SUMMARY

Education plays a very important role in the society. In a welfare state it is the duty of the state to provide necessary educational facilities to the people. A number of government and provide institutions have been established with the passage of time. These institutions are imparting general and specialized education and training to the students. To attract the students to various courses, catchy advertisements are given. It has been observed that these institutions lack basic infrastructure facilities and the students feel cheated. There is urgent need to protect the interests of the students and their parents. In modern complex society the interests of common man are to be protected as we are all consumer of goods as well as services.

Modern age is a age of science and technology. The various inventions and discoveries have brought major changes in the whole of the world. It has closely nit the whole globe. What happens in one part of the globe has its effects on the other parts of the globe. With the development of technology a number of industries and institutions have come into existence. The composition of the goods and the products has become so complicated that even the educated and the expert cannot find any defect in the goods or the products. During the ancient time, the principle applicable was let the buyer be beware. This principle had its application when the goods and the products were not of complex nature. The buyer had full opportunity to check and find out any defect in the goods. Further, the purchase of the goods or any product was made face to face. But now the various goods and the products are exported as well as imported. There are various types of the goods available in the market. There are numerous types of advertisements relating to the goods,
in the newspapers and on the television also. Further, now the goods and the products are purchased by placing orders in the writing and the purchaser or consumer has no opportunity or skill to find out, whether the goods bear the same quality in respect of which necessary order has been placed. It was thought that in a welfare state, the interest of an ordinary person must be preserved. With the development of business activities, enormous development has taken place. But it has been rightly said that business is a social institution, performing a social mission and have broad influence on the people to live and work together. What Rovert D. Calkins has said is very relevant. It is now recognized that direction of business is important to the public welfare, that businessmen perform a social function.\(^1\) Now the business has also become consumer interest oriented. Now there is a very thin line between a businessman and a common man. Thus, for the protection of interest of ordinary consumers and ordinary people, there is need to change the attitude. A social responsibility has also been imposed upon the businessmen that instead of profit making they should discharge certain social responsibilities also. The business is not only a profit making occupation but also a social function which involves certain duties and requires that appropriate ethics be followed. The manufactures and the industrialists must discharge their duties in a faithful manner. Their main concern should be to make the goods and products available to the general public at the appropriate prices. They must understand what are the requirements of the people and must devise the necessary steps to fulfill the same. They are also supposed to look into the complaints of the customers and try to rectify them. It is also

\(^{1}\) “Rovert d. Calkins” Problem of Business Education cited in the Keith Book” Page–3.
their social responsibility that they should not confuse the consumers by spurious advertisements. They should make the necessary improvements in the existing goods and products according to the changing needs of the society. The customers’ satisfaction should be the main goal. In addition to this various types of services are also provided by service providers for consideration and there may not be proper services. But in today’s marketing system, consumer sovereignty is a myth on account of a variety of problems in the process of production and distribution. The consumers are facing a plethora of problems like adulteration, excessive prices, inferior and spurious goods, misleading and manipulative advertisements, black-marketing, hoarding, short-weighting, exorbitant credit charges, poor quality of merchandise and services, and monopoly and restrictive trade practices. In the age of materialism, there is a constant pressure on the consumer to obtain the best bargain or get a good value for his money. In this exchange process, he is often cheated, fleeced and exploited. This is largely due to his ignorance, illiteracy and weak economic position. The problem of consumer exploitation is not peculiar to India only. It exists in every country in one form or the other.

In the primitive stage, the needs of the human being were few. They lived in forests and caves and continued to lead a life governed by the law of jungle, with the passage of time, people learnt to form social groups and knowledge dawned upon their evolving consciousness to create and develop a social environment to make life more secure. Initially every family had to arrange its own food and shelter and gradually people started different occupations; farmer started producing wheat; weaver started manufacturing cloth and blacksmith or carpenter started making tools of agriculture and
husbandry. “Barter system” came into existence, but it faced many difficulties with the increase in the volume of trade and production, it gave place to the commonly accepted commodity, known as money or currency as a medium of exchange and payment.

In the “Barter System” everybody produced best quality of goods and services and exchanged them. Consequently, there was no problem for the consumers. The industrial revolution and the development in the trade and commerce led to the vast expansion of the business and trade, as a result of which a variety of consumer goods appeared in the market to cater to the needs of the consumers. The organized sector of manufacturers and traders with better knowledge of markets came into existence. This affected the relationship between the traders and the consumers adversely and made the principle of sovereignty, almost inapplicable. The consumer who was once the ‘king of the market’ has become the victim of it. People revolted against the unresponsiveness of both public and private institutions to human needs, this is labeled as “Consumerism”, a socio-economic movement.

