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Legal Framework of consumer protection in India

Background :-

Since the dawn of human civilisation. It has been noticed that man and his behaviour were guided by the social, religious and thereafter the legal norms. The legal framework of consumer protection in ancient India is discussed in the earlier chapter where the code of conduct for businessmen is discussed right from the days of Mahabharat through Manusmriti, Kautilaya's Arthshastra etc. which facilitates us in informing that consumer exploitation and the legal machinery to curb their exploitation and protect the rights of consumer was prevalent even in the epic period.

It has been observed by us that wide ranging laws are framed to guard the consumer interest and these laws are amended from time to time to make them more stringent and purposeful in contemporary India but still the uproar and the agony of consumers draw a picture of helpless state of affairs while there is also a general public opinion that effective and efficient implementation and strict enforcement of the legal machinery is the urgent need of an hour. Even today almost all the consumers believe that they are not given a fair-deal.
In this chapter an attempt has been made to highlight a gist of a few important laws prevalent in the country that are landmarks in protecting the consumer interest as a part of this academic study in the field of Consumer Protection. The discussion here deals with various dimensions of consumer protection like prevention of black marketing and hoarding, food adulteration, sale of goods, standards of weights and measures quality standards, prevention of restrictive and unfair trade practices, formation and functioning of special consumer courts under the scope of specially designed Consumer Protection Act 1986. The list of these laws refer to the Appendix at the end of this chapter.

We hope that a study like this will help in understanding the legal protection available to the consumers. It may prove useful to the manufacturers and marketers in understanding the legal framework of Consumer Protection Law in India and in framing consumer oriented policies. This code would be of high value to the academicians, thinkers, consumer activists.
4.1 The Essential commodities Act 1955.¹

4.1.1 Introduction :-

It can be said that the Essential Commodities Act has its roots in 1939, when the Government of India wanted to control the production supply and distribution of certain commodities under the Defence of India Act, which ceased to have its existence on 30th September 1946 and in order to guard the interest of the general public in the matters pertaining to control of certain commodities, essential for human beings the essential supplies (temporary Powers) Ordinance, XVIII of 1946 was proclaimed in which some provisions of Defence of India Rules were incorporated. This ordinance was replaced later on by the Essential Supplies (Temporary Powers) Act of 1946.

Gradually it was felt quite necessary that the Central Government should continue to control the production, supply and distribution of certain essential commodities of vital importance to the consumers in larger public interest and to provide social justice as well.

Scope :

Applicability : Essential commodities are of vital importance for every one which has normally a high demand and limited supply. There are
more chances of black marketing, hoarding and other unfair trade practices by which artificial scarcity could be created and ultimately a very high price could be charged from the consumer and on the other hand the consumers who cannot afford to pay high price may have to live without such essential commodities and hence the objective of the Act is to provide essential commodities at reasonable price.

The Act is applied to the following commodities.

1) Cattle Fodder including oil cakes and other concentrates.
2) Food stuff including edible oil seeds and oils, sugar
3) Coal including coke and other derivatives
4) Component parts and accessories of automobiles.
5) Cotton and woolen textiles.
6) Drugs (as defined in Sec.3(b) of Drugs and cosmetics Act 1940)
7) Petroleum and petroleum products.
8) Paper including news print, paper Board and straw board.
9) Raw cotton whether ginned or unginned and cotton seeds.
10) Raw jute
11) Any other commodities which the Central Government notifies from time to time.
4.1.2 The Administration of the Act.

The Central Government possesses the powers to administer the provisions of the Act by Notifying the orders/directions in the official gazette. The Government has the powers to regulate the prices of these commodities. It can prohibit or institute permit system for their production supply and distribution and can inspect records. It has also authority of seizure of articles and criminal proceedings can be initiated on default of provisions of the Act. As a part of enforcement amendments were made through essential commodities (special provisions) Act, 1984. The following are some of the important features of this amendment Act.

1) An appeal can be made by any aggrieved person to the State Government instead of to any judicial authority.

2) The justification to make orders regarding possession, delivery, disposal or distribution of any essential commodity seized, vests with the collector or the State Government.

