Chapter - 2

Review of Literature
REVIEW OF LITERATURE

- Studies on Consumer Problems and Consumer Organisations
- Studies on Consumer Awareness and Consumer Protection
- Studies regarding the Functioning of Redressal Agencies
CHAPTER - II

REVIEW OF LITERATURE

Consumer Protection activities are in practice around the world for a long time. The origin of this concept in India also goes back to many decades. Quite a number of legislations have been enacted long ago in India. Even then an average Indian consumer has not been able to enjoy the benefits of these statutory enactments. As a matter of fact, access to justice so far has been a luxury for most of the Indian citizens. However, with the enactment of The Consumer Protection Act 1986, the consumers’ rights are protected. The successful implementation of the said Act has considerably consolidated the process of consumer protection in India and has given rise to new consumer jurisprudence. By considering the importance of consumer protection, quite a large number of studies covering different aspects of consumer protection have been undertaken by individual researchers and institutions both in India and abroad. Brief review of such studies, which are relevant to the present study are presented in this chapter.

STUDIES ON CONSUMER PROBLEMS AND CONSUMER ORGANISATIONS

Satchidanand Rath and Gaur, K.D. (1983)1 in their study on A Critical Review of Nature of Liability under The Prevention of Food Adulteration Act have stated that the percentage of adulteration in case of milk products are extremely high and covers 51 percent of the total prosecutions. Vanaspathi, edible oil and prepared food are the next in degree of adulteration above grains, grams and spices. They have also pointed out that adulteration was rampant more in the urban areas than in the rural areas and mostly vendors are indulged in such

type of activities rather than manufacturers, stockists and distributors. Finally they have insisted the need for efficient and incorruptible machinery to look after these evil effects.

Pramod Kulkarni et al. (1983)\(^2\) in their research study have found out that the level of adulteration of groundnut oil remained undetected because of inadequate testing facilities in the government laboratories. Thus the consumers are cheated to the tune of Rs. 2.50 per kg. They have also highlighted the irresponsible attitude of the government towards testing besides, having inadequate facilities for the said purpose and malpractices followed by the dealers of fair price shops.

Joyeeta Gupta (1986)\(^3\) has stated that ignorant Indian consumers are cheated in an environment of limited choice, inadequate supplies, incomplete information, and unlimited demand. The author has concluded that imposing rules and regulations will have no use if consumers themselves do not believe in the utility of these regulations.

Promila and Harpreet (1989)\(^4\) conducted a study on an image test in order to gauge the image of the railway passenger service among the public. According to their findings, most of the customers are dissatisfied with the railway service on different fronts namely, catering, cleanliness and enquiry service. Most of the

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complainants do not use the redressal service provided by the railway departments. The reason cited by more than 60 percent of them is that they can not expect any concrete action for their complaints from the railways.

Subramaniyam et al. (1982)\(^5\) conducted a study in Guntur district of Andhra Pradesh and concluded that there is a need for the establishment of consumer organisations and consumer councils. The study observes that nearly 66 percent of the customers believed that the consumers themselves have to take initiative rather than looking for somebody else to rescue them.

Joyeeta Gupta (1987)\(^6\) makes the following observation. The growth of consumer movement was quite slow and uneven till 1980. Gujarat accounts for 45 percent of the consumer groups. There are a few organisations like Consumer Education Research Centre and VOICE which have involved in concrete actions. They are influencing policy decisions, raising questions in parliament, doing active research in various subjects and invoking the law to protect the rights of the consumer. However, the activities of most of the groups are limited to the extent of their resources, financial and manpower both in terms of number and commitment.

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A study about the activities of the consumer organisations was carried out by Dhyani et al. (1989)\(^7\). They received only 13 responses out of 250 consumer organisations. It was concluded from the survey that most of the organisations were carrying out only few activities like receiving complaints, conducting seminars/workshops, contributing articles to the newspapers, magazines etc. It was further observed that only one organisation was dealing with product testing and most of the organisations did not have enough funds for proper functioning.

