ABSTRACT

This is the study of consumer protection in the state of J & K. First of all it is pertinent to mention here that state of J & K has passed for constitutional reasons its own Act titled Consumer Protection Act, 1987 but major deviations from the consumer protection Act, 1986 has made it a handicapped legislation. With this in mind researcher has conducted the whole study on protection of consumers in the state of J & K in the light of Consumer Protection Act, 1987 and wherever it is possible amendments in the Consumer Protection Act, 1987 have been suggested.

The state of J & K is industrially weak. Highly sophisticated and technological goods and services are yet to emerge. Maximum goods are imported outside the state of J & K and without any check and control these defective goods are passing into the hands of consumers. What is true about defective goods same is true about deficient services. Various services are claiming immunity from the Consumer Protection Act, 1987. But why consumers are accepting these defective goods and deficient services without thinking about their purity, durability and evil results, is the question which is answered by the researcher. After having a long study of consumer bahaviour in the state, we found that people of this state
are illiterate and backward and they prefer foreign goods without checking contents, prices etc. of goods. They accept deficient services in the utter darkness of ignorance and without knowing how and where to file complaints in the state of J & K are more rampant. So various problems which are mainly responsible for consumer exploitation in the state are identified and in order to get rid of consumer exploitation, some suggestions have been made in this work. While having a constant look on these consumer related problems and in order to have a better view of this beneficial legislation, Consumer Protection Act, 1987 we have found it proper to have a historical background of consumer law in some western countries, the law of our own country and lastly other laws in the state of J&K. For this object consumer law available in scattered form got scrutinized. Here the state of J & K has a number of legislations say for example Ranbir Penal Code, The contract Act, Sale of Goods Act, The Drug Control Act and Drugs and Cosmetics Act, (Development and Regulation) Act, The Prevention of Food Adulteration Act etc. (some central legislations extend to the state of J & K by implication) but these legislations control sale and supply of goods and drugs but did not provide for compensation to the consumers. Consumers have even no knowledge as to how and where to lodge complaints. There is no provision in these
Acts (providing penal remedy) which entitles the consumer to get any sort of compensation. In order to provide compensation to the consumers state legislature has wisely passed state Consumer Protection Act, 1987 on the model of Consumer Protection Act, 1986 which provides remedy by way of compensation directly to the consumer. In the state of J & K there are Divisional Forums at the lowest level in each division of J & K instead of District Forums as established in the rest of the country under consumer protection Act, 1986. It is found by the researcher after making an indelph study of decided cases of two Divisional Forums, state Commission and High Court (J & K) that these forums have passed balanced judgments in favour of consumer consistently with the true spirit of Consumer Protection Act. Though the study is limited to the state of J&K that is to ascertain protection of consumers in the state of J & k only but some landmark judgments of Supreme Court and National Commission are followed in substance by consumer forums of the state of J & K so a chapter incorporating these judgments has been added just to ascertain the desired impact of these judgments on the consumer forums of the state of J & K.

In the light of the above discussion the study is an attempt to measure and asses the level of consumer protection in the state of J & K.
The specific objectives around which the present study was built are enumerated as follows.

**OBJECTIVES**

To identify the problems/factors which are responsible for consumer exploitation.

To have a systematic study of consumer law in the state of J & K.

To examine the impact of some landmark judgments on consumer forums in the state.

To critically analyse the provisions of consumer protection Act, 1987.

To assess and evaluate quasi-judicial attitude towards the consumer in the state of J & K.

While having conceived above avowed objectives we have designed and divided the whole work in the following chapters-

**DESIGN OF WORK**

The first Chapter is Introductory and gives a comprehensive view about the steps which we are going to take in the completion of this
research work. This chapter gives a brief account about the tools and techniques which we have employed.

The second chapter deals with various expressions, like consumer, consumer protection, consumerism etc. In the later part of this chapter some factors primarily responsible for consumer exploitation have been briefly pointed out and some suggestions which are required for making improvements have been mentioned.

The third Chapter deals with evolution and development of consumer law in the state of J&K. This chapter also provides brief account of various Medieval Doctrines like Doctrine of Mensrea, Caveat Emptor, Caveat Venditor. This chapter further gives a contemporary view on consumer law in various countries including our own country. Lastly, this chapter gives a long list of various consumer laws available in one form or the other in the state of J & K.

In Chapter Fourth state Consumer Protection Act, 1987 has been critically analyzed in the light of Consumer Protection Act, 1986 and suitable case law has been incorporated wherever it was necessary and it helped in supporting our arguments.
The Chapter fifth deals with only those judgments of supreme court and National Commission which have overshadowed their desired impact on consumer forum in the state.

The Chapter sixth is mainly concerned to have an overview of quasi-judicial attitude towards the consumers in the state of J&K.

Chapter seventh deals with conclusion and suggestions.

FINDINGS

So far as our findings are concerned the same can be derived from preceding chapters. It can be said in the state of J & K despite of the fact that there is a vast body of law to regulate and control consumer exploitation but lukewarm enforcement of these enactment have prevented growth and development of consumer protection in the state of J & K. Here consumers are illiterate and backward and technical flaws are there in the consumer penal laws giving benefit of doubt to the offenders who are getting quick acquittals. This has created havoc among the consumers to file complaints before the competent courts. Though after passing of the Consumer Protection Act, 1987 in the state of J & K consumer forums are busy and overburdened with their work but still consumers in the state of J&K excluding main cities of Jammu and Srinager are not aware of their
rights and Consumer Forums established under Consumer Protection Act, 1987. Researcher has expressed the dire need that Consumer Disputes Redressal Agencies be established at District and block level in the state of J & K so that door to door consumer justice will be made easily available to everyone. Further, various consumer laws excluding Consumer Protection Act, 1987 are providing penal remedy and it is only Consumer Protection Act, 1987 which provides compensatory remedy. So various Consumer Law available in one or the other form be amended to the effect to incorporate compensatory provisions so that consumers will become more and more interested in filing complaints and Consumer Protection Act be amended to the effect to incorporate penal provision where by consumer offences be made punishable. In order to get benefit from this beneficial social legislation in the state of J & K, it is difficult for the consumers of far off places to come and file complaints before Divisional Forum. Further consumers of Leh, Poonch and Rajouri are not enjoying fruits of this benovelent legislation because they have to send their complaints through District Commissioner’s of their respective areas to competent consumer forums.

On the basis of above discussion, it is observed that protection of consumers in the state of J & K has not reached to the level of satisfaction.
Defective goods and deficient services provided by unscrupulous producers, manufactures, traders and irresponsible institutions have made the consumer life miserable. In order to curb the menace and enjoy fruits of benevolent law and legislation like Consumer Protection Act, 1987 researcher has felt need the efforts should be by consumers, consumer associations, government and courts jointly. For this and many other reasons following suggestions are noteworthy.

SUGGESTIONS

- The State Level Consumer Protection Act made by the Govt. has many flaws in it which deserves or need to be amended, on the lines of CP Act, 1986 though Central Act itself needs amendment but the State Govt. must incorporate some provisions (for example third separate consumer forum) from it to benefit general masses.

- There is an immediate need for the establishment of District Consumer Forums in each district of the State like CP Act 1986 (Central Act) provided in the rest of the country. In spite the fact that Amendment Act, 2002 provides for district level consumer courts Govt. has not taken steps so far to act in accordance with the new Amendment Act. This makes mockery of the J & K CP
Act. So Govt. should fulfill legislative mandate without delay because mere statutory words will not help actual establishment of forums in each district of the State will provide door to door justice to the consumers.

- CP Act, 1987 provides only compensatory provision and not for penal provision. It provides penalty only in those cases where the defaulter fails to comply with the orders of the consumer forums. So in this Act penal provision and in other Acts say for example Prevention of Food Adulteration Act etc. compensatory provision be incorporated.

- Govt. and other agencies of Consumer Affairs should make all efforts to involve more and more people, particularly the youth who can carry the message to the masses about their rights, laws etc. in this connection. It is the educated and enlightened youth who can carry the message not only to city areas but also to the rural population as well.

- There is a need of creating awareness among the masses about consumer rights and creating confidence among them by disposing off the cases within specified time period. This is possible by making better position (by providing more facilities)
of consumer forums in the state. So Govt. should exploit its resources in generating consumer awareness and redressed the grievances of the people of State.

- Govt. must create and strengthen more institutions, which would serve people of far-flung areas. It is observed that Food and Supplies Department is busy in various matters so the Govt. for the very purpose of the CP Act must also create an independent Consumer Affairs Ministry and make other departments to coordinate.

- Necessary Amendment should also be carried into the CP Act, 1987 whereby Consumer Forums should be empowered to entertain complaints having unlimited pecuniary jurisdiction.

- Govt. should thrust on improving all services being rendered to the consumers.

- Consumer Forums should be established at Block and Tehsil level. If it is not possible due to financial restraints etc. then for time being panchayats be empowered to decide complaints pertaining to consumer rights. If this will be done it will prevent time and money of consumers.
Abstract

- There is hardly any voluntary organization in this State, which is devoted to consumer cause. Steps should be taken by both Govt. and Consumers to establish such Organizations so that the consumer grievances can be better redressed.

- There is dire need of setting up a separate product testing laboratory in the State.

- Consumer education should be given through posters, folk arts, street plays, T.V, dramas, seminars etc. because no law can become forceful unless the consumer movement gains momentum.

- Consumer disputes and complaints should also be settled by pre-litigation, negotiation, counseling etc.

- Consumer Awareness camps should be organized in remote areas.

- Consumer Education should be introduced in educational institutions from primary to higher level as a subject in their curriculum.

- Educated youth specially students of colleges and universities should gear up for creating awareness among people about their rights and redouble efforts for mitigating their sufferings.
Govt. should establish a consumer cell under CP Act which will strive for achieving its objective and take effective measures towards welfare.

Regular contact with people in far off places will enable consumer cell to know their miseries and finding solution to these.

Govt. must make it obligatory for sellers and manufacturers to display price and stocks of essential commodities in other articles of mass consumption.

The Govt. should authorize police and/or other independent agencies to look after and ensure that the Consumers should not be defrauded by offering sub-standard goods even on low cheaper prices if those commodities affect the consumer health and wealth. Businessmen, producers, dealers, retailers should be compelled to maintain standards of quality, durability etc.

Govt. should fix as already suggested prices on almost all consumer commodities. Net retail price should be printed on packaged commodities instead of printing local taxes extra.

The Govt. departments (Police squads etc.) should be made more active and efficient in conducting raids. Corrupt officials must be
summarily dismissed from service without going through the existing procedure. The law must be amended for this purpose.

- The culprits should be given prompt and duly publicized punishment. Laws should be made more stringent for selling sub-standard products, adulterated products, underweight products, overcharging and misleading advertisement.

- There must be speedy trial and decisions on food adulteration cases preferably by specially assigned tribunals or forums.

- An advisory body with powers to hear the public should be setup to regulate quality in food and essential commodities. Such an advisory body can advice the administration when it faces problems involving the safety of consumers or when changes in law or rules are planned. The concept of public hearing before a board should be effectively developed.

- All food products should carry information and care labeling. Provisions requiring the manufacturer to give his full address on the label should be made compulsory. Manufacturers, producers and even retailers must ensure that the product going into the market is whole some, pure and properly labeled.