CHAPTER - II

SPECIAL ENACTMENT FOR CONSUMER PROTECTION IN INDIA
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(1) HISTORICAL BACKGROUND:

The history of Consumer Movement in India is bit different from that of the other countries. This movement began late in India in comparison to other countries. The roots of consumer protection is found in the Constitution of India. The Fundamental Rights and the Directive Principles of State Policy are two major and substantial component of Indian Constitution though the Directive Principles are not justiciable, they are no less important than the Fundamental Rights. The Directive Principles describe as to how and what should be the policies of the State. Various welfare legislations are made in conformity with the Directive Principles. One of the principles among them which is laid down under Art.39 Cl.(c) of the Indian Constitution which says that - "Art.39 : The State shall in particular, direct its policy towards securing :

a) "

b) "

c) "that the operation of the economic system does not
result in the concentration of wealth and means of production to the common detriment."

With a view to implement this policy the Central Government has passed many laws, Consumer Protection Act; 1986 is out of it.

It will become clear from the above description that the consumer movement was raised in other places through individuals, customers, associations, Public organisations, National and International organisations but this movement was initiated in India through, the Government itself. The Voluntary Consumer Organisations of Pune and Ahamadabad is having a lion's share in this movement.

In 1986, a symposium was arranged in New Delhi to have a discussion on the problems of consumers. In this symposium Voluntary Consumer Organisations, Educational Institutions, Social Workers, Eminent educational persons, Representatives of concerned Departments of Central Government and State Governments were also present. After considering all the suggestions made by all these learned persons and after studying the situation of foreign countries in this context a rough blue print of the Consumer Protection Act, 1986 was prepared. The suggestions of the stalwarts of this field were also taken into
consideration. Consequently credit went to Hon'ble Shri H.K.L. Bhagat the then Minister of Food and Civil Supplies presented the Consumer Protect Bill in the Parliament. This bill was introduced in the Loksabha on 9th Dec. 1986 (Rajiv Gandhi was the Prime Minister of the country at that time). Members of the Parliament gave vehement support to the said Bill and passed it unanimously. Thereafter the same Bill was passed in Rajya Sabha too by a thumping majority. The President of India gave his assent on 24th Dec. 1986 and the Bill became an Act from that time. The worth note point is that, the Bill was introduced on 9th Dec. 1986 and the same became an Act by 24th Dec. 1986 i.e. within fifteen days only. This indicates the need and importance of this Act. Such is brief history of this multiqualified legislation.

Consumer had been the Government's center of attention and keeping the interests of the consumers before the eyes this legislation has been drafted. A consumer should get justice without expenditure of time and money is the essence of this Consumer Protection Act, 1986. So the complexities of the procedural laws, technical mode of working and different procedural stages are not found in this Act. The Advocates are not needed and there is no condition of court fees also.
(2) **OBJECT AND REASONS OF THE CONSUMER PROTECTION ACT, 1986.**

The Consumer Protection Act, 1986 adhered in a cheap, speedy and easy remedy for the redressal of grievances of the consumers. It evolved a new machinery for the benefit of the consumers, enabling them to get their grievances redressed without going through the time consuming and expensive ordeals for which some of the other laws provide. The passing of ‘Consumer Protection Act’ by Indian Legislature in the year 1986, therefore, is a landmark in the Indian Legal history.\(^1\) This ‘Act’ is a potent milestone on the path of developing an alternative system of adjudication, where one is not required to pay a fees to earn a justice; where one is not bound to stand in the long queue and which is quite affordable, quick simple and easily available as against the ordinary system that we are having today, where in the plethoric backlog of indisposed matters is the end result, where three crores of cases are pending in all the Courts all over India.\(^2\) It is this quickness, effectiveness, simplicity accessibility and the pricelessness of the system of adjudication under the Act helps the

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2 Rajesh Gupta - Consumer Protection Digest (1986-95)
consumers for their redressals.\textsuperscript{3} The consumer protection Act, is no more a force in sealed files but is fast emerging as the true saviour of the rights of consumer.\textsuperscript{4}

The ‘Act’ was enacted to provide for the protection of the interest of the consumers. The use of the word ‘Protection’ furnishes key to the mind of the makers of the Act. In fact the law on the subject meets long felt necessity of protecting the common man from such wrongs for which remedy under ordinary laws for various reasons has become illusory.\textsuperscript{5} The importance of the Act lies in promotion of Welfare of Society by enabling the consumer to participate in the direct economy. A scrutiny of various definitions such as, “Consumer”, ‘Service’, ‘Trade’ ‘Unfair Trade Practices’ indicate that, legislature has attempted to widen the reach of the Act.\textsuperscript{6} Each of these definitions are in two parts - one providing meaning and the other making explanation. The provisions of the ‘Act’, thus, have to be construed in favour of the consumer to achieve the purpose of the enactment as it is social benefit-oriented legislation.\textsuperscript{7}