Srinivasan and Satkhivel Murugan (1990)\(^8\) in their article on Role of Voluntary Organisations in Promoting Consumerism have explained the ways in which consumers are misled and cheated. They have emphasized the importance of consumer organisations to protect the interest of the consumers.

Srikrishna Devo Rao (1990)\(^9\) depicted in his study that Khammon Forum created great awareness among consumers about their rights through interpreting the consumer rights and also bringing out publications of the decisions. The study further reveals that 62 percent of the complaints have got the appropriate relief and most of the consumers are giving utmost importance to the public cause rather than their personal grievances.

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Chandran Bala (1992)\textsuperscript{10} in his study on the Functional Role of Voluntary Organisations and Consumer Protection has stated that the consumer organisations should be authorized to analyse or test the sample of goods in the interest of the consumers.

Selvadas (1998)\textsuperscript{11} in his study on Consumer Protection Movement in Kerala assessed the functions and problems of the voluntary consumer organisations and concluded that those organisations are performing significant functions in promoting consumer movement in Kerala. He has also made an attempt to assess the perception of consumers with regard to the consumer protection movement and a change in the attitude of the business community, since the enactment of The Consumer Protection Act 1986. He concluded that consumers' interests were not well protected till the enactment of The Consumer Protection Act 1986, where as the business community is more vigilant in protecting the interests of consumers after the enactment of the above mentioned legislation. He also made suggestions to popularise the consumer movement in Kerala.

Bajracharya (1998)\textsuperscript{12} in his study, observed that consumers in India are more organised than in Nepal and hence the number of consumer organisations here are much larger. Moreover, Nepalese consumers are not aware enough to get united for class action. His study also revealed that the factors discouraging consumers from taking remedial action are mainly of a legal nature and pertaining to consumers' self-constraining behaviour. Prominent among these are

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  \item[10.] Chandran Bala (1992): Functional Role of The Voluntary Organisations and Consumer Protection, Jaipur University, Jaipur.
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consumers' indifferent attitude (74 percent), lack of faith in legislative measures (73.6 percent), avoiding involvement in disputes (72.8 percent), lack of time (68 percent) and consumers' lethargic attitude (56.6 percent).

STUDIES ON CONSUMER AWARENESS AND CONSUMER PROTECTION

In a study conducted by Chandra and Patel (1994)\textsuperscript{13} it was found that the awareness among students about consumer protection laws was generally low. It was observed that a majority of students (50.7 percent) scored below the mean. However, the awareness among the second and third year students was on an equal footing. Even the students from families with legal educational background were found to be unaware of the consumer rights. The study revealed that legal awareness among the undergraduate students was far inadequate and extra efforts were needed to increase the awareness.

In his study, Bhashyam (2000)\textsuperscript{14} sought to examine the working of the consumer forums in Andhra Pradesh and the extent of the consumer awareness about the provisions of The Consumer Protection Act. The study revealed that among the urban respondents, 82 percent were aware of the provisions of The Consumer Protection Act and the remaining 18 percent did not have any awareness about The Consumer Protection legislation. Among the rural consumers, 68 percent of the respondents were found to be aware of The Consumer Protection Act and 32 percent were not. Moreover 78 percent of the 175 urban respondents and 77 percent of the 225 rural respondents were found to be aware of their rights as consumers. Income-wise analysis of the study.


revealed that while 37.2 percent of the respondents from very low income group got to know about The Consumer Protection Act from television. People from the middle-income and high-income groups got the relevant information from newspapers and magazines. Among the illiterate groups, 50 percent came to know about the Act through radio and from the neighbours and friends.

Raghibir Singh (1989)\textsuperscript{15} in his study has stated that Indian consumers' malady is his ignorance about fraud, excessive price, and product risk and product quality. He was of the view that accelerated consumer education on an extensive scale, reaching even rural illiterate is the imperative need of the hour. He has pointed out that the various consumer rights and the legislations to protect the consumers, which appear very promising, find their place only on paper and larger sections of the consumers are not aware of their rights. The author concluded that to create awareness about the consumer movement there is an urgent need for both formal and informal education.

