Chapter-5

CONCLUSIONS

Consumers are the pillars of the economic structure and form the largest economic group in any country. Most of the economic activities of the government and non-government agencies are aimed at pleasing the consumers. Thus, consumption is the pivot around which all the economic activities move. But in today’s marketing system, consumer sovereignty is a myth on account of a variety of problems in the process of production and distribution. The consumers are facing a plethora of problems like adulteration, excessive prices, inferior and spurious goods, misleading and manipulative advertisements, black marketing, hoarding, short weighting, exorbitant credit charges, poor quality of merchandise and service and monopoly and restrictive trade practice. In the age of materialism, there is a constant pressure on the consumer to obtain the best bargain or get a good value for his money. In this exchange process, he is often cheated and exploited. This is largely due to his ignorance, illiteracy and weak economic position. The problem of consumer exploitation is not peculiar to India only. It exist in every country in one form or the other.

During the days of ‘Barter System’ who would have thought of Consumer Protection? With human progress we made coin and currency followed by weight and measures. As human being multiplied their wants concomitantly, the demand for new and various items multiplied, too soon market forces and competition led to a number of benefits and problems in a market economy where approximately everyone, in one way or the other
was a consumer. Initially, the consumer was the “King of the market” as he was the user of the ‘goods and services’ available in the market. The importance of consumer can well be judged from the words of Mahatma Gandhi. He said, “customer is the most important visitor in our premises. He is not dependent on us, we are dependent on him…….He is not an interruption in our work, he is purpose of it. He is not an outsider to our business, he is part of it. We are not doing him a favour by serving him, he is doing us a favour by giving us an opportunity to do so.” But now, with cut throat competition and use of unfair trade practices, he has been mellowed to the status of a “Victim of the market.” The desire to make profit at the expense of another, and the lack of any effective administrative control by the government has deteriorated the position of the consumer precariously. The group that benefited included the traders and manufacturers who profited at the vulnerability and ignorance of the general public.

The perception of the term consumer and consumer movement has been undergoing changes as it is being constantly redefined as society progresses and more and more areas come within its purview. With each new scientific discovery and technological innovation society is undergoing rapid transformations-socio – economic and political. So is the case with consumer movement the world over and in India too. However, our country’s entry into the arena of consumer protection jurisprudence is a recent development.

The Indian Constitution embodies political and legally justifiable rights for its citizens in the form of ‘Fundamental Rights’ along with certain social and economic rights formulated as ‘Directive Principles.’ In fulfillment of this commitment enshrined in the Constitution, various
economic and welfare legislation have been passed and have been in force ever since India’s Independence.

In a country like India, with vast sections of its population socially and economically backward, consumer protection had to be seen as an integral part of socio-economic development and the broader objectives of promoting and developing the country along the lines envisaged in our constitution. It recognized that in business transaction with consumers unfair practices are widespread. The ignorant consumer is no match for the businessman and all his resources.

It also recognized the problem that litigation is inordinately expensive, and that small claims and arbitration procedures which are cheap and informal, had to be encouraged. It also recognized that the consumer is not only one who purchases goods for use but is also a purchaser of services even those provided by the government.

Keeping all things in view, the need to protect consumer’s right, was felt and the Consumer Protection Act, 1986 was enacted. Its aim is to promote and protect rights of the consumer. The consumer Protection Act is a landmark legislation to provide justice and redressal of grievances of the consumers in a cheap, speedy, simple and effective justice and redressal of grievances of the consuming and cumbersome procedure.

The Act thus aims to protect the economic interest of a consumer as understood in commercial sense as a purchaser of a goods and in the larger as of user of service.
To provide for better protection of the interests of the considers and for that purpose provisions are made to establish consumers councils and other authorities for settlement complaints.

**Main Findings**

Discussion in the present work is basically rests on empirical data, discussions and deliberations with complainants, opposite parties, advocates, people associated with consumer organizations, presidents and members of District Forums in the State of Haryana. Views and observations, written or oral of other persons. Actively involved in the recommendations emerging from the present study are as follows:-

- 87.51% of cases have been disposed off by national commission since inception and only 2 (.003%) cases disposed off in the Lok Adalat upto 31.08.2010 since its inception.