\textsuperscript{3} Supra - Preface
\textsuperscript{4} Muzumdar P.K., “Law of Consumer Protection in India” 2nd Ed., 1995 (India)
\textsuperscript{5} Ibid
\textsuperscript{6} Ibid
\textsuperscript{7} Ibid
The preamble to the Act\(^8\) provides that the Act intended for the protection of the interest of the consumers and for that purpose to make provisions for the establishment of Consumer Councils and other authorities for the settlement of consumer disputes and for matters connected there with. The Statement of Objects and Reasons attached to the Bill 1986 (46 of 1986) states that\(^9\):

"The Consumer Protection Bill, 1986, seeks to provide for better protection of the interests of consumers and for that purpose, to make provisions for the establishment of Consumer Councils and other authorities for the settlement of consumer disputes and for matters connected there with."

To provide speedy and simple redressal to consumer dispute, a quasi judicial machinery is sought to be set up at the District, State and Central levels. These quasi-judicial bodies will observe the principle of natural justice and have been empowered to give reliefs of a specific nature and to award, wherever appropriate compensation to consumers. Penalties for non-compliance of the orders given by the quasi-judicial bodies have also been provided.

On reading of the provisions of the ‘Act’ and the ‘Rules’, it is

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\(^8\) The Consumer Protection Act, 1986
\(^9\) Ibid
clear that separate Forums are constituted by the legislature at the District Level, at the State Level and at the National level, the complaints can be lodged before the District Forum and State Commissions. Against the orders of District Forum, appeal lies to the State Commission. Against the orders of the State Commission, an appeal will lie to the National Commission. A further appeal lies to the Supreme Court against the order of the National Commission.\textsuperscript{10}

The Act as a Social-Welfare legislation\textsuperscript{11} enacted to provide for the better protection of the interest of the consumer and different Redressal Forums have been established under this 'Act' for settlement of consumer disputes. The legislature having enacted such a legislation for speedy solution of disputes of the Consumer for the benefit of people at large. The people should allow those forums to function as far as possible without avoidable interdiction by the High Court.\textsuperscript{12}

The Consumer legislation is beneficiary.\textsuperscript{13} piece of legislation and the Legislature in order to help the consumer has not

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\textsuperscript{10} Sections 15, 19, 23 Appeals, Consumer Protection Act - 1986
\textsuperscript{11} Ibid Preface - P.K. Mujumdar
\textsuperscript{12} Ibid
\textsuperscript{13} C.P. Rules, 1987
\end{flushleft}
prescribed any court fee to be affixed on the complaint. But it is expected from the complainant that they should come before the Redressal Agencies with clean hands and that the reliefs claimed by them are not inflated.

The 'Consumer Protection Act' was passed on 24-12-1986 and it is operative from 1-7-1987. By a Writ-Petition, it was brought to the notice of the Supreme Court in 1988 that the implementation of the provision of the Consumer Protection Act was sluggish. Since the machinery for redressing the grievances of the poor consumers at the base level are the District Fora, had not been set up at all in many districts in the country. Therefore Supreme Court took cognizance and issued directions on 17-6-90, to effect that every district should have a District Forum, with a District Judge as it's President. The Sate Governments were directed to take appropriate action for carrying out the purposes of the 'Act'.

(3) **GOAL OF THE CONSUMER PROTECTION ACT, 1986:**

1. The Consumer Protection Act, 1986 seeks to provide for better protection of the interests of consumers and for the purpose, to make provision for the establishment of Consumer

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Councils and other authorities for the settlement of consumer disputes and for matters connected therewith.

2. *It seeks, inter alia, to promote and protect the rights of consumers such as,*

   a) the right to be protected against marketing of goods which are hazardous to life and property;

   b) the right to be informed about the quantity, quality, potency, purity standard and price of goods to protect the consumer against unfair trade practices;

   c) the right to be assured, wherever possible, access to an authority of goods at competitive price;

   d) the right to be heard and to be assured that consumers' interest will receive due consideration at appropriate forums;

   e) the right to seek redressal against unfair trade practices or unscrupulous exploitation of consumers; and

   f) right to consumer education.

3. *These objects are sought to be promoted and protected by the Consumer Protection Council to be established at the Central and State level.*

4. To provide speedy and simple redressal to consumer disputes.
a quasi-judicial machinery is sought to be set up at the District, State and Central levels. These quasi-judicial bodies will observe the principles of natural justice and have been empowered to give reliefs of a specific nature and to award, wherever appropriate compensation to consumer. Penalties for non-compliance of the orders given by the quasi-judicial bodies have also been provided.