A survey conducted by Sawarkar (1996)\textsuperscript{16} at Marathwada, on a sample of 750 consumers, during the year 1994 and 1995, revealed that while a majority of the respondents (51.33 percent) were totally ignorant of The Consumer Protection Act measures, 49.12 percent of the respondents were unaware of the consumer forums set-up under the Act and 54.38 percent of the respondents did not know how to file a complaint. It was also found that 36.84 percent of the respondents did not insist on a purchase receipt. It was concluded that the main reasons why dissatisfied consumers did not file complaints before any consumer forum set-up under The Consumer Protection Act was the lack of awareness about the consumer protection measures and the absence of the purchase document.


Natarajan (1990)\textsuperscript{17} conducted a study on Consumer's Awareness towards ISI Mark. It was observed that the awareness level is high and medium among 34.4 percent and 55.56 percent of the consumers respectively. It was further observed that the consumers have favourable attitude about the quality and the performance of ISI marked goods.

Murali et al. (1990)\textsuperscript{18} conducted a study among randomly selected 200 housewives of Parbhani (Maharashtra) town to find out the awareness of food adulteration among the housewives. The findings indicate that a majority of housewives were aware of food adulteration but they were not aware of the harmful effects of the adulteration on health and the government's actions to prevent the food adulteration.

Koteeswara Rao (1990)\textsuperscript{19} has mentioned that The Consumer Protection Act could not be successful unless the consumer himself is aware of his rights and responsibilities.


Girishchand Jeswal (1996)\textsuperscript{20} in his study on Consumer Protection in India - Consumer Awareness and Functioning of Consumer Associations and Redressal Agencies has made an attempt to find out the level of awareness of the respondents about consumer protection measures at Chandigarh. He has analyzed whether there is any significant relationship between the demographic variables [sex and educational qualification] and the awareness level. The sample was urban based. The researcher had concluded that the overall awareness level of male respondents were found to be better than the female respondents and there is a positive correlation between educational qualification and the level of awareness.

Sivaprakasam and RajaMohan (2002)\textsuperscript{21} in their study on Consumer Empowerment - Rights and Responsibilities made an attempt to study the awareness and the attitude of the rural and the urban consumers on the consumer protection measures. In the study it has been stated that nearly two-thirds of the rural consumers and 83 percent of urban consumers were aware of their rights. Urban consumers were more aware of their rights when compared to their counterparts in the rural areas. The study also appraises the legal measures taken by the government for the consumer protection and suggested suitable measures for proper implementation of The Consumer Protection Act and effective functioning of the Redressal Forums.

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Marilyn Nagy (1976)\textsuperscript{22} pointed out in his study that majority of the respondents supported the idea of the consumer education courses for adults and high school students. They also supported the government's role as a provider of consumer information. He felt that business should provide better quality products which require less service, even if they cost more, replace defects in warranty products, provide stringent legislations at the federal level so that the defaulters could not escape from the prosecution.

Arthur Alan et al. (1979)\textsuperscript{23} stated that many consumer protection problems are the consumers' information problems. They further stated that the government regulation of product qualities is compared with governmental regulation of information about qualities as alternative consumer protection measures. It was argued that product regulation may generate the net social gains when the consumers may be truly informed, but it can not, in general, restore efficiency to the economy while some policy of information regulation can restore efficiency, but it may be beneficial to the people who are in the higher income groups.

Donna Ruth (1980)\textsuperscript{24} in his study stated that there was a significant relation between consumers' willingness to accept responsibility for self-protection and their attitude towards regulation and education. There was also relationship between consumers' knowledge about regulation and their attitude towards self protection.


Malathesh (1981) in his study on “Consumerism – An opinion survey” observed that consumers appreciated the strategy of Consumer Education Research Centre for seeking the legal remedy for various issues. In his study he has stated that consumerism is gaining ground and consumers are becoming more conscious of the need for accountability of monopolistic organisations. He has further stated that even though a number of laws are in vogue, the producers do not follow various instructions and precautions which are made for the safety of the consuming public.