Consumer protection has a long history in India. The ancient Indian society was very much duty conscious and made a comprehensive set of consumer laws, which covered almost every aspect of consumerism. The Smiritis are the reservoir of knowledge and law. The important Smritis are, Manu Smriti, Yajnavalkya Smriti, Narada Smriti, Brihaspati Smriti and Katyana Smriti. Manu Smriti is a landmark in the history of Hindu Law.

In Kautilya’s Arthashatra there are references to the code of ethics of various professions. Consumer protection measures and punishments are specifically mentioned in the Arthashastras. Kautilya recognized four types of
consumer offences such as *adulteration, weights and measures, exorbitant prices and cheating/Fraud*. The rules framed by Kautilya were pro consumer and protection oriented.

In the medieval period, the rulers did not favour written laws in any field, as they were mainly interested in enlarging their territories and collection of maximum revenue. During the British regime, no Act was passed to save the interest of the Indian consumers. Acts like Indian Penal Code, 1860, Indian Contract Act, 1872, Sale of Goods Act, 1930, and Drug and Cosmetics Act, 1940 etc. were enacted, but these acts were not for the protection of consumer.

But after independence, India adopted a socialistic pattern of society and opted for planned development through industrialisation and more specially through Five Year Plans. It enacted a plethora of Acts to safeguard the interest of the consumer such as Prevention of Food Adulteration Act, 1954, Essential Commodities Act, 1955, Drug and Magic Remedies Act, 1955, Trade and Merchandise Act, 1958, Monopolies and Restrictive Trade Practices Act, 1969, Standard Weights and Measurement Act, 1976, and Consumer Protection Act, 1986. The reasons for the enactment of the Consumer Protection Act were: First, all the previous Acts were either preventive or punitive in nature, without any specific provision of monetary compensation to the aggrieved customer second, the previous Acts protected Consumer’s interest, only indirectly, third, all the previous Acts could not yield satisfactory results because of lengthy procedure and frequent adjournments, on flimsy grounds and lastly, there was sufficient amount of international pressure. Hence, India, besides many countries enacted laws relating to consumer protection.
Thus, keeping in view this fact into consideration and to protect the interest of the consumers, the Consumer Protection Act, 1986 was passed. Before passing of this piece of legislation, a number of other Acts for the interest of the consumers were also there. The aim of this is to provide speedy remedy to the consumers. Before passing of this Act, the remedy was available only under the General Law or under the Contract Law. It takes number of years as far as disposal of civil suit is concerned and the aggrieved must be given relief when actually he needs it. When the necessary defects were observed in the smooth working of the act, the major amendments in the act were also made in 1993 and 2002. This Act is meant for the protection of interest of the consumers and it provides the establishment of various Consumers Disputes Redressal Agencies to provide necessary relief to the consumers.

Thus, the Consumer Protection Act was enacted in order to provide better, speedy and inexpensive justice to gullible consumers. It is said to be a milestone in the history of socio-economic legislation in India. Under this act, three – tier quasi judicial machinery was set up at the national, state, and district levels to deal with consumer disputes in the fields of defective goods, deficient services, unfair trade practices, restrictive trade practices, overcharging, hazardous goods, etc. However, consumer protection as a specialized field has emerged only recently in India, when the consumers in order to save themselves from the clutches of traders started protecting their interests by organizing their activities to enhance their rights. This, in turn has led to the emergence of “consumer movement” a powerful socio economic
movement. The Act is regarded as the “Magna Carta” in the field of consumer protection and it has been welcomed by all quarters of the society.

The Act has a direct impact on the life of every consumer in the country and has the potential to provide a positive and qualitative change for the consumer. The Act has recognized six consumer rights of the consumers, namely – right to safety, right to information, right to choose, right to heard, right to seek redressal and right to consumer education.

For the protection of consumers, grievance redressal agencies have been established. In fact, these redressal agencies are the very basis on which the efficiency and functioning of the Consumer Protection Legislation depends and they are its backbone. There are at present, three types of Consumer Protection Councils such as the Central Consumer Protection Council, the State Consumer Protection Council and the District Consumer Protection Council. They play an important role in giving publicity to the matters of consumer concern, furthering consumer education and protecting consumer from unscrupulous exploitation. Apart from Councils, there are quasi judicial authorities – the National Consumer Disputes Redressal Commission known as National Commission, the State Consumer Disputes Redressal Commission known as State Commission and the District Consumer Disputes Redressal Forum known as District Forum. The District Forum, is headed by a President along with two Members, out of whom one is a woman Member. The President of a District Forum is a person who is, or has been or is qualified to be a District Judge. The President and the Members of the District Forum are appointed by the State Government on the recommendation of Selection Committee consisting of the President, of the State Commission as Chairman;
Secretary, Law Department of State as Member and Secretary Incharge; of the Department dealing with Consumer Affairs as another Member. The District Forum has the jurisdiction to entertain complaints, where the value of goods or services and compensation, if any, claimed does not exceed rupees twenty lakhs. The District Forum has jurisdiction where the cause of action arises. The tenure of the appointment of president and members is for a period of five years or upto the age of 65 years which ever is earlier. Provided that a member shall be eligible for appointment for another term of five years of upto age of 65 years whichever is earlier subject to fulfillment of conditions and qualifications.