(4) **ALTERNATIVE REMEDIES VIS-A-VIS CONSUMER PROTECTION ACT:**

Section 3, of the Act States that it's provisions shall be in addition to and not in derogation of the provisions of any other law for the time being in force. In other words, the provisions of the Consumer Protection Act do not take away, lesson, impair, or detract from the remedies available under other laws, if any, in respect of the grievances for which relief can be claimed under it. It does not, therefore, stand in the way of a consumer resorting to the machinery of any other law for pursuing his complaint and grievances. Likewise, no other law can debar a consumer from invoking the provisions of the Consumer Protection Act.

(5) **Consumer Education:**

One of the most fruitful areas specifically given to the Central
Council is to promote the right to Consumer Education. It should devise programs to consumer education and ensure that these are implemented.\textsuperscript{16}

A success of one is dependent on the co-operation of another person in the society, hence life of one is dependent on other in a society of human beings interaction is must; which gives rise to different cultures like, say, education, trade, commerce, politics and various public movements for the material progress of the society.

In the past, we have studied about bartering of goods, selling and buying of things which are useful to fulfill our daily needs. These commercial transactions have become a part of human civilization. It involves the protection of some of the rights of citizens who are buyers of the goods in the markets. And to protect these rights a social movement is a must. Today such movement is called consumerism which is all, but the consumer - citizens and it means, basically, (a) a choice wherever possible, (b) value for money and (c) accountability on the part of the vendor.

The Indian Consumer has complaints and grievances from morning till night about various products and services. This

\textsuperscript{16} Supra
situation can and should be changed by consumers themselves who are every one of us, by understanding their rights and responsibilities and shaking off their apathy. The biggest of the Indian consumer is his ignorance of rights as a consumer and apathy in fighting for them. There are many laws and institutions in the country designed to protect and promote the interests of the consumer but they are to be used by the consumers. Today, in India, a special law is enacted, which is a socio-economic legislations to protect the rights of the consumers who are being cheated by the trades.

RIGHTS:

1. The right to adequate and correct information on the product or service which is bought.

2. The right to a reasonable price

3. The right to a reasonable quality

4. The right to a hearing

5. The right for a settlement of any dispute with regard to the product or service.

(6) DEFINITION AND MEANING OF THE WORD "CONSUMER"

The word "Consumer" is a comprehensive expression. It
extends from a person who buys any commodity to consume either as eatable or otherwise from a shop, business house, corporation, store, fair price shop to use of private or public services. In Oxford Dictionary a consumer is defined as a, “purchaser of goods or services”. In Black’s Law Dictionary it is explained to mean, “one who consumes”. Individuals who purchase, use, maintain, and dispose of products and services. A member of that broad class of people who are affected by pricing policies, financing practices, quality of goods and services, credit reporting, debt collection and other trade practices for which State and federal consumer protection laws are enacted.

Section 2(1)(d) of the Consumer Protection Act, 1986 defines “Consumer” as follows:

“Consumer” means any person who -

1. buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buy such goods for consideration paid or promised, or partly paid or partly promised, or under the system of deferred payment when such use is made with the approval of such person, but does
not include a person who obtains such goods for resale or for any commercial purpose; or

2. hires or avails of any services for a consideration which has been paid or promised to partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person:

*Explanation* - For the purposes of sub-clause (i) "Commercial purpose" does not include use by a consumer of goods bought and used by him exclusively for the purpose of earning his livelihood, by means of self-employment".

The definition of consumer is in two parts. The first part deals with goods and the other part deals with services. Both parts first declare the meaning of goods and services by use of wide expressions.

Their ambit is further enlarged by use of inclusive clause. For instance, it is not only purchaser of goods or hirer of services but even those who use the goods or who are beneficiaries of
services with approval of the person who purchased the goods or who hired services are included in it. The legislature has taken precaution not only to define "complaint", "consumer" but even to mention in detail what would amount to unfair trade practice by giving an elaborate definition in clause (r) and even to define "defect" and "deficiency" by clause (f) and (g) for which a consumer can approach the Commission. The Act thus aims to protect the economic interest of a consumer as understood in commercial sense as a purchaser of goods and services are that they are supplied at a price to cover the costs and generate profit or income for the seller of goods or provider of services. But the defect in one and deficiency in other may have to be removed and compensated differently. The former is, normally, capable of being replaced and repaired whereas the other may be required to be compensated by award of the just equivalent of the value or damages for loss.  

(A) WHO IS A "CONSUMER" ? ;

1. SYNCO TEXTILES PVT. LTD. V. CREAVES COTTON & CO. LTD. (1991)

In this case, after 4.12.1985, no electricity has been supplied

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18 1991, 1(CPR 615 (619) : 1 ICPJ 499 : 1991 CPC 35 (NC)
to the complainant. The charges were the minimum charges which were to be paid only for maintaining the facility in connection with the supply of electrical energy. Therefore, the Bill dated 21.9.1987 was not for consideration for the sale of “goods”, but consideration for the maintenance of the service line. Therefore, the complainant will be a consumer according to sub-clause (ii) of clause (d) of Section 2(1) of the Act.