Readers Digest Association (1984) has visualized how the consumer should protect himself in the market place, how he should fight back and win when rights have been trampled upon and how he should be an informed prudent buyer of goods and services, covering situations such as visiting the supermarket, buying a household appliance, seeking loans, considering investments and insurance, selecting a doctor or lawyer, renting an apartment, bargaining for an automobile or planning a vacation.

Arvind [1988] views that in India a wide gap exists between percept and practice. The government orders and legislations are not adequate. They leave sufficient scope for loose interpretation. So the traders can either bribe the officials or take recourse to legal help in quashing down the government orders. In both cases, the consumers become the helpless victims and if the government does not issue the orders with the tight construction, the consumer remains without protection.

In an exploratory study on Consumers’ Attitude towards Consumerism conducted by Raghbir Singh (1990)\textsuperscript{28} it is noted that consumers are dissatisfied with the information provided by businessman and most of the consumers are in favour of more government regulations in the field of consumerism. At the same time consumers blame themselves for their carelessness or ignorance. They believe that consumer education is essential for the intensive consumerism and show more consciousness about environmental protection despite the costly products.

Rajendra Kumar Nayak (1991)\textsuperscript{29} has visualized that the consumer himself is guardian of his own rights and has criticized the behavior of Indian consumers holding them responsible for their exploitation. On the legal front, he has noted pessimistically that whatever legislations are in India to protect the interest of consumers they are not enforced properly so as to control and eliminate the deceptive activities and practices of sellers. He has argued that the legislative enactments aimed at protecting the consumer interests are yet to become instruments of positive action in redressing the consumer grievances. He has dealt with the problems of the consumers’ from a historical perspective, tracing the history of the movement and the legislative measures undertaken in India. He has also discussed the role of the government in consumer protection and has examined the issues like implied warrant and merchantable quality, food adulteration, identification of unfair trade practices and civil and criminal protection of consumers. He has made useful suggestions like the establishment of a consumer ombudsman and a separate ministry to look into the affairs of the consumers.


\textsuperscript{29}Rajendrakumar Nayak (1991): Consumer Protection Law in India –An Eco Legal Treatise on Consumer Justice, Mumbai: Tripathi Private Ltd.
Rengaswamy (1992)\textsuperscript{30} in his study on Consumer Protection under the Existing Acts with reference to Essential Consumer Goods has pointed out the various forms of exploitation of consumers by manufacturers and traders. He has evaluated the effectiveness of the existing legal mechanism in consumer protection. Finally, he has offered valuable suggestions to enhance consumer protection.

Gurjeet Singh (1993)\textsuperscript{31} in his case study on The Consumer Protection Act 1986, critically examines the provisions of The Consumer Protection Act 1986. The study discusses the impact on its working as well as its increasing ambit and amplitude. The controversies and emerging trends in the Indian consumer protection jurisprudence in the post 1986 period are also highlighted. Besides suggesting appropriate modifications in the statute, the study considers the scope for the application of the various non-legislative measures for consumer protection.

Srinivasa Vallaban in his study (1995)\textsuperscript{32} on Consumer Protection with special reference to Pharmaceutical Retail Units has examined the existing legal provisions relating to The Drugs and Price Control Act with reference to retail units. He has analyzed the purchasing pattern of the pharmaceutical consumers and interpreted the obligation of doctors, consumers and retailers to promote consumers interest. Further, he has suggested the means by which distress of the consumers could be minimized and protection can be ensured in pharmaceutical products.


Gurjeet Singh (1996)\(^{33}\) has discussed the historical perspective of the problems of consumer protection in India. He has highlighted the role of central and state consumer protection councils established under The Consumer Protection Act 1986 and some of the controversies arising out of the judicial decisions on issues like commercial purpose, services rendered free of charge and services rendered under the contract of personal services. He has examined the functions of redressal mechanism envisaged and established under The Consumer Protection Act 1986 and has highlighted the problems associated with the establishment of consumer forums throughout the country. He has also focussed on several new developments and the emerging trends in the Indian consumer protection jurisprudence. He has emphasized the role of non-legal measures for consumer protection such as consumer education, consumer representation, lobbying, consumer boycotts and international co-ordination.

