ROLE OF VOLUNTARY CONSUMER ORGANIZATIONS, CONSUMER REDRESSAL AGENCIES AND LEGAL PRACTITIONERS IN THE CONTEXT OF CONSUMER PROTECTION ACT.
CHAPTER-IV

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4.1 Introduction
4.2 Voluntary Consumer Organisations
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4.1 INTRODUCTION

In this chapter an attempt is made to study the role of Voluntary Consumer Organizations, Consumer Redressal Agencies and Legal Practitioners in the Context of Consumer Protection Act. This study is exploratory in nature and therefore discussions were held with the members of VCO's, Presidents and members of the consumer redressal agencies and legal practitioners. Not separate set of questionnaire is administered. Observations of the researcher are also recorded.

4.2 VOLUNTARY CONSUMER ORGANISATIONS:

The consumers need to be educated and informed to defend their rights. The most effective method of safeguarding the interest of consumer is actual involvement of consumers themselves and the active participation of VCO's. The government regulation is not effective enough to protect the interest of consumers. There are over 600 VCO's spread over in 5 states of India covered under present study that can play a significant role in this matter. The Researcher contacted members of Voluntary Consumer Organizations that came with several suggestions that are as follows:

1. Consumer Forums should encourage the complainants to approach them without assistance of lawyers to prevent judicialisation of the whole process.

2. The government should provide sufficient financial assistance for their basic infrastructure facilities.

3. VCO's need co-operation from all sections of the society i.e., public, consumers, government, supporting and funding agencies.

4. VCO's need dedicated voluntary activists. They want active and committed people with them who are willing to work on different problems relating to consumer protection. They are in dire need of experts in their organization to ensure more exposure to knowledge and data base.
5. Consumer should be educated about their rights through media, campaigns, seminars, workshops, exhibitions and publications.

6. Top priority should be given to consumer education through schools and colleges.

7. VCO's should be given due representation in various policy making bodies- both government and non governmental bodies.

8. The Parent Act does not provide for the enforcement of right to consumer education which is paramount for the proper enforcement of the Act in today's time.

9. Public support, knowledge about CPA & Willingness of people to attain their right is very weak.

10. Consumer thinks that after the complaint is lodged with VCO, all the responsibility, regarding the case is on and of the VCO.

11. Major publicity work is needed for creating awareness among consumers as to "what they can do?"

12. Government offices have biased /prejudiced mind and non- co-operative attitude towards VCO's.

13. The Consumer forums should be empowered either to ban or confiscate goods hazardous to life and property.

14. The Consumer forum should be conferred the power to stop the manufacturer/ dealer from manufacturing or selling defective goods while the complaint is pending with them or to issue ' cease and desist ' order.

15. By the recent Amendment Act of Feb. 2005 provision has been made to accompany fee for every complaint filed in District Forum/ State Commission /National Commission depending on the total value of goods or services and the compensation claimed. This amendment is made so as to reduce the number of cases coining to redressal agencies.
With the enactment of this provision, consumer forums are out of the reach of the ordinary people for whose benefit this statute was enacted.

16. The recent Amendment has also given a set back to the consumer movement because of inclusion of provisions for imposing fee for filing complaints as shown in the table 4.1.

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Total value of goods or services and the compensation claimed</th>
<th>Amount of fee payable</th>
</tr>
</thead>
<tbody>
<tr>
<td>District Forum</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Upto one lakh Rupees - for complainants who are under the Below Poverty Line holding Antyodaya Anna Yojana cards.</td>
<td>Nil</td>
</tr>
<tr>
<td>2</td>
<td>Upto one Lakh Rupees- for complainants other than Antyodaya Anna Yojana card holders</td>
<td>Rs. 100</td>
</tr>
<tr>
<td>3</td>
<td>Above one Lakh and upto five lakh Rupees</td>
<td>Rs. 200</td>
</tr>
<tr>
<td>4</td>
<td>Above five Lakh and upto ten lakh Rupees</td>
<td>Rs. 400</td>
</tr>
<tr>
<td>5</td>
<td>Above ten Lakh and upto twenty lakh Rupees</td>
<td>Rs. 500</td>
</tr>
<tr>
<td>State Commission</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Above twenty lakh and upto fifty lakh Rupees</td>
<td>Rs. 2000</td>
</tr>
<tr>
<td>7</td>
<td>Above fifty lakh and upto one crore Rupees</td>
<td>Rs. 4000</td>
</tr>
<tr>
<td>National Commission</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Above One Crore Rupees</td>
<td>Rs. 5000</td>
</tr>
</tbody>
</table>