2. TUTICORIN PLASTICS PVT LTD. V. EBENEZER\textsuperscript{19}

In this case, where machinery was purchased for commercial purpose, and found defective and there was breach of warranty, purchaser was consumer on ground of deficiency in service.

3. VIJAY NARAYAN AGRAWAL V CHOWGULE INDUSTRIES LTD.\textsuperscript{20}

In this case the complainant was running a type institute when he placed an order for Cannon Photo Copier. It cannot be said that the said photo copier would have enabled him to generate large profits. Therefore, the petitioner had not purchased the proprietor Cannon N.P. 150 for a “commercial purpose”. In other words, he must have to be \textit{held} a “consumer” as defined in clause (d) of Section 2(1) of the Act.

\textsuperscript{19} 1992 I CPR 338 (TN)  
\textsuperscript{20} 1993 II CPJ 231 (233) : 1993 CCJ 904 (NC)
4. **DR. SR. LOUIE & ANR V. KANNOLIL PATHUMMA & ANR.**

In this case, the National Commission has *held* the legal representative have a locus standi to file a complaint under the Act. If on account of deficiency in the rendering of service, the death of a consumer occurs, then his/her heirs who are entitled to the estate of the deceased can file the complaint under section 2(1)(b) & (d) of the Act.

5. **U.P. AVAS EVAM VIKAS PARISHAD (HOUSING & DEVELOPMENT BOARD) V. GARIMA SHUKLA & ORS.**

In this case it has been *held* by National Commission that Housing and Development Board is engaged in serving the public in the matter of providing housing by acquisition of land, development of sites, construction of houses thereon and allotment of plots/houses to the public. The Board is clearly engaged in rendering service for consideration to the public and therefore, those who are allotted plots / houses from the Board are clearly consumers falling within the definition in Section 2(1)(d)(ii) of the Act.

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21 I (1993) CPJ 30 (NC)
22 I (1991) CPJ 1 (NC)
WHO IS NOT A "CONSUMER"?

1. **BYFORD V. S.S. SRIVASTAVA.**

   In this case where a purchaser of a car entered into a contest by booking a Premier Padmini car in which the purchaser would be entitled to two Free Air Tickets, on being successful in the contest. The complainant was successful in the contest but the opposite party refused to provide air ticket. The complainant’s claim for recovery of amount of air tickets was not maintainable on the ground that such a person was not a consumer within the definition under Section 2(1)(d) of the Act so far as the benefit of the contest was concerned.

2. **M/S. LOHIA STARLINGER LTD. V. ZENITH COMPUTER LTD.**

   In this case the complainant was regarding the supply of a faulty, imperfect equipment having shortcomings in quality, potency, standard which is required to be maintained for a computer system by the opposite party. The National Commission held that on the facts of the case, it is clear that the computer system was purchased by the complainant for a commercial purpose, viz. for being installed and used by the complainant company and so the complaint was not maintainable before the

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23 1993 (II) CPR 83 (NC)
commission in as much as the complainant was not a consumer as
defined in the Consumer Protection Act. The commission observed,
"... the cost of the computer system formed Part of the assets in the
balance sheet of the Complainant company, the cost of
maintenance and operation and depreciation of the computer
system were charged to the Profit and Loss Account of complainant
company and that the expenses on account of depreciation,
operation and maintenance from part of the overhead costs of the
product manufactured and sold by the complainant company. This
leaves no room for doubt whatsoever that the computer system was
and is being used for commercial purpose and had been acquired
as such".

3. DEVANAND GEHLOT V. RAJASTHAN PATRIKA & ORS.\textsuperscript{25}

In this case the National Commission has \textit{held} that the
purchaser of a newspaper cannot be said to have hired the service
of newspaper. Hence in respect of the service rendered by a
newspaper, the purchaser of reader of a newspaper is not a
consumer. It further \textit{held} that alleged wrong news about the
purchaser of the newspaper did not constitute defect in goods
supplied and there was no deficiency in service as defined in the

\textsuperscript{25} I (1991) CPJ 599 (NC)
Act nor did the consumer (Purchaser of newspaper) hired the services rendered by a newspaper (news & views).

4. RAM NARAYAN PARAMESHWARIER & ANT. V. LARSEN & TOUBRO LTD. & ORS.\textsuperscript{26}

In this case shares or debentures are purchased for resale the transaction would be a transaction for commercial purpose and such purchaser would not be a consumer under section 2(1)(d)(i) of the Act.

