone, TV, movies, documentaries etc. Tirunelveli has an all India Radio Station which is broadcasting number of programmes. It is expected that in All India Radio should offer a programme like the one that caters to farmers. In Tirunelveli, many different leading Tamil newspapers are printed and published. The newspapers could allot some space to speak about consumer problems and achievements. Only then the awareness level of the people at large will increase.

Consumer protection has been identified as a significant factor by the schools and universities. The Central Board of Secondary Education has highlighted the guiding points of consumer protection and Indira Gandhi National Open University (IGNOU) has introduced a special course for both undergraduate and postgraduate students. Seminars, conferences, workshops, consumer festivals, research/evaluation studies are encouraged by various grants and the results are being published in the form of books, monographs and pamphlets on consumer education and awareness. The Indian Institute of Public Administration (IIPA), New Delhi, has been identified as the nodal organization to administer this scheme.

In recent times, the Government of Tamilnadu took initiative and Tamil Nadu State Society for Consumer Protection and Empowerment (TANSSCOPE) has been formed in 2009 for undertaking Consumer Protection and awareness generation activities in a larger scale and for raising funds from State Government, National and International agencies. Tamilnadu Government had inaugurated a new scheme entitled State Consumer Helpline in 2009 as an alternate consumer dispute redressal mechanism to cater to consumers in rural and backward areas. Consumer Advice Centre has been established in April 2010 as a pilot project with German Technical Co-operation under TANSSCOPE. In Tamil Nadu, during 2005-2006, Citizen Consumer Clubs were established in 500 schools under Phase-I program. An additional 500 consumer clubs had been established during 2007-2008 in Phase II. The Scheme of Citizen
Consumer Clubs (CCC) is another huge project and its implementation and sustenance mainly depends on active participation of teachers of schools/colleges who are nominated as co-ordinators of CCC with Programmes such as Orientation-cum-training program, consumer festival, out reach camps, distribution of booklets and pamphlets, State CP awards to CCC. Tamilnadu Government has constituted a corpus fund called Tamil Nadu State Consumer Welfare Fund and accorded sanction for a sum of Rupees fifty lakhs as Seed Money for implementation consumer welfare schemes.

Consumer Protection Act 1986, Section 2(1) (0) defines service as ‘service of any description which is made available to potential users’ in connection with banking, financing, Insurance, etc. Other than these consumers avail the services of different government departments such as electricity, telephone, public distribution system (PDS), liquefied petroleum gas (LPG) and Ulavar Shanthai. The government also regulates the services provided to consumers by private sector with regard to safety of food articles, the implementation of Maximum Retail Price (MRP) and the fare of private auto services. All these services could be categorized under the term public utility services. The consumers and consumer organizations in Tirunelveli district have utilized the inbuilt redressal mechanisms for their protection with regard to public utility services to some extent. Yet there is a need for a more effective, participative, interactive and expeditious complaint interface between the service providers and consumers and consumer organizations.

Standardization of products is an important measure taken by the government to protect the consumers from lack of quality and varying standards of goods. In India these standards are achieved through the Bureau of Indian Standards which is earlier known as the Indian Standard Institution. It has the responsibility of laying down the standards for industrial and consumer goods on a scientific basis and certifying the goods that meet the prescribed quality and standards. For the purpose of standardization of Industrial and consumer goods, the Central government has established the Bureau of Indian Standards (BIS). It is the national Standards Body of India working under the aegis of Ministry of Consumer Affairs, Food & Public Distribution, Government of India. It was established by the Bureau of Indian Standards Act, 1986 which came into effect on 23 December 1986. BIS certifies the goods that meet the standards and prescribed quality of ISI. The government undertakes regular and surprise
inspections. Testing of samples is done for conformity of licensee's performance. A consumer can also complain to the BIS office if the certified product is not up to the mark.