3) The punishment for contravention of the order has been made compulsory for a period of not less than three months and up to seven years imprisonment besides the payment of fine.
4) Any offense punishable was previously cognizable offense but under the amendment this office has been made non-liable. In short the provisions for releasing a person on bail have been made more stringent under the amendment.

5) To do away with the popular criticism of causing great unreasonable delay in settlement of cases, the State Government under this amendment may set up special courts by a notification for speedy settlement of offences under the act. The special courts shall consist of a single judge appointed by the High Court on the request of the State Government.

4.2 The Standards of Weights measures Act 1976.

Since ancient times consumers are cheated by giving goods in short weight and by many techniques of use of hands, and use of unauthorised weights and measures. This act aims at introduction of standards in relation to various weights and measures which are in use in trade activities.

The preamble of the act reads as “an act to establish standards of Weight and Measures to regulate inter state trade or commerce in Weight and Measures and other goods which are sold or distributed
by weight, measure or number and to provide for matters connected therewith or incidental thereto”.

The Directorate of weights and Measures³ in the Ministry of food and consumer Affairs is the nodal agency for all activities relating to the subject.

4.2.1 Background :-

India is a signatory to international metric convention of 1895. India enacted Standards of Weights and Measures Act 1956 on the basis of international system of units. Prior to that each state had their own laws for the enforcement of standards of weights and measures in their state. Metric system was introduced in 1956. The Central Government set up an expert committee to suggest suitable changes in the law to bring

(a) standards on international equivalence and

(b) to remove the short comings of the existing system.

The committee suggested changes in the 1956 law and its enforcement in various states and as an outcome Standards of
Weights and Measures Act 1976 appeared on the legal scenario based on international system of units.

Responsibilities of the Directorate of Weights and Measures New Delhi includes.

1) Planning, coordinating and Directing the activities of the state.

2) Framing of rules and regulations formulation of weight and measures specifications and developing weighting measuring instruments and ensuring appropriate and uniform level of accuracy through measurement standards and testing equipment's and moreover assumes the task of establishment of maximum possible error in relation to packaged commodities.

3) It also carries surveys and collect statistical data and even represents without view point on Legal Metrology (LM) in the international organisation of legal Metrology and implementation of this international norms in the country as well.

4) The Directorate also undertakes the activities of training in the field of legal metrology, Surveys in the areas of consumer interest, it also provide guidance to manufactures and traders.
and helps the courts in relation to cases relating to weights and measures and provides evidences of breach of law.

Under the standards of Weights and Measures Act 1976 the following rules are framed and enforced.

i) The standards of weights and measures (approval of model) Rules 1987;

ii) The Indian Institute of Legal Metrology Rules 1980;

iii) The standards of weights and measures (inter state verification and stampings) Rules 1987;

iv) The standards of weight and measures (numeration) Rules 1987;

v) The standards of weight and measures (General) Rules 1987 and

vi) The standards of weight and measures (National standards) Rules 1988


The Standards of Weights and Measures (packaged commodities) Rules 1977 are in force since September 1977 which ensures and enforces that certain information must be printed on the package by
the manufacturer or the packer as the case may be such as, name and address of the manufacturer or packer, net quantity, month and year of manufactured packing, maximum retail/price inclusive of all taxes. This information protects the interest of consumers of non-durable consumer goods. A standing committee is appointed under the packaged commodities Rules to examine various amendment proposals received from time to time and make appropriate recommendations. To finalise the amendments the concerned ministries, consumer organisations, standards institutions and other related organisations are consulted before finalising the amendments.

Legal standards of the states and union territories are calibrated in three regional reference standard (approved) laboratories situated at Ahmedabad, Bhubaneshwar and Bangalore while in the Ninth Plan, one laboratory will be established in Faridabad, (Haryana) for the North region and another at Guwahati for the North-East region. Punishment for offences under this act includes one to five years imprisonment.

Scope – Applicability of the Act in Consumer Protection.
The act protects the consumer interest in several ways to the consuming public as it ensures the weights and measures to be strictly as per the standards prescribed by international bureau of weights and measures. The act prohibits the use of nonstandard weights and measures and even no weight or measures should be manufactured unless it confirms the standards prescribed by the act and for that the manufacturers of weight and measures have to obtain the permission of the Central Government under certain conditions and restrictions.