And, therefore, it is suggested that, the requirement of imposing fee must be amended so as to bring the statute within the reach of the consumers by further modifying slabs at Sr.No. 2 above, as suggested in Table 4.2.
Table 4.2
Modification suggested in the fee for filling complaints

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Total value of goods or services and the compensation claimed</th>
<th>Amount of fee payable</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>District Forum</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Upto Rs.25,000</td>
<td>Rs.25</td>
</tr>
<tr>
<td>2</td>
<td>Rs 25,000 to Rs 50,000</td>
<td>Rs.50</td>
</tr>
<tr>
<td>3</td>
<td>Rs.50,000 to Rs. 75,000</td>
<td>Rs.75</td>
</tr>
<tr>
<td>4</td>
<td>Rs.75,000 to Rs.1,00,000</td>
<td>Rs.100</td>
</tr>
</tbody>
</table>

4.3 CONSUMER REDRESSAL AGENCIES:

It is reported that, at present 574 District Forums and 34 State Commissions have been set up in the country. Out of 19,44,692 cases which have been filed since inception before the various District Forums, 17,09,563 cases have been disposed of. Similarly before the State Commissions 3,19,152 cases have been filed and 2,09,817 were disposed of. The National Commission hail a total number of 34,512 cases since it was set up and 26,370 have been disposed of. On this count, the disposal rate comes to more than 83 percent\(^1\).

The Consumer Forums are giving quick disposal of consumer grievances. In this regard the Consumer Disputes Redressal Forums do have something important to say in the matter of improving the effectiveness of Consumer Protection Act.

The Researcher paid a number of visits to CDRAs situated at different places in various states and the researcher had an opportunity to attend the "Orientation Training Programme for Presidents and Members of consumer forums of southern states in India" during the period of her study and had several discussions with honorable members of the forums which revealed that the administrative reforms and amendment to the CPA 1986 are very much
needed to make Consumer Redressal Agencies more effective in practice. It may be stated as follows.

1. The nomenclature of the Redressal Machinery does not give the impression that it is a judicial body. People do not understand the term "Forum" whereas they are very much familiar with the word "court"

2. The presidents of the District forums, who had been the District and sessions judges once upon a time, have been seen writing pages after pages of judgements in long hands. Files get piled up as steno typists provided to them, courtesy the state governments, are either rarely available or their stenographic skills are pathetically poor.

3. The full time members of the District forums are paid an honorarium of Rs. 2000 -Rs.4000 per month. The salaries of the functionaries of the consumer forums, should be revised befitting the dignity of their office.

4. The members feel that, there is lack of willingness on the part of most of the states to seriously implement the C.P.A. The state Governments are not showing any interest worth the name in the functioning of the consumer forums rather have found them an additional burden. It is the indifference which renders a well -- meaning legislation intended to protect a large body of consumers from exploitation ineffective.

5. Justice M.B.Shah, Ex. President of N.C.D.R.C., while addressing the conference of the presidents of State Commissions and Secretaries of the Consumer Affairs Departments of various states and union territories on 17th August 2004 suggested that for making District Forum functional the pattern of District Courts should be adopted and for state commission the pattern of High Courts should be followed.

6. The root cause of all the problems in the system under which the State Commission and the District Forums have been made dependent for all the requirements on the State Government. They should be free from financial control of the Government and make them autonomus.
7. The Government should provide sufficient infrastructure facilities to implement the objectives of the Act eg. trained staff, stenographers, library and accommodation.