In this context in Tirunelveli District bottled water and water packets have been steadily growing over the past three decades. The standards for bottled water are subject to mandatory certification under the Prevention of Food Adulteration Act, the law enforced by the Health Ministry in India. Rapidly increasing urbanization and industrialization activities along the banks of the river Tamirabarani in Tirunelveli District and adjoining areas have adversely influenced the quality of the water resource. Tamirabarani is the main receptor of domestic and industrial sewage discharges which consist of untreated or semi-treated effluent and solid wastes. These increase the pollution incidence throughout the basin area. Such environmental concerns are raised in the consumer awareness programmes of many different groups. The Tamirabharani Conservation Movement, a voluntary organization has been formed to protect river from domestic and industrial pollution. It is yet to come out with a concrete plan of action.

Creation of Agmark for standardisation of agricultural products has been done. This Agmark is implemented under the Agricultural Produce Act 1937. This also aims at increasing the quality of the goods and reducing the problems with regard to the supply of goods. There is an Agmark office at Palayamkottai, Tirunelveli. People in Tirunelveli district seem to aware of the markings of Agmark on the goods they purchase.

Creation of Hallmark is an important step in standardization with regard to the sale of gold ornaments in Tamilnadu and particularly in Tirunelveli District. Hallmarking of Gold Jewellery was launched in April 2000 on a voluntary basis. The scheme is operated through BIS network of Regional and Branch Offices all over the country. The scheme aims at providing third party assurance to consumers on the purity of gold or its fineness. Under the scheme jeweler has to obtain Hallmark licence from BIS to get his jewellery hallmarked from a BIS recognized Assaying & Hallmarking Centre.

Recently another phenomenon known as Ecomark is being implemented with a view of maintaining a healthy ecosystem to live in. Any product which is made, used or disposed of in a way that significantly reduces the harm it would otherwise cause to the environment, are categorized as environment friendly product. The scheme is voluntary and invites participation
from common citizens and concerned industrial sectors in the larger interest of environment. From the mid-1980s onwards, plastic bags became common for carrying daily groceries from the store to vehicles and homes throughout the developed world. Plastic bags cause many minor as well as major environmental issues. In recent decades, numerous countries have introduced legislation restricting the sale of plastic bags, in a bid to reduce littering and pollution. The Tirunelveli District Administration has ordered that non-recyclable and non-degradable plastic products should not be used within the corporation limits from January 1, 2010 and the Tirunelveli Municipal Corporation had also decided to impose a ban on the manufacture, sale and use of such products under its jurisdiction. Therefore anti-plastic awareness rallies and raids have been conducted but the outcome in terms of non-use of plastics remains yet a dream.

Tamirabarani, the perennial river, is important because of supplying drinking water to the people of Tirunelveli and Tuticorin Districts apart from water supply for irrigation purpose. Several studies had been done about its pollution. In order to prevent the sacred river from becoming another Cooum, the public, voluntary organizations and the students had joined hands in creating awareness and cleaning it. Mining of sand with heavy equipments beyond the permissible level in the points close to the infiltration wells badly affected the quality of water. And so a total ban on sand mining had been enforced in Tamirabarani.

The Competition Act, 2002, as amended by the Competition (Amendment) Act, 2007, follows the philosophy of modern competition laws. The Act prohibits anti-competitive agreements, abuse of dominant position by enterprises and regulates combinations such as acquisition, acquiring of control and Merger and acquisition, which cause or likely to cause an appreciable adverse effect on competition within India. The objectives of the Act are sought to be achieved through the Competition Commission of India (CCI), which has been established by the Central Government with effect from 14 October 2003. Based on a complaint lodged by Builders’ Association of India, The Commission had made enquiries and found that the cement companies had not utilized the available capacity so as to reduce supplies and raise prices in times of higher demand. This case is significant because two of the 11 cement companies namely India Cements Ltd and Madras Cement Ltd are located in Tamilnadu and India Cements is located within Tirunelveli District.