- 91.23% of cases have been disposed off upto 31.08.2010 since inception by the district forums in all the states of country. And Manipur state have highest (97.59%) disposal of cases among the other states district forums. Nagaland state have minimum disposal of case i.e. 83.33% in respect of district forums of other states and only 0.716% of cases were disposed off by the method of Lok Adalat in all the district forums of the country. The states of Arunachal Pradesh, Karnataka, Lakshadweep, Madhya Pradesh, Sikkim, Tamil Nadu and Tripura was not come forward to dispose off the cases through the Lok Adalat method in the district forum. The U.T. Chandigarh had disposed of more number of cases (i.e. 5.442%) by Lok Adalat method. The state Punjab (2.750%) and
Haryana state (2.325%) comes next to the Chandigarh where good number of cases have been decided / disposed off by the Lok Adalat method in the district forum.

- In the state commission of all over the country 78.98% of cases have been disposed off. Goa state have highest disposal i.e. 97.23% maximum in all other states, followed by Mizoram 97.06%, Delhi 95.51%, Chandigarh 95.34% and West Bengal 95.94% comes next to Mizoram. Uttar Pradesh have minimum 45.11% disposal of cases by state commission and only 0.310% of cases filled were disposed off by Lok Adalat method in the state commission.

- From the analysis, it is clear the 75% of the complainants under study lodged their complaints by engaging advocates. 6% of the complainants took the help of consumer organizations in this regard and remaining 19% of the complainants submitted their complaints of their own i.e. without engaging advocates and without seeking any help from consumer organizations. However, engaging advocates is not necessary in this connection. It is therefore suggested that people must be educated about the procedure to file complaint in District Forums and must be motivated in this regard as reflected in the spirit of the Act.

- It is found that the percentage of respondents who filed their complaints through advocates was maximum (93.33%) for illiterate and minimum (33.33%) for highly qualified persons. It is clear that the lawyers / counsellers play very effective role in smooth functioning of the District forums.
• It is clear from the analysis that complainants considered the complex and technical procedure as the most important factor for the slow disposal of cases in district forums and a very high percentage of respondents were in the grips of advocates regarding lodging of complaint in district forum. Similar view was shared by the opposite parties and consumer organizations. The complex and technical procedure is the most important factor in this regard. While advocates / legal experts were of the view that short period of sitting daily is the most crucial factor for the slow disposal of cases in district forums. In an informal discussion with the above said respondents, it emerged that very rarely cases are decided with in stipulated time.

• Complainants, Govt. / Semi Govt. sector (as opposite parties) and consumer organizations were of the opinion that the method of deciding the complaints in District Forums is much time consuming. In addition to this, private business houses (as opposite parties) ranked the procedure of Consumer Protection Act is to provide to speedy justice. It is, therefore, suggested that frequent adjournments must be discouraged to achieve this purpose. On adjournment issue, the policy should be not grant adjournments for more than one time unless justified. Moreover, adjournment may be made a rare exception and not the rule.

• 73.33% of the complaints, 70% of the advocates engaged by complaints and 76.92% of the consumer organizations under study were of the opinion that it will provide easy and quick justice to the consumers if these Forums are established at sub divisional
level by amending Consumer Protection Act. However 30% of advocates and 75.3% of the opposite parties (Govt. / Semi Govt. and private business houses) under study were against this proposal. As the very purpose of these District Forums is to protect the interest of the consumers, it is suggested to establish these Forums at sub divisional level by amending Consumer Protection Act.

- There is a provision in Consumer Protection Act that opposite party has to file a reply within 30 to 45 days in District Forum. About 76.92% of the opposite parties (Govt./ Semi Govt. Sector) were of the view that this period should be increased. However 38.10% of private business houses (opposite parties) were of the view that this period is sufficient to some extent. It is, therefore, suggested there is no need to increase this period. The contention of the Govt. Sector that this period should be increased seems to be due to bureaucratic work culture in the Govt. Sector. Majority of the advocates (above 75%) from all the categories (complainants & opposite parties) were of the opinion that the district forums did not take reasonable time to settle the complaints. It seems that advocates are much bothered about the time taken by the district forum.

- By 34% of the respondents, the factor (fear of exploitation by the advocates) was considered as the most important factor restraining them from filling the complaints before the district forum. This was followed by 30% of the respondents considering the factor
(The procedure before the forum is too technical and complex as the most restraining factor in this regard.

- As the educational level is going up the level of consumer awareness is going up young persons (25 years) were not aware about their right compare to the persons in the higher age-group.