5. J. VITTAL SHENOY V. K. SHARDHA BAI\textsuperscript{27}

In this case the Karnataka State Commission held, "the tenant is paying rent for the building and not for the services of the land-lady. Hence it cannot be said that the tenant has hired the services of the land-lady for consideration. Therefore, the view taken by the District forum that the complainant will not be a consumer within the meaning of Section 2(1)(d) of the Consumer Protection Act, 1986, is proper and we see no reason to interfere with the same."

(7) **ADMINISTRATIVE PROTECTION TO CONSUMERS:**

The Indian Standard Institution has been rendering noticeable service to ensure protection of the consumers' interest

\textsuperscript{26} [1 (1993) CPJ 3 (NC)]
\textsuperscript{27} [1 (1993) CPJ 454 (KARNATAKA; SC)]
ever since its establishment, under Indian Standard Institution (Certificate Marks) Act, 1952. The I.,S.I. has formulated a large number of standard for foodstuffs, textile, electrical appliances, detergents, utensils, cosmetics, drugs, paints etc., to facilitate efficient marketing as well as assurance to consumers as a quality or performance. It has a system of issuing product certification marks to producers who are properly equipped to undertake specific testing operations for regulating the quality of their product.

There are other Agencies, established in 1937 by the Director of Marketing and Inspection of the Ministry of Food and Agriculture under the Agricultural Produce, Grading, Marketing Act, 1937 for grading, marking of agricultural products like fruits, vegetables, spices, vegetable oil, which has the system of product certification such as the AGMARK. These agencies indeed are rendering valuable services to the consumers, by taking care to the quality of the products.

(8) **SCOPE / CONCEPT / DIMENSIONS OF SERVICE:**

For the last two years concerted efforts are being made for effective implementation of the Consumer Protection Act, 1986 in many parts of our country. With a keen desire to give maximum
relief to consumers, the Consumer Protection Act and particularly the term 'Service', as defined in Sections 2(1)(o), is being interpreted more broadly and, thereby, giving wider scope to the consumers for seeking reliefs by approaching Consumer Disputes Redressal Agencies, viz., the District Forum, the State Commission and the National Commission, as mentioned in Chapter III of the Consumer Protection Act. It is needless to point out that the Consumer Protection Act is for the benefit of the consumers and one finds the definition of 'Consumer' in Sec. 2(1)(d)(i) and (ii) of the Act. Provisions appearing in Sec. 2(1)(d)(i) are relating to 'goods; while those in Section 2(1)(d)(ii) refer to 'Services'. This chapter restricts its scope by merely referring to the latter half of the definition of 'Consumer' as stated under Sec. 2(1)(d)(ii) of the Consumer Protection Act and obviously with reference to the definition of 'Service' as per Sec. 2(1)(o) of the Act. The more one wants to be liberal while interpreting the definition of 'Service', larger is the scope of the operation of the Consumer Protection Act. The moot question is as to what extent the interpretation of the definition could be made wider. The more one makes it wide, more civil disputes would start pouring in because as per Section 3 of the Consumer Protection Act the provisions of the Act are in addition to
and not in derogation of the provisions of any other law for the time being in force.

The definition of 'Service' is undoubtedly an illustrative one and not exhaustive or restrictive. Naturally, one is tempted to bring various items or subjects within the definition and, thereby, making the scope of the Act wider and wider. Should the scope of the Act be made wide to such an extent as if 'only the sky is the limit'? One has to keep in mind that Consumer Protection Act is no substitute for civil courts but it is just supplementary. In case, floodgates of civil litigation are channelised through the Consumer Protection Act, the very purpose of the Act of getting speedy relief to the consumer would be frustrated. There appears a potential danger of the Consumer Protection Act becoming nugatory for practical purposes, if 'Services' are interpreted too broadly without keeping in view the main objects of the Act.

The term 'Service' is defined as follows:

'Service' means service of any description which is made available to potential users and includes the provision of facilities in connection with banking, boarding or lodging or both, entertainment, amusement or purveying of news or other information, but does not include the rendering of any service free
of charge or under a contract of personal service.\textsuperscript{28}

In this regard one finds that the scope of the term 'Service' has been very much widened in view of the pronouncements made from time to time by the National Commission. Initially, directions given by the National Commission in the case of the \textit{U.P. Housing Development Board v. Garima Shukla},\textsuperscript{29} relating to the handing over of certain plot were followed in the subsequent cases of \textit{The U.P. Avas Evam Vikas Parishad v. Some other}\textsuperscript{30} parties. A large number of points in dispute were agitated at the hearing about the types of services which the Board (appellant) was rendering to the public, as well as the question of jurisdiction, as the Board was a statutory body, formed under the Civil Supplies Ministry. The National Commission turned down all these preliminary objections raised by the appellant and for which there could not be any objections to raise. However, while interpreting and giving a wider scope to the term 'Service', the National Commission has equated the service with the immovable property itself. The Board has given undertaking to the public that plots would be allotted, of course, on payment of consideration. However, it would mean transfer of