Food Safety and Standards Act, 2006, Food Safety and Standards Rules, 2011 and Food Safety and Standards Regulations, 2011 have been formulated to ensure a safe food for
consumers. Of the six laboratories in the State one of the laboratories is located in Samadhanapuram, Palayamkottai. The scope of Food Safety and Standards Act has been extended to marriage halls and caterers also. It is mandatory for every ‘kalyana mandapam’ and those who are engaged in food catering business to register and get proper licence from the food safety wing. At the same time, the cooks employed by catering units should obtain medical fitness certificate to ensure hygiene. It is also reported that even temple prasadam is covered under the Act. At the same time, protests emerge from several quarters against the implementation of the Food Safety and Standards Act. Mushrooming of unlicensed shops and roadside eateries near Bus Stands and markets in different parts of the Tirunelveli district has become a cause for concern as people throng these eateries and consume unhygienic food. However, no samples were sent to the Food analysis laboratory by the Food safety officers as the Food safety is not effectively enforced.

Public Distribution System (PDS) is a poverty alleviation programme and contributes towards the social welfare of the people. Essential commodities like rice, wheat, sugar, kerosene and the like are supplied to the people under the PDS at reasonable prices. PDS is a boon to the people living below the poverty line. PDS is the primary social welfare and antipoverty programme of the Government of India. The Government of Tamilnadu is implementing PDS since the year 1964. The goal of PDS does not restrict itself with the distribution of rationed articles. Making available adequate quantities of essential articles at all times, in places accessible to all, at prices affordable to all and protection of the weaker section of the population from the vicious spiral of rising prices is the broad spectrum of PDS. The Government of Tamilnadu took all efforts to ensure the availability, accessibility and affordability of essential commodities to the poor. In a bid to provide cheap food for the people of Tamilnadu Chief Minister Jayalalitha announced in the State Assembly on 13 January 2013 that one thousand canteens offering food at a low cost would be opened in Chennai. The scheme has to be extended throughout the state.

Under the Weights and Measures (Packaged Commodities) Rules, all packed goods should carry certain essential information on the contents of the package, such as its weight or volume, the name and address of the manufacturer, the date of manufacture, and in case of food packages, the best before date and, of course, the maximum retail price (MRP). Under the Consumer Goods (Mandatory Printing of Cost of Production and Maximum Retail Price) Act, 2006, certain guidelines has been provided so that the consumer cannot be charged over the
maximum price printed on the goods by the manufacturer. There are avenues such as the labour department and consumer courts to redress consumer grievances with regard to the problem of MRP. Consumers are becoming aware of this and it is found that the officials of the Consumer Protection Department recently conducted raids on private hospitals run by doctors, in Tirunelveli district on complaints that they were selling medicines without proper licence, above the maximum retail price and issuing bills without mentioning the manufacturing date, batch number, expiry date and the MRP. A recent survey by the students of citizen consumer club in Super markets and other shops reveals that the Chinese products, particularly toys and electrical appliances are of substandard quality and they are not having the M.R.P and other information mandated by Weights and Measures (Packaged Commodities) Rules. Consumers are not aware of the fact that these products have to banned on this ground.

The Legal Services Authorities Act, 1987 was enacted to constitute legal services authorities for providing free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice were not denied to any citizen by reason of economic or other disabilities and to organize Lok Adalats to ensure that the operation of the legal system promoted justice on a basis of equal opportunity. The system of Lok Adalat, which is an innovative mechanism for alternate dispute resolution, has proved effective for resolving disputes in a spirit of conciliation outside the courts. The Legal Aid Centre in Tirunelveli had been functioning in a separate building. Subashan Reddy, Chief Justice of the Madras High Court, inaugurated that new building for the Legal Aid Centre of the District Legal Services Authority on 27 February 2004.