- It is clear from the analysis that in the opinion of complainants, opposite parties, advocates and consumer organizations, the accommodation of the district forum is sufficient for their efficient working.

- Disposal percentage of Gurgaon district forum was found highest in the year 2006 and 2007. It was 291.32% of cases filed in 2006 and 218.64% of cases filed in 2007. Disposal percentage of Kurukshetra district forum was lowest in the year 2008 and it was 10.34% of cases filed in the year 2008. Jind district forum got momentum after 2005 and its disposal percentage increased from year to year. However, the disposal percentage of Kurukshetra district forum showed reverse trend. Its disposal percentage decreased from year to year (124.44% to 68.05%).

- The staff position in the district forums is satisfactory. Some of the district forums are not having separate staff. As Govt. of Haryana has now made these Forums whole time, it is suggested that the regular staff in these forum should be increased.

- It was found that one third of the complainants would not like to file their complaints in the district forums, in case they are
exploited in future. Meaning thereby the consumers were not satisfied with the working of district forum.

- It comes from the research that the procedure of filing the complaints in the forums is too technical, expensive and complex. At the time of visit in the district forums it comes out that the superintendent of the forum asked for three copies of complaint with file cover etc. and the fees of the compliant be deposited in government head through challan form, attested by the superintendent of the forum and the challan be deposited in the State Bank and a copy of challan be attached with the complaint. This process approximately took one working day. It is not easy for a simple / lay man to go through this complex process.

- It is found that majority (more than 75%) of the respondents lodged their complaints by engaging advocates and most of them were of the view that functioning of the district forums is complex and technical. As the complainants as well as opposite parties engage advocates for the settlement of their cases. It makes the litigation expensive.

- It is found that 7% of the complainants, 6% of the advocates and 6% of the opposite parties were of the view that there is corruption in district forums upto some extent.

- Only about 10% of cases filed were disposed off by the district forums within stipulated period. Disposal percentage of Fatehabad district forum was found highest in year 2008-2009. It was 57.79% in 2008 and 58.90% in 2009. The disposal percentage was lowest
for the district forum Kaithal in 2007 and it was only 1.60%. Fatehabad district forum got momentum after 2006 and its disposal percentage increased from year to year. It was 31.16% in 2007, 57.79% in 2008 and 58.90% in 2009. However, the disposal percentage of Faridabad district forum showed a reverse trend. Its disposal performance decreased from year to year. It was 10.10% in 2005, 8.33% in 2006, 2.97% in 2007, 2.55% in 2008 and 2.03% in 2009.

- Measurement of levels of consumer awareness made it amply clear that majority of the consumers have just a general awareness—about consumer protection act and only 19.33% were fully aware and 36.66% were partially aware about the procedure in filling complaints. Moreover consumer Awareness has also been accepted as the major instrument for consumer protection by all sections who are associated with consumer services in any way. State agencies, print and electronic media and voluntary consumer organization have special role to play in educating the consumers about their rights because conferment of rights only through legislative process is one things and making people aware about their rights is another. The most important aspect of consumer protection area is the right kind of enforcement of consumer rights, which ultimately depends upon the knowledge and capability of the people. Consumer empowerment in this regard may be more effective through the coordinated and concerted efforts of all the sections associated with consumer affairs.

**Suggestions**
Obviously, there is need for strengthening the consumer redressal machinery as well as for making consumer more aware of his legal rights, the following suggestions would go a long way in this direction:

- Education is the most important weapon for social change. So, consumer protection education should be included in educational curriculum from primary to secondary level and college curriculum.

- District Forums should provide necessary guidance to the complainants and model documents should be prominently displayed at their officers.

- Wide publicity should be given about the District Forums and complainants filing procedure through ration shops, panchayats, block offices and other agencies in the form of pamphlets and hand bills.

- ‘Consumer Education Campaign’ should be undertaken by voluntary consumer organizations on wide scale from locality to locality to make people aware about their rights. Local committees should also be formed for redressing consumer grievances.

- Address of the District Forums and procedure for filing the complaint should be widely publicized through advertisement in newspapers. Information about this should be put in the form of sign boards at places like post offices, bus stands, railway stations and other prominent public places.
• Officials of Panchayats and Block Development Authorities should support consumer awareness programme and their services should be made available to the people in the hour of need.