Mohammed Solaiman and Belal (1997)\(^{34}\) in their study, Protection of Consumer' Rights in Bangladesh - Issues and Challenges, examined the process of consumer protection in Bangladesh. The various means to protect the consumers' rights have been discussed in detail. They have concluded that legal protection and role of consumer groups play a satisfactory role to protect consumers rights in Bangladesh while other measures seem to be ineffective. The study made a number of recommendations for the development of a healthy consumer culture in Bangladesh. The study concludes by emphasizing that a coordinated approach is required to solve the problem of consumer exploitation.


Ramesh Kumar (1997)\textsuperscript{35} in his study on Consumer Protection in Tamil Nadu has made an attempt to identify the role of the voluntary consumer organisations in creating awareness among the public. He has examined the nature and extent of self-regulatory and competitive measures adopted by the business people to safeguard consumers interest. He has further examined the loopholes of The Consumer Protection Act 1986 and suggested several amendments to enable the law to fulfill the object for which it was enacted.

Srinivasan (2000)\textsuperscript{36} in his study on Consumer Co-operative and Consumer Protection has examined how far the interest of the consumers are protected by consumer co-operatives as per the selected variables like price advantage, purity of goods, efficient customer service etc. He has concluded that consumer co-operatives are protecting the interest of the consumers in terms of providing pure and unadulterated goods at lower price than the price of private traders. He has also pointed out that member consumers of consumer co-operative societies are not aware of their rights and responsibilities.

STUDIES REGARDING THE FUNCTIONING OF REDRESSAL AGENCIES

Prakash Vir (1993)\textsuperscript{37} conducted a survey on consumers opinion about the effectiveness of the various Consumer Dispute Redressal Forums set-up under The Consumer Protection Act. The survey revealed that very few consumers (11.7 percent) viewed them as very effective, whereas 13.8 percent of them had found

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the Forums as quite effective. Also, the number of consumers approaching the Consumer Forums for the redressal of the grievances were found to be more than those approaching the Monopolies and Restrictive Trade Practices Commission.

Kar (1995)\textsuperscript{38} made a comparative analysis of the working of Delhi and Dhenkanal District Forums, in which he found that the rate of disposal of the cases was tardy and the backlog was on the increase, particularly in Delhi. He suggested, interalia wider participation of consumer associations in the forums and imparting of consumer education by the government.

Sobti (1999)\textsuperscript{39} in her study on Patients Perception and the Legal Regulation of Medical Services under The Consumer Protection Act made an extensive survey of 540 patients, 60 doctors from government and private hospitals and 50 experts with varied areas of interest. The study revealed that there was a substantial increase in number of complaints received and appeals filed in respect of deficiencies in medical services after the landmark judgement of the supreme court in the case of Indian Medical Association Vs. V.P. Santha, delivered in 1995. It was also found that justice lies in the hands of the National Commission and various State Commissions and that the awareness and confidence of patients in the grievance redressal system under The Consumer Protection Act 1986 has increased.

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Deepa Sharma (2002) in her study on Consumer Grievance Redressal under The Consumer Protection Act has evaluated the approach of the consumer courts on providing relief against the supply of defective goods, provision of deficient services, indulging in unfair trade practices, charging of prices in excess of the specified prices, and offering of hazardous goods for sale. In the findings it has been stated that though ninety days is the time limit for the disposal of cases in actual practice, maximum number of cases are disposed off in a longer period of time (i.e.) more than three years.

The above mentioned are the various interrelated studies conducted in the area of consumer protection. Based on the knowledge gained through the above mentioned studies, the researcher in her study makes an attempt to analyse the role of voluntary consumer organisations in protecting the consumers. The researcher further examines the awareness and involvement of the members of the voluntary consumer organisations and the non-members.