The appellate authority of the District Forums is the State Commission. The State Commission is headed by a President along with not less than two, and not more than such number of members, as may be prescribed, and one of whom shall be a woman. The President of a State Commission is a person who is or has been, a Judge of a High Court appointed by the State Government. The Members are appointed by the State Government on the recommendation of Selection Committee consisting of the President of the State Commission as Chairman, Secretary, Law Department and Secretary-in-charge of the Department dealing with Consumer Affairs in the State. The tenure of the President and members is for a period of 5 years or upto the age of 67 years, whichever is earlier. Provided that a member shall be eligible for re-appointment for another term of five years or upto age of 67 years whichever is earlier.

The State Commission has original jurisdiction to entertain complaints where the value of goods or services and compensation if any, claimed, does
not exceed Rs. 1 crore. It has also appellate as well as supervisory jurisdiction over the District Forums. The State Commission has a power to transfer one complaint from one District Forum to another in the State. Appeal against the order of the District Forum can be filed before the State Commission within a period of 30 days. However, State Commission may entertain an appeal after the expiry of the limitation period, if it is satisfied that there was sufficient cause for not filing it within that period. No appeal shall be entertained by the State Commission unless the appellant has deposited in the prescribed manner fifty percent of the amount in terms of the order of the District Forum or twenty five thousand rupees, whichever is less.

Highest redressal agency in this system is known as National Commission, it is situated at New Delhi. The National Commission is headed by a President along with not less than four members and not more than such number of members as may be prescribed, and one of whom shall be a woman. The president of the National Commission is a person who is, or has been a judge of Supreme Court, appointed by the Central Government as President and there is a proviso that no appointment under this clause shall be made except after consultation with the Chief Justice of India. The other Members should be persons of ability, integrity and standing and should have adequate knowledge and experience of, at least 10 years in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration. The Members of the National Commission are appointed by the Central Government on the recommendation of the Selection Committee. The tenure of the President and Members of the National Commission is for a period of 5 years or upto the age of 70 years, whichever is earlier. Provided
that a member shall be eligible for re-appointment for another term of five years or upto the age of 70 years, whichever is earlier, subject to condition that he fulfils the qualifications and other conditions for appointment.

The National Commission has both appellate and supervisory jurisdiction over the State Commissions and District Forums. It has original jurisdiction to entertain a complaint where the value of goods or services, exceeds Rs. 1 crore. Appeal against the decision of the State Commissions can be filed in the National Commission within a period of 30 days from the date of order. No appeal against the order of State Commission can be entertained by the National Commission unless the appellant has deposited in the prescribed manner fifty percent of the amount in terms of the order of the State Commission or thirty five thousand rupees whichever is less.

The order of the National Commission can be challenged within 30 days in Supreme Court under section 23 of the Consumer Protection Act, 1986. However, the Supreme Court may entertain an appeal after the expiry of the said period of 30 days, if it is satisfied that there was sufficient cause for not filing it within that period. Various types of services availed or hired for consideration fall in the jurisdiction of the Act.

**CONSUMER PROTECTION LAW AND EDUCATION**

In a welfare state, education plays a very important role. It is the duty of the state also to provide necessary educational facilities to the common man. We have been guaranteed a very important right i.e. Right to life and personal liberty under Article 21 of the Constitution. The scope of Article 21 has been considerably expanded through judicial decisions and it has been held by our Supreme Court that right to education is also included within the
scope of Article 21. In a landmark judgment in *Mohini Jain v. State of Karnataka*² Supreme Court has held that the right to education is the fundamental right under Article 21 of the Constitution which cannot be denied to a citizen by charging higher fee particularly known as capitation Fee. Right to education is drawn directly from right to life. It was emphasized by the court that right to education is concomitant to the Fundamental Rights enshrined under Part-III of the Constitution. The Fundamental Right to speech and expression cannot be enjoyed unless citizen has education. In the same manner, in subsequent decisions also the Supreme Court upheld the views expressed in earlier cases relating to right to education. Article 21A has been inserted by the constitution (Eighty-Sixth Amendment) Act, 2002 where it is provided that the state shall provide free and compulsory education to all children of the age six to fourteen years. Further, in Directive principle of state policy, Article 45 of the Constitution provides that the state shall endeavour to provide early childhood care and education for all children until they complete the age of six years. Further it is provided under A 51A(K) that it shall be the duty of every citizen of India, who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years. The object of this principle is to abolish illiteracy from the society. With the passage of time, a number of private and government educational institutions have been established. These educational institutional are imparting general, special and technical education to the students. They also charge heavy fees from the students and sometimes even the basic facilities are also not available in these educational institutions. The

² 1999(3) SCC 666.
important question which arises for consideration, whether the educational institutions can be made liable for deficiency in service or not?. The second important question is whether a student is a consumer or not? These two important aspects are to be considered.