• Programmes like rural development, national literacy campaign, family welfare programmes and other similar programmes should also be linked with consumer awareness programme i.e. these all programmes may be developed as a single programme as ‘Social Awareness Campaign’.

• Educational institutions and organizations like Universities, Colleges, NCERT, SCERT, UGC, AICTE etc. should also be involved in developing Consumer Education Material and its propogation.

• In general, a consumer requires two basic things in the market, first, a proper quality product and second, this product at reasonable price. This is possible only when the market is developed as ‘Consumer Market’ instead of its present form as the ‘Sellers Market’.

• District Forums should have the right to organize its sittings at sub-divisional and block level in case there is any such need. It will help consumers in getting their problems redressed at the nearest place. It will also create awareness among the consumers about existence of such redressal machinery in their district.

• Consumer Protection Act also have the inherent spirit of development ‘Citizen Charter’ by trading communities and service organizations. Such charters will develop a sense of consumer
orientation in various service sectors. Such charters have already been developed by some service organization.

- There should be necessary facilities (specially library) for court room, chambers office library and chairs for parties appearing in the court. The literature concerning consumer protection like ‘Consumer Protection Reporter’ is not made available to the members of District Forums. It is suggested that libraries of District Forums should be improved and they should subscribe several journals and reporters concerning consumer protection on regular basis.

- Occasionally, meetings of District Forums could not take place due to the lack of quorum because members fail to attend these meetings. Many times, members are not as sensitive to consumer problems as they should be. So, only consumer sensitive persons should be involved in such forms.

- Registered consumer organizations working in the field of consumer protection for more than ten years should be consulted in the appointment of forum members. Because, many a times, only political motivated person without any knowledge of Consumer Protection Act are appointed as members. Such persons come to attend the meetings just to collect their remuneration instead of solving consumer problems.

- The Presidents of the District Forums are usually persons from judiciary and they are strong enough to counter the influence of the members. Complainants and consumer organizations are of the
opinion that the say of members should also be taken care of by the presidents. So, the other members should also be qualified and some minimum educational qualifications should also be prescribed. It is suggested that highly qualified and consumer sensitive persons from various fields should be appointed as non-judicial members. System of deputation from other related fields may be introduced.

- Occasionally, non-government consumer organizations use the words ‘Council’ and ‘Forum’ with their names, which are the part of the settlement machinery established under Consumer Protection Act. It creates a confusion in the public. So, voluntary consumer organizations should not be performed to use these words with their names. Registrar of firms and societies should take care about these terms at the time of registration.

- It has also come to the notice that consumer organizations charge exorbitant fees from the consumers for taking up their complaints which is contrary to the spirit of consumer redressal system. So, a provision should be made in the act against such exploitation by the consumer organizations and provisions should be there to cancel their registration.

- It has also been found that consumer organizations indulge in unfair practices and blackmail the traders. It is also contrary to the spirit of Consumer Protection Act. Such consumer organizations should be taken care of by the relevant laws.
• Honorarium and remuneration of the members of the forums should not only be respectable but should also be conversant to their status. Further, more essential facilities should also be provided to them so that they can function effectively and impartially.

• Judgement writing is legal and special kind of drafting work which requires technical judicial language. But non-judicial members find it difficult to write judgements in legal terms. So, non-judicial members of the forums should be given proper training in the first year of their working for conducting the proceedings and judgement writing.

• Regular conventions of all levels of forums functionaries should be organized at regional, state and national level, so that consumer problems may easily be discussed on a common platform. Such conventions should be organized with the help of voluntary consumer organizations. It will also be beneficial for developing consumer awareness. The role of officials of various departments (Centre and State) who are engaged in public dealings cannot be ignored in consumer protection. Their influence in society can very well be utilized for generating an atmosphere for fair trade practices. So, regular training programmes should also be organized for such officials to equip them with appropriate knowledge of consumer affairs. It will enable them to provide appropriate guidance to helpless consumers. They should also be authorized to exercise their administrative powers more effectively in Consumer Protection.
• It has also been noticed that unnecessary delay in the appointment of members and posting of staff and also results in effective working of these forums. Presidents of the forums should have the authority to appoint temporary staff in case of need.

• State government should provide financial assistance to voluntary consumer organizations for developing better consumer awareness in the state. Separate budget allocation may be done for this purpose by creating ‘State Consumer Welfare Fund’ on the lines of ‘National Consumer Welfare Fund’. It will protect the voluntary consumer organizations from undue pressure and encourage them for independent function.