\textsuperscript{28} Section 2(1)(o) of the Consumer Protection Act, 1986
\textsuperscript{29} F.A.S. /1989 decided on 27-8-1989
\textsuperscript{30} 1991 C.P.R. 351
immovable property to the applicant. The question, therefore, creeps in as to how any direction could be given for handing over the property itself. It is felt that (a) 'service' and (b) the 'property' for which certain services are to be rendered are to be treated separately.

The issue of giving direction to hand over property because it forms part of 'service' can be looked into from a different angle. The basic question arises is as to whether any Consumer Disputes Redressal Agency as mentioned in Chapter III of the Consumer Protection Act can issue any direction or mandate. In my humble view the Consumer Dispute Redressal Agency (C.D.R.A.) has no such jurisdiction to give any direction except to pass order to pay any amount of compensation as envisaged in Sec. 14(1)(d) of the Act. Section 14 of the Consumer Protection Act enumerates the orders which could be passed after the proceedings are conducted under Section 13 of the Act. The relevant provisions of the Section 14(1) are as under:

It shall issue an order to opposite party directing him to take one or more of the following things, namely:

a) to remove defect pointed out by the appropriate laboratory from the goods in question;
b) to replace the goods with new goods of similar description which shall be free from any defect;

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

d) to pay such amount as may be awarded by it as compensation to the consumer for any loss or injury suffered by the consumer due to the negligence of the opposite party (emphasis added).

After reading these provisions, it is apparent that ‘Consumers’ falling within the definition of Section 2(1)(d)(i) are entitled to the reliefs from (a) to (c) and ‘Consumers’ as defined in Section 2(1)(d)(ii) are entitled to claim only the amount of compensation due to the negligence of giving service, i.e., deficiency in service. Naturally, the consumers are not entitled to any other relief other than that mentioned in clause (d) referred above and that too, if negligence of the opposite party is proved.

It is, therefore, felt that when there is no provision for giving any other direction to the opposite party, order of directing any plot of land or any other direction which does not fall within clauses (a) to (d) of Section 14(1) of the Consumer Protection Act, it is submitted that, it will be without jurisdiction under the Consumer Protection Act. Hence, the orders passed and the judgments
delivered by the National Commission in the U.P. Housing Board or in the U.P. Avas Evam Vikas Parishad are, with respect it is stated, necessary to be considered afresh. There is also another judgment of the National Commission which has taken a view restricting the jurisdiction of the Consumer Protection Act in view of clauses (a) to (d) of Section 14(1) of the Act. This judgment was delivered in the case - Rajasthan State Industrial Development and Investment Corporation Limited v. M/s. Premier Paints. It has been held that the reliefs which Consumer Disputed Redressal Forum can grant to any complainant are only those specified in Section 14 of the Consumer Protection Act. It is also to Agencies as specified in Chapter III of the Consumer Protection Act. Although the title of Section 14 is “Finding of the District Forum”, yet the provisions of Section 14 do apply to all Consumer Disputes Redressal Agencies as specified in chapter III of the Consumer Protection Act. It is also to be noted that Section 14 falls within Chapter III of the Act. Even the State Commission as well as the National Commission have been invested with powers of revision as per Section 17(6) and Section 21(6) respectively. However, these revisional powers are limited only to the extent to and are to be in consonance with

31 Supra
32 1991 C.P.R. 614 & 615.
powers of granting reliefs under Section 14 in Chapter III of the Act. Even the National Commission has accepted and endorsed this view in Rajasthan State Industrial Development & Investment Corporation Case. The expression that is used in that case is Consumer Disputes Redressal Forum and not merely 'District Forum'.

(9) **Protection against Unfair Trade Practices:**

In the Monopolies and Restrictive Trade Practices Act, 1969 and Consumer Protection Act, 1986, there are provisions relating to unfair trade practices. Clause (b) and (c) of Section 6 of the Consumer Protection Act, 1986 explained the duty of Consumer Councils to protect the rights of the Consumer against Unfair Trade Practices.

(10) **REDRESSAL**

To sum up, the jurisdiction of the Consumer Disputes Redressal Agencies while giving reliefs to the consumer should not be extended too widely only because the definition of 'service' is merely illustrative and not exhaustive. The Consumer Dispute Redressal Agency (C.D.R.A.) cannot, and should not act as civil court for all purposes. It is significant that certain powers which are vested in civil courts have been given to the District Forums as
mentioned in Section 13(4)(i) and (vi). Clause (vi) refers to such powers as may be prescribed. If additional powers are not prescribed by the concerned authorities, the powers given to the District Forums will be limited and only the powers mentioned in clauses (i) to (v) in Section 13(4) of the Act would remain. Even otherwise, who are said to be victims of the traders and manufacturers, would be frustrated, if it is taken for granted that only 'sky is the limit' while extending the dimensions of the term 'service'.