There are two opposite views in this regard. According to one view, there is no justification to bring educational institutions and the students within the purview of the Consumer Protection Act. According to other view, education has been recognized as a fundamental right. Education is closely related to the future of the students. A heavy fee is charged from the students for imparting education. Thus, educational institutions and the students must be within the purview of the Act. It will be helpful in imparting better education to the students and it will be also in the national interest as a future of the nation depends on good education also. The views of the different Commissions and national commission have not been consistent in this regard. Sometimes, the reliefs are granted by the District Forums or State Commissions whereas sometimes the relief is denied. In *APJ School v. M.K.*, ³ the school was compelled to refund all charges like fee and annual charges except admission fee, when the parents got the admission of their child cancelled well before teaching session and the seat was filled by a new admission on similar charges. Retention of admission fee was sufficient to compensate the school for expenses incurred in admission. Whereas in *Saint John Medical College v. Prof. V.V. Joshi*,⁴ a contrary view was expressed.

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³ 1993 CCJ 423 Delhi.
⁴ 1990(1) CPR 269.
Divergent views have been expressed by the State Commission regarding the nature and functions of educational institutions. The functions of Universities/Boards/Institutions have been divided into two categories:

1) Administrative;
2) Educatve/Statutory

As for as deficiency in administrative functions is concerned, the students have been treated as consumers and have been given reliefs in case of late declaration of results, wrong dispatch of role numbers, error in mark-sheets etc. in some cases. However, as far as educative functions are concerned, educative part has not been treated as ‘service’ availed by students for consideration. There was confusion due to conflicting views expressed by various commission. The controversy has been settled by the decisions of Supreme Court given in Bihar School Examination Board v. Suresh Prasad Sinha, and M.D. University, Rohtak v. Surjeet Kaur. It was held by Supreme Court in the first case that when board conducts an examination in discharge of its statutory function, it does not offer its ‘services’ to any candidate. Nor does a student who participates in the examination conducted by Board, hires or avails any service from the Board for consideration. The examination fee paid by student is not consideration for availment of any service, but the charge paid for privilege of participation in the examination. The Board is not a ‘Service Provider’ and a student who takes an examination is not a ‘consumer’. Now, it has been clearly established that a student is not a consumer and the educational institutions do not fall within the purview of the consumer The Consumer Protection Act, 1986. Though these decisions can’t

5 IV (2009(8)) SCC 483.
6 V(2010) SLT 545.
be treated as progressive are and against the interest of the students. To protect the interest of the students more realistic and progressive views should be taken by courts/commissions.

**NEED OF THE STUDY**

It is submitted that inspite of the Plethora of Laws enacted for protecting the interests of consumers, the real truth is that the efforts made so far towards ensuring protection of the interests of consumers have been like dropping few “curative drops” in the “Ocean of Consumers miseries” and the vast majority of people are not even aware of the fact that as consumers they have been protected by innumerable legislations. What to say about illiterates or rural masses even educated people are generally unaware of consumer protection legislations. It has been seen that since independence although various Acts were enacted especially to protect the consumers from widespread exploitation by a network of manufacturers, businessmen, traders and powerful groups, the common man remained as much unconcerned, unmoved and unprotected as he was earlier prior to these enactments. He accepted the state of affairs prevalent in the society as part of life instead of bothering, complaining and fighting against the malady which had become rampant, widespread and deep.