4.3 The Prevention of Food Adulteration Act, 1954.

This law aims at the objective of prevention of adulteration of food stuff. A Central committee of food standards was formed to recommend standards for food quality. The committee includes representatives of concerned ministries, experts and even consumers. The enforcement of the Act is by the food and drugs adulteration of the state under the ministry of health. The Chairman of this committee is the Director General of health services. Central food laboratories are also set up for testing the food samples. Any consumer organisation can initiate the complaint under this Act the
food item can be called Adulteration when it is different from the ingredient stated which is an offence under this act. It can be also considered adulteration when it contains injurious substances and it is prepared packed and stored under unhygienic conditions or if the food stuff is of the quality which is harmful for human consumption. The scope of the act includes the use of standard food. Colour packing and labeling mentioning contains in accordance with the actual contains of tea, milk, and milk products, fruit products, edible oil, edible flour etc. non durable food products.

Under the provision inserted in 1976 Adulteration which causes "greivous hurt" is punishable with from 3 years to a life time imprisonment (depending upon the offence) and a fine of not less then Rs.5,000.


4.4.1 Background :-

The constitution of India Lays down a set of Directive principles of state policy, and impose a duty on the Government to apply those
principles to the making of the laws which enjoin upon the state to
direct its policy towards securing.

1) That the ownership and control of the material resources of the
community are so distributed as best to subserv the common
goods.

2) That the operation of the economic system does not result in
the concentration of wealth and means of production to the
common detriment”.

Planning Commission appointed on 13-10-60 an expert
committee under the Chairmanship of Prof. P.C. Mahalanobis known as “The Committee on Distribution of Income and Levels
of Living” to review the changes in levels of living during the 1st
and the second five-year plans. Meanwhile Prof. R.K. Hazari
made an in-depth study of the structure of the corporate private
sector in India. It was found that there had been an increase in
the concentration of economic power in the corporate
Pvt. Sector between 1951 and 1958. Mahalanobis Committee
its report on February 25th 1964 on the basis of these two
reports, Monopoly Inquiry Commission (MIC) was appointed
under the Chairmanship of Mr. Justice K.C. Dasgupta, a Supreme Court Judge.

The MIC identified the prevalence of the concentration of economic power in private hands. It cited no. of instances of monopolistic and restrictive trade practices.

On the basis of MIC recommendation and the draft bill, the Monopolies and Restrictive Trade Practices Act (MRTP Act) came into force from June 1, 1970. The amendments of 1984 includes unfair trade practices.

The provisions of the Act mention the establishment, constitution, Jurisdiction, Powers and Procedures of the MRTP Commission.

The Provision of the Act focuses three areas:

(i) Prevention of the concentration of economic power to the common detriment and control of monopolies.

(ii) Prevention of Monopolistic trade practices.

(iii) Prevention of restrictive trade practices.

(iv) Prevention of unfair trade practices.
Monopolistic trade practices are those which are likely to result into:

(i) Maintaining price at an unreasonable level by limiting or controlling the production, supply or distribution of goods or the supply of any services.

(ii) Limiting technical development or capital investment or allowing the quality of any goods produced supplied or distributed or deterioration any service.

4.5 Restrictive Trade Practices:

The protects consumers by also prohibiting those trade practices which prevents or distorts or restricts competition, which trends to bring about manipulation of prices or conditions of delivery of to affect the flow of supplies in the market relating to goods and services.
4.6 Unfair Trade Practices:
This part of the MRTP Act is aimed at preventing unethical practices and misleading and statements made relating to quality on labels, advertisements. Unfair trade practices are also enforceable under the MRTP Act and also the consumer protection Act. The commission can itself take initiate and can conduct an enquiry or on receipt of complaint from a consumer or a consumer organisation or trade association or on reference by the Government. The complainant need not pay court fees or retain a lawyer.6

4.7 Bureau of Indian standards Act 1986.
As the scope under Indian Standards Institution was formed much limited. The Government from 1st April 19877 Bureau of Indian Standard started functioning taking over the stuff, assets and liabilities of Indian Standards Institution (ISI) and performing all the functions which were performed by ISI. The Balance of Indian standards started functioning under the Bureau of Indian standards (BSI) Act 1986.