In order to meet out the Legal Redressal of Consumer grievances under the Consumer Protection Act 1986, a three tier quasi-judicial machinery namely National Consumer Disputes Redressal Commission, State Consumer Disputes Redressal Commission and District Consumer Disputes Redressal Fora have been established. The District Consumer Disputes Redressal forum at Tirunelveli was opened in the year 1990. Until 1993 the Consumer Court was attached to the Tirunelveli District Sessions Court. A separate court was formed by the G.O. Ms. 641 Co-op and Consumer Protection dated 7 December 1993 and it has been functioning in 4/993 Bell Amorces Colony, Palayamkottai, Tirunelveli. Consumers have filed several cases relating to Defect in goods purchased, Problems of getting information under Right to Information, Misleading and False advertisements, Medical negligence of doctors, defect in financial and other services rendered, Problems in transporting people and issues in claiming insurances, etc.
In order to ensure greater and more effective access to information, it was thought that the Freedom of Information Act, 2002 must be made more progressive, a participatory and meaningful. In view of the significant changes proposed in the existing Act, the government decided to repeal the Freedom of Information Act and in the proposed legislation to provide an effective frame-work for effectuating the right to information. Thus, the Right to Information Act, 2005, which came into force in India in totality with effect from 12 October, 2005 is regarded as a milestone in the history of social legislation to impart information to citizens of India regarding working of the government and its corporations etc. to make them more transparent as a result of which corruption, it not eliminated at all, would be checked to a greater extent. The information sought under Right to Information Act by paying a fee of Rupees ten and failure to furnish information within thirty days is treated as a deficiency in service covered by the Consumer Protection Act. Many consumers and consumer organizations had made use of this facility to establish their right.

The formation of Confonet namely Computerization and Computer Network of Consumer Forums in Country in 2009 aims at improving operational efficiency, co-ordination, accessibility, speed in judicial administration and to set Information Communication Technology (ICT) infrastructure at Consumer Redressal forums all over India. It aims at providing E-Governance, Transparency, Systematizing of working and to achieve time bound delivery of justice to the consumers.

Unfortunately cheating by way of overcharging, black marketing, misleading advertisements, etc has become the common practice of greedy sellers and manufacturers to make unreasonable profits. In this context, it is the duty of the government to confer some rights on consumers to safeguard their interests. Unless and otherwise Consumer Movements are involved in creating consumer awareness, the efforts of the government would be futile. At same time the protection available to consumers should be used as a shield and not as a sword. During the years 2000 – 2010, there was a mushroom growth of voluntary consumer organizations. The Department of Civil Supplies and Consumer Protection, Government of Tamilnadu has taken strenuous efforts to find out the real voluntary consumer organizations and to streamline them. Federation of consumer organizations in Tamilnadu and Pondicherry got split into two in 2008 and the VCOs attached with that federation have begun to quarrel instead of fighting for the cause of consumer protection. On 4 March 2012, there was a meeting at
Tiruchirapalli for the unification of FEDCOT (Federation of Consumer Organisations in Tamilnadu and Pondicherry) and the leaders of the Consumer Movement accepted the unification. The FEDCOT is the umbrella organization of all voluntary consumer organizations in Tamilnadu having 360 members. The voluntary consumer movements have taken up important issues affecting the consumers with the state and the central government. Many amendments were carried out in the Consumer Protection Act 1986. The Food safety Act is yet to be effectively implemented. Various cases had been filed by consumer organizations before Consumer Disputes Redressal Forum at Tirunelveli District, Tamilnadu State and National Commission and the judgements passed had paved way for the better protection to consumers. The consumer movement in Tirunelveli District is a modern movement but consumer jurisprudence, by any stretch of imagination is centuries old. Looking at the slow growth of the consumer movement in Tirunelveli district, it is found that the movement till now has been confined to the middle class citizens in urban centres. It is yet to spread among the masses in rural and semi urban areas. What is seen today is the outcome of an ever growing momentum of consumer concern rooted in the Middle Ages and brought to fruition by merchandising changes wrought by modern technology.