In these harsh realities, taking clue from the U.N. Guidelines, the parliament in the year 1986 under the dynamic leadership of young Prime Minister who dreamt of building a new India for 21st Century enacted the special law for Consumer Protection namely, the Consumer Protection Act, 1986, which appeared to be a sliver lining and it was hoped that in course of time this new special law would succeed in achieving its proclaimed
objectives of providing better protection of the interests of consumers which included the protection of certain internationally recognized basic rights of consumers and the redressals of consumers grievances by setting up consumer disputes redressal agencies speedily in simple and inexpensive manner. This new special law raised great hopes in the heart of consumers of getting their grievances redressed without facing the torturous exposure of traditional civil courts but these hopes have been shattered to a large extent for various reasons. Although more than Lacs of complaints have been filed so far before the special non-traditional courts – known as consumer Disputes Redressal Agencies only 50 percent cases have been disposed of so far and if immediate steps are not taken to remove those reasons, the new mechanism provided by the new special law is also bound to breakdown, like the existing judicial system due to heavy load of mounting arrears resulting with the delayed dispensation of consumer justice to the common man. In reality, the consumer protection movement is still waiting to take off. Whatever, little seems to have been achieved during the last years in respect of consumer protection, it has been confined mostly to a few persons-residing in urban areas. It would not be an exaggeration to say that the consumer protection movement in India is presently an urban-based elitist movement and the vast majority of population living in urban and rural areas has no concern with it. The reasons of this apathetical attitude, unawareness and ignorance are manifold which have to be found out and need not be repeated. Nonetheless, the primary reason, to the mind of the people, seems to be that so far no serious steps have been taken for creating an environment in the society having consumer protection oriented culture, while implementing the Consumer Protection Act 1986, during the
past years the entire resources and energy of the implements have been concentrated on the second objective of the new special law viz., “To provide speedy and simple redressal to Consumer Disputes”, the first objective of the new special law, viz., “To promote and Protect the Rights of Consumers” which included the primary and controlling right-right to consumer education had been totally forgotten or neglected. The indifference towards the creation of an appropriate cultural environment which could motivate the common man – as consumer – to assert his rights and fight against exploitation can be judged by the fact that no consumer activist, legal aider, public spirited person or voluntary organization has approached the Supreme Court as yet through Public Interest Litigation or otherwise for judicial directives to the authorities made responsible for promoting and protecting these basic rights to discharge their statutory duties. Till today, Consumer Problems are seen as very much an individual affair which a consumer is expected to solve on his own and therefore, very little hue and cry is raised publicly when any consumer is exploited individually.

No law, however, best and perfect it might can solve the problems of the society for which it is being enacted unless the proper cultural environment for the operation of that particular law is created. This is more important and necessary for social welfare and economic laws which are directly governed and regulated by societal values or morality of persons affected by such laws. Pertinent question creeps into the mind that whether such a fertile consumer protection oriented – environment existed at all at the time of the enactment of the Consumer Protection Act 1986, or it exists today or it is expected to be created in the near future, in which consumer could be ensured protection in a
country like India in which vast majority of population – Particularly of rural areas – is economically not in a position to bargain in the market with the supplier of goods or services or to take risk of annoying such supplier by filing a complaint against him because the first reaction would be that not only that particular supplier but all the suppliers of goods and services would stop giving goods or services to him on credit and he would be forced to face either starvation or scarcity. Similarly, most of the utility services are monopolized these days and, therefore, whoever musters courage to react to the deficient services and move ahead for seeking relief, the first step initiated from the side of the provider of services happens to be to deprive such person from the facility of such services. Further, most of the persons living in villages are not mentally prepared for claiming the protection which is said to be guaranteed by this new special law because of personal relationship with the suppliers. In this scenario, the foremost task is to take effective steps to make the consumer economically strong so that he can individually not only raise voice against the exploitation and the exploiters but also can resist the pressure – physical, social and economic exerted by the exploiters in case the consumer opts for seeking protection of his interests in respect of goods and services promised by the legislative measures. In addition to striving for such economic upliftment of the consumers and making them financially viable, spreading of consumer education amongst the consumers and those persons who are either responsible for the exploitation of consumers or have potentials to exploit them, must be launched on priority basis country wide as a national campaign on war footing with social mission touching every head and heart and in this National Consumer education/Literacy campaign persons from every walk of life,
profession, vocation, religion, sex, etc. should be as far as possible, associated and involved.

Not only this in the new era of *Laissez Faire* due to the changed economic policies of the country, the consumer has also to change. The apathy of the past will have to be shed and the Indian Consumer has to emerge stronger. He can no longer look upon the government as helping factor or expect others to fight his battles for him. It is also not enough merely to become conscious of one’s rights as consumers. Every Indian has to become a responsible consumer which means that he must become equally conscious of his duties. The new age and the changed circumstances call for heightened and responsive consumer awareness. It is undisputed that the New Special Law Consumer Protection Act, 1986 meets the long felt necessity of protecting the common man from such wrongs for which the remedy under ordinary law for various reasons had become illusory inspite of the existence of good number of legislations and regulations permitting the state to intervene and protect the interests of consumers because these legislative measures had become a haven for unscrupulous ones as the enforcement machinery either did not move or it moved inefficiently and ineffectively. It attempts to remove the helplessness of a consumer which he faces against powerful businessmen as ‘a network of rackets’ or a society in which “producers have secured power” or providers of utility services who have monopolized the services or the might of public bodies which have degenerated into store house of inaction. It has left the common man helpless, bewildered and shocked and making him apathetic. However, Law is not wholly self-explanatory or self-executing, its efficacy depends heavily on the sound judgment and faithful execution of those who
are made responsible for its implementation and the proper implementation of the Law with the dedicated aim of achieving its avowed objectives in real sense, requires strong political will.