Coming now to Consumer Protection Act, 1986 (hereinafter the Act) which is a step forward on protection to the consumers interest provide for better protection of the interests of consumers and for that purpose make provision for the establishment of Consumers Council and other authorities for the settlement of consumers' dispute. The Act has many relieving features. The Act applies to all goods and services (The Consumer Protection Act, 1986, Section 1(4) and covers public, private and co-operative sectors. In fact under this Act immediate remedy is available to the consumer against the goods supplied or serviced by the Government. Sections 6 and 8 of the Act imposes on the Central and State Councils the statutory duties to protect and promote the

(11) Limitation

Consumer Protection Act did not contain any provision regarding limitation earlier. However, the National Commission held early that the law relating to limitation would be applicable in various orders passed by it from time to time. The Consumer Protection (Amendment) Ordinance has however, brought sweeping change in the law by providing that a Consumer Dispute Redressal Agency shall not admit a claim unless it is filed within 2 years from the date on which the cause of action arose.

(12) ANALYSIS:

Inspite of the plethora of measures, legislative and administrative, consumer protection still remains a myth. The consumer is exploited quite often. He is helpless and an easy prey in the hands of the commercial and industrial leviathans wielding economic and political power. In a society like ours, with the bulk of people illiterate and still suffering from object poverty, the battle for consumer protection has to be fought on different fronts, hence. I would suggest the following measures:-
(i) If the consumers are not aware of their rights and remedies, the effectiveness of the Consumer Protection Legislation would be diminished. So mass education of the consumer is very much necessary to make them conscious of their rights.

(ii) In the application of the laws and to organise the consumer education vigorously, voluntary organisations has a major part to play. To take up the cause of the consumerism most effectively, Government should provide all assistance, required by such voluntary consumer associations.

(iii) Legal literacy must be propagated by the newspapers and other stronger media like Television, and Radio regularly and also by publishing books and monographs on consumer rights. These agencies should take up the task of enlightening and educating the consumers.

(iv) One grave omission of the Consumer Protection Act is that there is no specific mention, at all the number of the non-official representation in the State Consumer Protection Council, unless larger public participation and co-operation of enlightened citizens is encouraged, the State Council will never yield effective results. Therefore, the Act should be suitably amended to provide for non-official representation, including voluntary
consumer associations at the State level.

(v) The Industrial Law in India permits collective bargaining.

In the Indian context, it will be collective in the true sense when all the parties in the matter, namely capital, labor and consumer take part in the decision making process. In other words consumers must be given a due place in the socio-economic setup of the country.

On the review of the Consumer movement in India, we find that though there is a lesser response from the side of consumers, one cannot ignore the role of these factors which are gradually influencing the consumer movement. Earlier, the consumer used to arrange for the consumable goods required by him through barter or exchange. With the development of society the market became flooded with numerous items, increasing the demands of the individuals and the barter system became ineffective. This was replaced by another practice, i.e., sale and purchase. Now a days the goods range in a number of categories and in various forms. Technology development and a demand of higher standards of life have increased the number of consumer needs and consumer transactions.

In the past there was adequate information available to the
consumer. He was able and competent to make his buying decisions because his needs were simple as were the goods. The assistance required by him was provided for by the reputed businessmen or by his friends. Today’s market is entirely of a different nature. Products demanded and required by the consumers have grown enormously in quantity, quality and complexity. This places a demand upon the information system, to provide information of the products which are complex and require evaluation in many more dimensions.

The buyer, who is at the other end as compared to the professional seller, usually does not have the time, interest, capacity and competence to make prudent decision in the absence of authentic information. He is left with no other alternative but to rely either upon his personal experience or of his friends’ or upon commercial or independent information services. The substantive source of information upon which the consumers have to rely come from commercial sources. These sources primarily fulfill the commercial end and secondarily that of the consumer. More than 50% of the consumers do not know that most of advertising today tries to deceive people rather than inform them. Thus the consumers hold the view, “that the Government should provide
product information because producers and distributors do not give all the essential information"\textsuperscript{33}. In the busy schedule, because of the new life styles and competing activities the consumer has very little time to spare for shopping.

\textit{Thorelli} has rightly observed, "the proliferation, change and complexity in products and variants has created a veritable explosion in the amount of total information needed to keep on top of the market....as if this information explosion were not enough of a problem, we have three major exacerbating factors to reckon with.