The main functions of BIS are:

1) Preparation and implementation of standards
2) Operation of certification for product and quality system
3) Organisation and management of testing laboratories
4) Maintaining close liaison with international standards bodies

4.7.1 The Functioning of the Bureau

1. To establish, publish, promote and prescribe as Indian Standards for various articles.

2. Specify a standard mark to be called the Bureau of Indian standards certification mark.

3. Grant, renew, suspend or cancel a licence for the use of standard mark.

4. Levy fees for the grant or renewal of any licence.

5. Make inspection, take samples, test them to verify whether they confirm with the Indian standard.

6. Seek recognition of the Bureau and the Indian standards outside India

7. Establish maintain and recognise laboratories for quality control.

8. To undertake research on standard

9. Provide services to the manufacturers and consumers.

10. Establish branches offices or agencies in India or outside.
4.7.2 Role of BIS and consumer protection:

The BIS has helped in presenting the consumers in number of ways.

1. The BIS certification mark – "ISI" has provided an assurance to the consumers about standard products.

2. Certification mark issued may be also cancelled.

3. Complaints of consumers are entertained.

4. Standards for new products are also evolved scientifically.

5. Non maintenance of standards may be punishable and penalty may be charged for improper use of standard mark.

6. The Bureau provides guidance the manufacturing units and consumers as well.

7. Free replacement of standard marked product in case of their being found to be of substandard quality.

8. Protection of consumers from exploitation and deception.

4.8 Consumer Protection Act 1986

4.8.1 Introduction:

It has special significant from several dimensions. Firstly this is the only act of the country which provides the rights of consumers such as:

1. The right to be protected against marketing of goods which are hazardous to life and property;
2. The right to be informed about the quality, quantity, potency, purity, standard and price of goods to protect the consumer against unfair trade practices.
3. The right to be assured, where ever possible, access to variety of goods at competitive prices;
4. The right to be heard and to be assured that consumers interest will receive due consideration at appropriate forums;
5. The right to seek redressal against unfair trade practices or unscrupulous exploitation of consumers and
6. The right to consumer education.

This is an Act which is a Landmark in the field of consumer protection. After several efforts by the journalists, thinkers, consumer
activists, consumer organisations in India have ultimately resulted in the enactment of this Act.

The Act has several other outstanding features which are carefully incorporated after an in-depth study of consumer protection laws of a number of countries and in consultation with the representatives of consumers, trade and Industry and after extensive discussion within the government. All the provisions of the Act came into force with effect from 1st July, 1987. The Act was amended in 1991 & 1993. Due to these amendments the scope of the Act got expanded.

4.8.2 Application:

1. It applies to all the goods and services unless specifically exempted by the Central Government.
2. It covers all the sectors whether private/cooperative.
3. It provides the above mentioned rights to the consumers.
4. The act has provision regarding creation of consumer protection council at Central And State levels to protect the rights of consumers.
5. To provide speedy and inexpensive redressal of a consumer grievances, the Act has a 3 tier quasi Judicial machinery at District, State and National levels.
(i) District consumer disputes redressal forum known as District Forum.

(ii) State Consumer disputes redressal commissions known as State Commission.

(ii) National consumer dispute redressal commission known as National Commission.

These three levels of consumer grievance redressal are provided over and above the regular judiciary services.

1. District Forum (D.f.)

The D.F. can entertain complaints of consumers where the value of goods/services and the compensation claim is less than Rs. 5 lakhs. A person can complain to the respective district forum. D.F. is required to settle the dispute within a period of 30 days. The period may be extended by another 15 days. If the dispute is not settled within 45 days. If the judgement given is not acceptable either party the party has right to the matter to state commission within 30 days of the date of the order.
2. State Commission: (S.C.)
The S.C. entertains complaints when the value of goods/services and compensation exceeds Rs. 5 lakhs but not Rs.20 lakh. It also entertain appeals in the state. The procedure of the S.C. is the same as the D.F.. Any order at the S.C. which is not satisfactory to the parties can appeal to the National period of 30 days from the date at the order.