Keeping in view the aforesaid perspectives in mind there is urgent need of consumer awareness otherwise the Act will fail to achieve the desired objective. The ordinary person should be made aware of this medicinal legislation. Other legislations for protecting interests of consumer are mainly penal in nature. The new special consumer protection law, i.e. the Consumer Protection Act, 1986 was enacted primarily for providing better and additional protection of the Interests of Consumers of goods and services.

STATEMENT OF THE PROBLEM

The problem in hand is stated as under: ROLE OF CONSUMER PROTECTION LAW IN EDUCATION : A CRITICAL ANALYSIS OF JUDICIAL TRENDS

OPERATIONAL DEFINITIONS OF KEY TERMS USED

The key terms used in the present study are operationally defined as under

(1) Consumer Protection Law

We are all consumes in form or the other. It is the foremost duty of the state to protect interests of consumers in a welfare state. There was special emphasis to protect the interest of consumers during the ancient times. Before independence and after independence various pieces of legislation have been passed to protect the interest of the consumers. In the modern age of science and technology, when the goods in the market are of complex nature, the principle of ‘caveat emptor’ can’t be applied. Thus, to provide speedy,
inexpensive and good justice to consumers, The Consumer Protection Act, 1986 was passed. The Act provides a simple procedure to file the complaint and to dispose off the same. Various rights have also been provided to the consumers. The main object of this law is to provide speedy and additional reliefs to the consumers of goods and services.

(2) Judicial Trends

A three tier mechanism has been provided in the Consumer Protection Act, 1986. At District level there is District Consumer Forum, at state level, there is state commission. At the National level we have national commission. Various types of ‘services’ provided or availed for consideration come within the scope of the Consumer Protection Act, 1986. Sometimes divergent views are expressed by various state commissions or national commission on a particular aspect. Thus the investigator has to analyse the decisions given by the state commissions national commission and courts to arrive at the conclusion. The critical analysis of the decisions is called judicial trends. The judicial trends indicate the views of the courts and commissions on various aspects of the issue. In addition to analysis of judicial trends, the investigator feels that the awareness of Consumer Protection Law should also be studied as the awareness is essential for the proper execution of these laws.

OBJECTIVES OF THE STUDY

The main objectives of the present study are as under:

(1) To study the decisions given by various district fora, state commissions and national commission.

(2) To derive judicial trends based on these decisions.
**Subsidiary objectives**

(1) To study the awareness of consumer protection law among students and teachers.

(2) To compare the awareness of consumer protection laws among male and female students.

(3) To compare the awareness of consumer protection laws among rural background and urban background students.

(4) To compare the awareness of consumer protection laws among male and female teachers.

(5) To compare the awareness of consumer protection laws among teachers belonging to rural and urban areas.

(6) To offer suggestions for developing awareness of consumer protection laws.

**HYPOTHESIS**

The following hypotheses were formulated for verification.

(1) The prevailing judicial trends differ from the earlier trends in consumer protection laws.

**Subsidiary Hypothesis**

(1) There will be no significant difference in awareness of consumer protection laws among students belonging to rural and urban areas.

(2) There will be no significant difference in awareness of consumer protection laws among male and female students.

(3) There will be no significant difference in awareness of consumer protection laws among graduate and post graduate teachers.

(4) There will be no significant difference in awareness of consumer protection laws among the teachers belonging to rural and urban areas.
DELIMITATION OF THE STUDY

The study could be conducted on a wide range but due to lack of time and resources the study is delimited as under:

(1) The study has been, delimited to the decisions of various State Commissions and National Commission, District consumer forms, High Courts and supreme courts delivered on the aspect of ‘Education’ as a service.

(2) The study is delimited to Rohtak district of Haryana state.

(3) The study is delimited to 200 students studying in final year of undergraduate and post graduate classes (100 urban = 50 male + 50 female) and 100 rural = 50 male + 50 female.

(4) The study is confined to 200 teachers working in schools/colleges only.

(5) Doctrinal and descriptive survey methods of research are adopted in this study. Therefore it suffers from all such infirmities which such techniques are normally infested with.

METHOD

In the present study, the doctrinal method was employed to draw the judicial trends related to role consumer protection laws in education. To collect the data related to consumer protection laws awareness, the descriptive survey method was used.

POPULATION AND SAMPLE

The population of Rohtak district form the universe of the study conducted by the researcher. The population consists of all the students and teachers of Rohtak district.

The main purpose of the present study is to discover principles that have universal application but to study the whole population to arrive at
generalization would be impracticable, if not impossible. Thus the research was invariably conducted by means of a sample from the target population on the basis of which generalization were drawn. In the present study (200 students (100 males and 100 females) and (200 teachers = 100 males and 100 females) were selected randomly from colleges and schools of Rohtak district only.