First: personalised information sources -- whether in the form of knowledgeable sources or of prior personal experience of the buyer himself-- are steadily losing significance which such new sources at Television advertising really fell short of meeting the same need. Second: The price. We subconsciously place on our time in rising at a fast clip meaning that the costs of the information gathering search, as decision, theorists would say is getting higher every day. Third: Our aspiration levels with regard to information, paradoxically are also rising. All these factors have conspired to create a social and economic problem complex which we may aptly

\textsuperscript{33} (see current opinion, 1 (february 1973) p 8-9 quoted in aakar and dey : a guide to consumerism - search for consumer interest at p. xxii).
call the 'Consumer Information Gap'.  

Media plays a vital role in providing information to the consumers thereby reducing the information gap. The impact of altering patterns of communication which include advertisements through mass media i.e., by Radio, Newspaper and Cinema have worked in increasing the gap. There is a growing demand for the supply of consumer information in the present area. But the media which furnishes the information is easily manipulated by the marketing experts and business stalwarts. This results in consumer exploitation which is extenuated by the increasing impersonalisation of communication structures, through the development of new technologies. In such a set-up, the consumer lands in utter confusion. Even in the information given by the media which is own by the State, there is no guarantee of the product which is advertised through its agencies. The Government should ensure that misleading advertisement of the goods hazardous to health, are not allowed to influence the public through State owned media. There are certain laws in our country which empower the consumer to lodge complaint against advertisements giving misleading informations (certain provisions

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34 Consumer Information System of Future at pp XXII (Distinguished Lecture in Marketing in New York 1972)

Since the problems are manifold and arise daily it is quite impossible to think of an Indian consumer moving to the court for the redressal of his problem. Otherwise he will be left but with no other work except with fighting for his rights as consumer. The result is that the consumer is busy searching for a solution to his problem outside the Court of Law. This has also given rise to the demand for better protection to the consumers all around.

In our country there is a dearth of laws to contain the price hike. Barring certain essential commodities and drugs, no law is there to regulate the fixation of prices of the consumable goods. Further lack of the consumer’s viewpoint at various policy decisions, indirectly go to raise inflation. Consumer movement primarily demands a check on price rise in the present atmosphere.

When the consumers above the poverty line raise hue and cry for their protection then the plight of those below the poverty line can be well imagined. India has its major population below poverty line. They suffer the most from fraud, excessive prices, exorbitant credit charges, poor quality of merchandise and service. They lack education and consumer education in particular and are unable to
improve their purchase decisions. Consumer education for our country is a must for -

a. Creation of critical awareness
b. Active consumer involvement
c. Imbibing social responsibility
d. Realising ecological responsibility
e. Solidarity of consumers.

Perhaps the exploitation of the demand was the cause of poverty by those who happened to be in a position to supply. Increasing industrialisation multiplied the scope of exploitation. The producers or merchants of a particular commodity, each huge profits, impowerishing consumers, if the demand of the commodity, they are producing or selling is kept high.  

In all such cases the person who is the worst sufferer is the poor consumer. The consumers of our country demand measures for reducing their poverty and also for the supply of the goods required by them at a lower price.

The measures such as a statute on weights and measures and a department to enforce it singularly failed to curb the evil of short weighing. The creation of the Indian Standard Institution recently re-named as Bureau of Indian Standards, made a feeble

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attempt in ensuring the quality of a few select items of consumer goods. The marketing division of the Union Ministry of Food and Agriculture ensured the quality of a few food items covered by the scheme of 'Agmark'. A separate statute to prevent and control the evil of adulteration of goods remains largely unadministered. Today the consumer is in need of adequate protection against not only a private manufacturer or supplier of goods and services but also against undertaking run under the auspices of a department of the State or by a Corporation owned and controlled by the State.

The growth of the law on the protection of consumers has been haphazard and piecemeal. The provisions scattered over a number of unrelated statutes did not ensure adequate protection of a consumer in a particular situation. The organisation of the consumer movement remained confined to the elite section of society and failed to mobilise the masses who were the real victims of the system. Most of those engaged in the movement did so for fun or as a measure of timepass or to earn popularity by doing some social work in their leisure time.

It was therefore, necessary that a forum be created where a consumer not satisfied with the quality of goods supplied or services rendered may ventilate his grievance and a machine
devised to afford him adequate protection. The new law in the form of the Consumer Protection Act, 1986 was enacted with this end in view.

The Consumer Protection Act can be described as a magnificent project heralding the dawn of a new era and revolutionizing the entire field of consumer protection, education and guidance. Its greatest attraction is its convenient channel of justice through District Forum and its simple, unfettered, non-cumbersome procedure which sets the law in motion with a mere complaint on a plain paper. The Act has emphasized on speedier justice by allowing only one adjournment during the entire proceedings.