• Consumer courts should not be provided a political character, an independent commission should be constituted to look after the task of appointment of members and the functioning of the courts.

• The strength of members of courts should be increased.

• These courts should be given more teeth and their meetings may be held on certain days at the block level to provide justice at the doorsteps through mobile consumer courts.

• The President of the state commission shall be head of the department and controlling authority for the purpose and book / code of financial powers.

• Appointment of officers and staff (except the President and members) of the district forum and state commission shall be made by the President of the state commission.
• Training should be given to the newly appointed Presidents and members of the forum.

• Help should be taken of the Indian Institute of Public Administration (IIPA) for imparting training to the members of the state commission as well as Presidents and members of the district forum which should be monitored at the level of the National Commission. 15 days training programme to the newly inducted members of the state and district forum including the Presidents of the district forum so as to equip them with regard to the procedure to be followed while conducting the complaint cases so as to help them to avoid illegalities being committed for the smooth functioning of the district forum.

• The training programme shall take care of following aspects:
  
  (i) Consumer Protection Act, 1986 and amendments in the Consumer Protection Act, their judicial implications on different points.

  (ii) A correct approach of the judgement writing.

  (iii) General principles of Consumer Protection Act to be followed by the consumer forum with reference to the settled law by the Hon’ble National Commission on the procedure of dealing the complaints by district consumer forum.

  (iv) Settled law in deciding cases related to HUDA etc. electricity, insurance assurance, banking and telecommunications.
(v) Procedure of institution, processing granting of adjournments recording of zimini orders, granting of interim injunctions, maintenance of institution and disposal register, maintenance of statistical information as per Consumer Protection Act and instructions issued by the Hon’ble National Commission from time to time.

(vi) A peep in to Civil Service Rules so far as working of the district consumer forum is a concerned demystified.

(vii) Canons of filing of properties, purchase procedure store procedure, writing of loss etc. demystified.

(viii) Initiating of disciplinary action against the staff under various rules / government instructions issued by the state government and writing of A.C.R.s.

(ix) Any other topic suitable for trainees to be selected by the President of the state commission.

- Media can play a very important role for highlighting consumer issues. Media in various forms – print, electronic and unconventional can be extremely effective in moulding public opinion;

  Newspapers should have regular consumer columns and columns like ‘Consumer Complaints’, ‘Consumer Grievance’, ‘Consumer Woes’, ‘Mail Box’ and ‘Our Readers Complaint’ can be easily highlight consumer’s grievances. Consumer magazines, radio and television can also play an effective role in consumer education. More and more consumer programmes should be telecasted.
• In Maharshi Dayanand University, Rohtak, Department of Public Administration under the chairmanship of Hon’ble Dr. S.S. Chahar introduced consumer protection in the course of master degree and five year integrated course in the discipline of Public Administration. Thus there is a need to make consumer education an integral part of educational curriculum at the secondary level, so that awareness about consumer rights could be inculcated in the minds of the citizens at the appropriate age thereby enabling them to be assertive consumers and the responsible citizens. General public must be trained through education schemes and programmes to form habit of taking receipts from the shopkeepers, sellers or traders for the goods, items, products or any other material purchased or services availed of in order to be well equipped for relief under Consumer Protection Act, 1986.

• Organize debates and competitions at school level to impart education about misleading and fraudulent audio-visual advertisements regarding consumer goods and products.

• World Consumer Day and National Consumer Day should be observed by the government with the same spirit as observed in the ‘Pulse Polio’ programme at the village, tehsil and district levels.

• Publish attractive and eye catching advertisements in newspapers to warn general public from being defrauded by fraudulent commercial advertisements.

• Adopt and follow a simplified and summary procedure so that the complaint may be disposed off with in the stipulated period.
The present fee structure should be dropped and the fee should be deposited in the forums premises, so that the consumer should not be harassed.

The above mentioned suggestions about the functioning of district consumer disputes redressal forums in Haryana are aimed to improve the functioning of these forums. District forums are people oriented bodies, therefore, they need regular improvement in their functioning. State government should give all necessary help to make the consumer redressal system more effective and efficient. For this purpose these suggestions may be incorporated by the State government in Consumer Protection Rules framed under Consumer Protection Act.