The National Commission entertains complaints where the value of goods/services and compensation exceeds Rs.20 lakhs. Any National Commission order is not acceptable to either party the aggrieved party can go to the Supreme Court within 30 days of such an order.

At present there are 32\(^9\) S.C. i.e. 1 in each state /U.T. & 533 D.F. besides the National Forum. Ministry of Food and consumer Affairs Monitors the disposal of cases by the consumer courts. Since its inception and upto 1\(^{st}\) April 1998, 13570- cases have been filed and 7773 cases disposed off in the National Commission. 150491 cases have been field and
90571 have been disposed off in the S.E. and 1165947 cases filed and 8,99,102 cases have been disposed off in the D.F.

The Government has also launched a scheme of 1 time grant to the states/U.Ts for strengthening the infrastructure of consumer courts. Each S.C. is to be given Rs.50 lakhs and each D.F. is to be given Rs.10 lakhs under the scheme, in 4 equal installments. The subsequent installments is released on the satisfactory functioning of such consumer courts.

4.8.3 Advisory bodies under consumer protection Act 1986.

The Act has instituted Advisory Bodies at two levels.

1. Central Consumer Protection council is instituted at the Central Government level and

2. State consumer protection council is instuted at the state levels.

These councils are under the Chairmanship of the Honourable Minister of Food, Civil Supplies and Consumer Affairs, State Government Ministry of representatives from consumer interest groups representatives of farmers trade and industry, employees unions representatives of Government Loksabha and Rajsabha (Parliament) members representatives of the
women, other members who can contribute for the cause of consumers secretaries of the Department of Food, Civil Supplies and Consumer Affairs members of the Bureau of Indian Standards (BIS). The Central consumer protection council when it was implemented, the council had 150 members.

Gradually state consumer protection councils also formed at respective state levels.

The first central consumer protection council was held on 28-9-87, suggestions obtained from the members were included in the agenda.

Similarly State consumer protection councils (GSLPC) were formed. The first meeting of the Gujarat State consumer protection council was held on 21-4-88. The council had 30 members. The working of these central and state consumer protection council.

The views of the members were invited and on the basis of the same agenda for the forth coming meeting were framed.
(ii) The members are sent the agenda in advance and working paper written suggesting are invited which are circulated for discussion.

(iii) The views suggestions of the members are noted and forwarded to respective authorities, Departments and Proper follow-up is maintained.

(iv) If some specific problem areas require concentrated efforts then working group (sub committees) are framed. These committees meet frequently and submit the reports with respective CCPC or State CPC for discussion, suggestions and then they are forwarded to the respective authorities for perusal and necessary actions.

(v) Through these commissions, attempts are made to provide education, awareness proper machinery to present consumer exploitation and sufferings.

(vi) Till date no. of issues have been discussed and satisfactory results are achieved on several issues affecting consumer protection but as the consumer protection is a very vast subject and there is no system to highlight the effects of these efforts to the masses.
4.8.4 The benefits of C.P. Act 1986 to Consumers:

This Act has provided several benefits to the consumers of the country.

1) It has provided efficient and economical judiciary system at various levels, namely District levels, i.e. District Consumer Grievance Redressal Forum at State level State Consumer Grievance Redressal Commission and at National level National Consumer Grievance Redressal Commission are in existence.

2) Over and above the aforementioned three tier quasi judicial system it has a provision of two level advisory bodies under the Consumer Protection Rules 1987 i.e. within the Consumer Protection Act 1986 namely at state level i.e. State Consumer Protection Council and at National Level Central Consumer protection council which has given representation to various communities influencing consumer protection. These two advisory bodies consider not only problems of consumer but these bodies also thinks, plans implements and monitory measures for preventing consumer exploitation.
These bodies communicate and coordinate with other ministries, departments and public sector units of the centre and state. The state commissions are also of the view that such committee may also be appointed at district taluka and village levels which may be more meaningful in the direction of consumer protection and consumer well being.