8. Structural changes should be brought so has to bring the District Forum and State Commission work under the of the National Commission.

9. The District Forum. State Commission or National Commission should be invested with the powers of Judicial Magistrate of first class as enumerated in the code of Criminal procedure in dealing with the cases.

10. The District Forum performs judicial work and the President of the District Forum is either District Judge or Retired District Judge The two members of the Forum are appointed through the selection committee consisting of-

- President of State Commission - Chairman
- Secretary, Law Department of the State - Member
- Secretary, Incharge of the Department - Member

dealing with Consumer Affairs in the State

11. Non-Judicial members should be screened properly and there should be no political interference. The enquiry against the President and Members of District Forum should be conducted by the State Commission and not by any other officer appointed by the Government. Likewise the enquiry against the State Commission should be got conducted by the National Commission and the enquiry against Commission should be got conducted by Honorable Supreme Court so that there is no adverse effect on the quasi-Judicial functioning of District Forum. State Commission and National Commission

12. There is an absolute necessity to widen the scope of Sec. 14 of CPA for granting interim relief or interim injunction. There should be provision for specific performance of the contract. The forum should be invested with discretionary powers in the interest of consumers

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13. The President of District Forum is District Judge with sufficient experience. A Civil Judge (Senior Division) who is in lower rank in judicial service has got unlimited pecuniary jurisdiction to try the cases and this being so there is no justification in putting restriction in respect of pecuniary jurisdiction of the District Forum. The District Forum should have Original unlimited pecuniary jurisdiction and against the orders of the District Forum, an appeal should be provided to the State Commission and Second Appeal against the orders passed by the State Commission to the National Commission.

4.4 LEGAL PRACTITIONERS:

The case which has been built up so far around the Consumer Protection is solely due to the contribution made by the institution of legal practitioners whose opinions are of paramount importance. The researcher on many occasions held talks with the members of the Bar which indicated some vital aspects in the Act that require urgent attention.

1. The Act is not comprehensive as it does not deal in detail with rights, duties and liabilities of manufacturer vis-a-vis consumer. It is a law that deals predominantly with the procedures to be followed in the redressal of consumer grievances.

2. The Act does not specifically deal with three main issues - product liability, unsafe goods and price indications that mislead. Further there is no provision for protection against overcharging and on adequate labeling of products.

3. The Act lacks the power to issue interim orders as provided by M.R.T.P. Act 1969.

4. The Presiding Officer should shun technicalities of law while dealing with grievances of a consumer and should adopt broad outlook with emphasis on the principles of natural justice.
5. Amendment to section 3 of the Act is necessary to reduce the work of Consumer Forums and achieve faster disposal of the cases. The provisions of the CPA is not to be applied where corresponding remedy of judicial nature is available to a person under a special law. At present the Act provides an alternative relief in addition to the remedies available under other laws of the country.

6. Section 24 of the Act deals with Finality of the Orders which states that every order of the District Forum, the State Commission shall be final, if no appeal has been preferred against such order. The section should make it clear the grounds on which appeal could be filed against the order and this aspect is silent.

7. The CDRF has not been provided with any machinery for execution of the decree which has to be sent to the Civil Court for execution. The present procedure causes inordinate delay in execution of orders and great hardship to the consumer. Legislature may consider the desirability of providing separate machinery for the implementation of its order.

8. The post of process serves should be created in all District Forums for ensuring quick service of notices to the parties concerned.

9. The copies of the judgements pronounced by consumer forums, should be made available at reasonable rates to anyone who makes a request to that effect.

10. The provision regarding false/vexatious/ frivolous complaints is not properly enforced. Heavy penalties must be imposed to deter the filing of such complaints. The present provision of requiring the complainant to pay cost, not exceeding Rs. 10,0007-, is rather too lenient.

11. There is alarming pendency of consumer cases in the consumer forum due to inefficiency of the consumer forums at different levels.
12. The president of the National Commission, State Commission and District Forum should be vested with the power to punish for contempt. Suitable provisions should be made in the Act.

References: