Chapter-I

Introduction
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INTRODUCTION

Consumer is the sovereign is the slogan of our welfare State. The moment we accept it a welfare state it is appropriate to refer John Roskin's ideal –

"The last man should be our first concern".

After industrial revolution people migrated from rural to urban areas and their dependence on the traders became manifest. Unlike the earlier age when a personal relationship between a seller and buyer preceded an economic relationship, the new creed was marked by sophistication of business techniques and impersonal relations between the two. By taking advantage of the helplessness of the consumer – means foul and fair were devised by the manufacturers, distributors and the retailers to have a firm control on the market place. About the marketing it is rightly observed by the A.S.C.Ehrenberg in his book titled "consumer" that 'it is much more difficult, complex and variable than natural science. The study of Physics and Chemistry easily yields the absolute and invariant laws of science with which we are all so familiar. In contrast, marketing is thought to be far more complex to study. There are more factors at work. It involves intangibles, human beings and so on. Nothing is constant. Everything varies. There may never be any stable scientific laws in marketing. The marketing of goods and services is conduct through the trained business minded men in varying ways that often it becomes difficult to the consumers to judge their quality, purity and durability etc. and this way consumers are easily cheated by well trained experts that is manufacturers and other concerned dealers. Consumer choice is just a fiction. Despite legislative and administrative measures consumer protection is a distant dream.

In this context U.N. General Assembly set forth objectives/guidelines urging all nation states –
i. to assist member countries in achieving or mentioning adequate protection for their population as consumers;

ii. to facilitate production and distribution systems which meet the needs and desires of consumers;

iii. to inculcate and promote high levels of conduct and responsibility amongst the producers and distributors of goods and providers of services to the consumers;

iv. to help and assist countries in checking consumer exploitative trade practices at national and international levels which adversely affect the consumer interest;

v. to assist and create congenial environment for the growth of independent and effective consumer bodies;

vi. to help, assist and encourage such an open and competitive market regime which may offer affordable and cheaper goods;

and finally

vii. to evolve international cooperation consumer protection.

In pursuance of the guidelines issued by the U.N. General Assembly in the year 1985 our country passed Consumer Protection Act in the year 1986 and on the same and similar lines the State of J & K (for constitutional reasons) passed its own Act on consumer protection. Though it is a fact that the State of J & K is enjoying special status Under Article 370 of the constitution but it is also true that this State is industrially poor and sick. Maximum quantity of essential commodities imported from outside are passing directly into the hands of consumers. There is no Governmental or Semi-Governmental Department or Agency to check the purity and safety of goods before they can be taken and/or purchased by the consumers for their use. In the April, 19, year 2000 eighty one percent of drugs were reported to have been imported in the State of J & K which were later on declared sub-standard by the Comptroller and Auditor General (CAG) of India. However, it is strange to believe that this huge quantity of drugs were
already consumed by the consumers when information about their impurity reached the State. It is learnt that in the last decade of turmoil in the valley profiteering, black-marketing and hoarding etc. have crossed almost all limits. These and many other crimes against consumers are also called socio economic crimes, as, in socio economic crimes in the same way money is the motive behind consumer crimes also. It is to be noted that Govt. has taken ample measures both legislative and administrative to curb the menace by empowering both officials/agencies and consumers to file complaints in such cases of consumer exploitation. However, only educated persons are taking benefit of beneficial enactments by filing complaints against unscrupulous manufacturers, producers, traders and service providers. Rest majority of the consumer community is illiterate and backward and lack of awareness have deprived them to know how, where and against whom action is to be initiated. In these circumstances many questions like what is the present State of Consumer awareness in the state? Is the present existing law inadequate to cope the situation? What sort of protection do consumers really need are striking my mind. All these questions together with some other issues will be considered minutely in the study to have a better picture relating to the subject matter titled – Protection of consumers in the State of Jammu and Kashmir. Though there is wide range of statutes covering consumer disputes and huge case law is available under the enactments also but in this work only those cases which are disposed and decided under the Consumer Protection Act will be dealt. Since State Act has large similarities with the Central Act on consumer protection and maximum number of cases delivered by the National Commission and Supreme Court have desired impact on all Consumer Disputes Redressal Agencies of the Country including the State of J & K. It is the uniform impact of these landmark judgments which will be scrutinized in this work. Further relevant case law has been surveyed and noted from various texts while commenting
on various provisions of the Act. In this background below mentioned objectives are conceived.

**OBJECTIVES OF STUDY**

- To identify the problems which are responsible for consumer exploitation.
- To have a systematic study of consumer legislation in the State of J & K.
- To examine the impact of some landmark judgments on Consumer Fora in the State.
- To critically analyze the provisions of consumer protection Act, 1987.
- To assess and evaluate quasi – judicial attitude towards the consumer in the State.

**RESEARCH METHODOLOGY**

In order to achieve the above objectives both doctrinal and non-doctrinal methods have been employed. Apart from resorting to relevant statutory material for making thoughtful study-reports, articles and commentaries of various authors on consumer protection and statutory material of some western countries have been examined carefully. Further, I have obtained material of decided cases directly from the concerned consumer forums of the State and for making future improvements in the policy and law on consumer protection I have conducted face to face interviews of some eminent jurists, experts etc. in various fields of consumer affairs.

**DESIGN OF STUDY:-**

Now before turning directly to the study work it is appropriate to comment briefly on chapters in which I have divided the study work.

The main object of the study is introduced and addressed in chapter – I followed by a smallest chapter –II which contains broad concepts of
expressions – consumer, consumerism etc. In the later part of this chapter some factors primarily responsible for consumer exploitation have been briefly pointed out and in order to curb their menace some suggestions have been pointed out.

Chapter – III deals with the evolution and development of consumer law which is in a scattered form. Chapter also carries brief account of some time-honoured doctrines and detailed account of U. N General Assembly guidelines.

Chapter – IV deals with commentary on Consumer Protection Act (State Act) and wherever possible suitable case law has been referred at the appropriate places and critical observations have been also made wherever possible and necessary.

Chapter – V is a big brand consisting variety of judgments decided by the National Commission and Supreme Court from time to time. The reason for incorporating this chapter in the study work is mainly that these judgments have simplified and widened scope of various provisions of this Act to a large extent. Further among other things there is a overwhelming impact of these judgments on almost all Consumer Disputes Redressal Agencies of the country including the State of Jammu and Kashmir.

Study in chapter-VI is wholly concerned to asses the quasi-judicious attitude towards the consumer in the State of J &K.

Next chapter titled as “conclusion and suggestions” concludes on the whole study work and some suggestions have been made for furthering consumer protection in the State of J & K.