TOOLS USED

In the present study, to study the role of consumer protection laws in education, various decisions given by different district fora, State Commission and National Commission and courts were analysed by using doctrinal method to draw judicial trends. To collect the data related to awareness about consumer protection law the questionnaire prepared by Sharma S.R. was used.

STATISTICAL TECHNIQUES USED

In the present study to analyse the primary data collected by using the above mentioned tools, percentage and chi square techniques were used.

CONCLUSIONS RELATED TO JUDICIAL TRENDS

Whether education is ‘service’ and a student a ‘consumer’ is a complex issue. Divergent views have been expressed by the State Commission regarding the nature and functions of educational institutions. The functions of Universities/Boards/Institutions have been divided into two categories:

1) Administrative;
2) Educatve/Statutory

As for as deficiency in administrative functions is concerned, the students have been treated as consumers and have been given reliefs in case of late declaration of results, wrong dispatch of role numbers, error in marksheets etc. in some cases. However, as far as educative functions are
concerned, educative part has not been treated as ‘service’ availed by students for consideration. There was confusion due to conflicting views expressed by various commission. The controversy has been settled by the decisions of Supreme Court given in *Bihar School Examination Board v. Suresh Prasad Sinha*, and *M.D. University, Rohtak v. Surjeet Kaur*. It was held by Supreme Court in the first case that when board conducts an examination in discharge of its statutory function, it does not offer its ‘services’ to any candidate. Nor does a student who participates in the examination conducted by Board, hires or avails any service from the Board for consideration. The examination fee paid by student is not consideration for availment of any service, but the charge paid for privilege of participation in the examination. The Board is not a ‘Service Provider’ and a student who takes an examination is not a ‘consumer’. Now, it has been clearly established that a student is not a consumer and the educational institutions do not fall within the purview of the consumer The Consumer Protection Act, 1986. Through these decisions can’t be treated as progressive are and are against the interest of the students. To protect the interest of the students more realistic and progressive views should be taken by courts.

**CONCLUSIONS RELATED AWARENESS ABOUT CONSUMER PROTECTION LAW**

**Findings**

The main findings of the study are as follows

1. The people are generally not aware about The Consumer Protection Act, 1986. They do not know how to file the complaint and claim the reliefs.

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7 IV (2009(8)) SCC 483.
8 V(2010) SLT 545.
2. The decisions given by various state commission and National Commission are conflicting. The students have been treated as consumers in some decisions where as opposite opinion expressed in others. The university education Boards/Institutions held liable for negligence in administrative functions but not for performance of statutory duties. However, Supreme Court has not treated the student a consumer.

SUGGESTIONS FOR DEVELOPING AWARENESS

1. In the present competitive age the consumer disputes redressal agencies must adopt a broader outlook towards the problems faced by the students due to apathetic attitude of the University/Board/other Institution. Their problems should be considered liberally.

2. The ‘Student’ should be treated as a ‘consumer’ for educative parts also. If the basic infrastructure facilities are not available in the institutions as given in prospectus and advertisement, the students should have right to claim reliefs under the Consumer Protection Act, 1986. Heavy fees are charged from students to impart education and are being cheated by catchy advertisements.

3. No special attention is given for consumer education in schools and colleges. Special efforts be made in this regard.

4. N.G.O’s can play very important role in consumer awareness programmes. Consumer Association can play a more positive role in this regard.

5. The Govt. should provide liberal funds and grants for consumer awareness programmes. Serious efforts should be made by government
to educate the people. Otherwise the object of the Act will be frustrated.

6. The consumer education must be made compulsory part of curriculum in schools and colleges. Serious steps must be taken in this direction.

7. Information should be disseminated on important public places, regarding location of consumer courts.

8. Consumer awareness programmes be linked with legal aid and literacy programme. There is urgent need to educate the people in this regard otherwise the object of the Act will be frustrated in absence of knowledge about reliefs available under the Act.

9. That the Governments (Central as well as States) should develop or encourage the development of general consumer education and information programmes, bearing in mind the cultural tradition of the people of this country. The aim of such programmes should be to enable people to act as informed consumers, capable of making an informed choice of goods and services, and conscious of their rights and responsibilities. In developing such programmes, special attention should be given to the needs of disadvantaged consumers, in both rural and urban areas, including low-income consumers and those with low or non-existent literacy level.⁹

10. That the Consumer’s education should become an integral part of the basic curriculum of the educational system. In every District and Block there should be well equipped Libraries-cum-consumer education and advocacy centres.

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11. That the Governments (Central as well as States) should encourage consumer organisations and other interest groups, including the media to undertake education and information programmes. Mass media can prove a strong weapon in spreading consumer education. Mass media can play supportive role in awakening the consumers.