4.9 The Consumer Welfare Fund Rules 1992\textsuperscript{11}.

The above fund was established in 1992. The fund was set up by the Department of Revenue under the Central Excise and salt Act 1994 which is operated by the Department of Consumer Affairs under the Ministry of Food and Consumer Affairs. The Act was amended in 1991 to enable the Central Government to create this fund.

As per the consumer welfare Fund Rules (CWFR) any agency or organisation working for consumer welfare activities for the last three years may be eligible for seeking financial assistance from the fund. The assistance to an individual applicant is limited to Rs. 5 lakhs\textsuperscript{12} while 10% of the contribution will have to be created by the applicant.
A committee is constituted for proper utilisation of the consumer welfare fund for the welfare of the consumers to carry out the purpose of these rules.

The committee makes recommendations for the following purpose for the utilisation of credits available in the Consumer Welfare Fund.

(a) For making available grants to any applicant

(b) To making available the grant recommended by Bureau of Indian Standard (BIS) for activities relating to standard marks, which may be considered essential by the Central Government for consumer welfare.

(c) For investment of the money in the welfare consumer fund.

(d) For making available grants (on a selective basis) for reimbursing legal expenses incurred by a complainant or class of complainant in a consumer dispute after its final adjuication.

(e) For making available grants for any other purpose recommended by the Central Consumer Protection Council\(^\text{13}\) (as may be considered appropriate by the Committee).
4.10 Conclusion :-

"Law is an authority/control imposed by a system of rules."14

India too like other countries have large number of laws protecting various interests of human beings in various capacities like Manufacturer, Buyer, Seller, Citizen and as a consumer/customer. If every one is a consumer and every one desires protection from unlawful acts. Then a question arises that why such a complex legal frame work is required ? The best regulation would be "Self Regulation" which means that one should abide by the norms/code of ethics by which not only self but others will also be protected. The next ideal situation is that where all the consumers are made aware of their rights and the contents and the quality standards of the goods and services offered to them. The above two situations can prevent ethical, unreasonable, unjust and unlawful actions while in reality the ideal situations donot prevail hence there is a need for a powerful legal framework which is efficient, economical and affordable by even a common man. Many times the financial loss may be of a less amount as compared to the cost of hassles involved in the process of getting justice.
Inspite of all these the fact cannot be denied that the consumer today is protected in several ways. There are laws and rules for every aspect of human behaviour. These laws are evaluated during the proceedings of several cases which provides new dimension to and understanding of the law and as a result of deliberations between the legal experts, the existing laws are amended from time to time to make them more meaningful. It is also true that the offenders are always ahead of law makers. In the past marketing activities gave a very little priority to the legal implications but today because of the general awareness among the consumers the business and government are forced to consider consumer interest. Laws like BIS Act weight and measures Act, Essential Commodities Act focus on the first “P” of marketing i.e. product. These laws take care of quality, contains, after effects etc. pricing is also considered by MRTP Act, promotional campaign, truth in advertising come within the jurisdiction of unfair trade practices while distribution and delivery of goods, after sales services, guarantee and warranty etc. are taken care of within the jurisdiction of Sale of Goods Act, Contract Act and above all for any kind of consumer suffering and exploitation the Consumer Protection Act 1986 provides a fairdeal to the consumers.
today a situation is created that before making any announcement or releasing any advertisement the manufacturers and the marketers look into its legal aspects.

In order to provide more effective, efficient and economical justice a detailed study of laws of different nations; the laws and their implementation in the country may be studied to provide an injustice free society.
4.11 REFERENCES:

10. Information about CCPC & GSCPC were obtained from the correspondence file between CCPC/ GSCPC and CERC


13. Inserted by the Consumer Welfare (Amendment)Rules 1994, w.e.f. 27-1-94.

Annexure 4.1

Some important Consumer Protection Laws in India.

2) The prevention of food adulteration Act 1954
5) The Drug and Cosmetics Act, 1940.
6) The Drugs and magic Remedies.
   (Objectionable Advertisement)ACT, 1954.
12) Air (Prevention and control of pollution) Act 1981
15) Quality control and Inspection Act 1963.