12. That the Businessmen should, where appropriate, undertake or participate in factual and relevant consumer education and information programmes.

13. Bearing in mind the need to reach rural consumers and illiterate consumers, Governments (Central as well as States) should start special drive to educate the people. Volunteers consumer organisations be set up at village level to take up cases of illiterate consumers.

14. Government (Central as well as States) should organize or encourage training programmes for educators, mass media professionals and consumer advisers, to enable them to participate to carry out consumer information and education programmes.

15. Consumer education and information programmes should cover such important aspects of consumer protection as the following:

a) Health, nutrition, prevention of food-borne diseases and food adulteration: b) Product hazards; c) Product labeling; d) Relevant legislation, how to obtain redress, and agencies and organizations for consumer protection; e) Information on weights and measures, prices, quality, credit conditions and availability of basic necessities; and f) Pollution and environment.
16. Orientation programmes should be organized at Panchayat level in aid with persons responsible for administration of justice to make the people at grass root level aware of their rights as Consumers.

17. The definition of ‘service’ should be suitably amended to include educational services within its scope, so that confusion in this regard may be removed and the students be able to get relief under the Act.

18. The role of consumer protection councils should be encouraged for ensuring better protection of the interest of consumers and protect the rights of consumers given in section 6 of the Act. It has been observed that their role has been relegated to the background. Establishment of such councils at Blocks and Tehsils levels be considered.

19. The activities of the District Councils State Councils and central council should be coordinated and proper liaison should be maintained. The councils have no right to be heard in any proceeding before a form or commission. Such a right be given to them, if the proceeding involves the larger interest of consumers.

20. Under section, 11, the territorial jurisdiction for instituting a complaint is specified with reference to the opposite party but not the complaint although the legislation is for the welfare of consumers. The territorial jurisdiction should, therefore, be specified with reference to the complaint not the opposite party.

21. The consumer movement can be winner movements only with our active involvement by knowing our rights and enforcing them. Formation of consumer associations in every town would be the first step in this path. In these days of competitive market and every
increasing price of consumer goods and services, it is necessary that consumers should put up collective resistance to the high-handedness on the part of unscrupulous traders and businessmen or on the part of the officers of the government departments or government owned corporations supplying goods and services. It can take the form of collective bargaining or even refusal on the part of the consumers to buy the goods and services which are substandard or high priced till their standard is not increased or the prices are not brought as the case may be.

22. We must take a firm step towards educating the consumer for creating awareness, active consumer involvement, imbibing social responsibility and showing consumer solidarity. Our Government is not serious to protect the health, economic and educational interests of the consumers. In the west consumer interests are given statutory recognition in form of protective laws and supervisor and regulating institutions. For consumers protection there are protections through quality control, a definite price policing, price labeling and certification marks. This is also in India but it is hardly effective. Education institutions should be directed to follow guidelines strictly issued by regulatory authorities.

23. India has a second largest population in the world. On account of this have a large number of consumers. But the percentage of getting the benefit of Consumer Protection Law is very low. Majority of population of India are living in the villages and huge percentage of the population are illiterate. So it is very difficult to make those people aware who are living in the villages. In this regard Panchayats Raj
System can play very effective role among the masses in their respective villages. Liberal grants should be given to Panchayats for this purpose.

24. The Consumer Movement has to be four dimensional viz. business, government, voluntary organizations and consumers. If all the four can work in close cooperation with each other then the government will have no problem to provide for better protection to the interest of consumers. The consumer’s voices which are the weakest in this process must be heard in appropriate manner and in appropriate time.

SUGGESTIONS FOR FURTHER RESEARCH

The study could not be conducted on large sample due to shortage of resources. Investigator has recommended the following suggestions for further research.

i) The study was delimited to Rohtak district only. Further study can be conducted on larger sample from Rohtak district and other districts of Haryana state.

ii) Further studies may be conducted to compare the awareness among general public of different districts.

iii) The present study was delimited to role of consumer protection laws in education. The further studies may be conducted to study the judicial trends in consumer protection cases in other areas like banking, insurance, electricity department, transport etc.

iv) The present study was delimited to study the awareness among undergraduate and post-graduate students of traditional courses. Similar
studies can be conducted on students of medical colleges, engineering and management colleges.

v) Further studies may be conducted to compare the awareness about consumer protection laws among students of medical, law, journalism and engineering.

vi) Further studies may be conducted to see the impact of advertising, and mass media to develop awareness about consumer protection laws among general public.

vii) Further studies may be conducted to study the role of NGO’s in developing awareness about consumer protection laws among general public.

viii) The present study was delimited to comparison of awareness about consumer protection laws among male and female and rural-urban background of respondents. Further studies can be conducted to study the correlation between awareness and other variable like socio-economic state, and demographic variables.