CHAPTER VIII

SUMMARY AND CONCLUSION

The world is a global village and the consumer is the king, yet he is striving to create a niche for himself. The plight of the consumer in developing countries with a lot of socialistic ideologies, social controls and public sector monopolies are not that of a sovereign who can exercise his will and free choice, but that of a helpless non-entity ignored by the business and neglected by the state. Though the importance of the consumer was always felt by business organisations, the state and other agencies, the consumer was the only section of the society that could be easily exploited by one and all. The mere fact that the consumer is unorganised and, therefore, weak to fight against the powerful organisations was fully made use of. This can be evident from the role played by the various voluntary organisations in protecting the interest of consumers. In fact, it was only with the initiative of these voluntary organisations that the state eventually stepped in, to legally protect the harassed consumer.

The consumer movement had gathered momentum in both developed and developing countries though its presence was felt in the late seventeenth century in America yet it had gathered a strong foothold by the end of nineteenth century. Similarly in Great Britain, Japan, Italy, Switzerland, France, Canada, and other parts of Asian countries including India the phenomenon had created a new wave. The growing interdependence of the world economy and international character of many business practices have contributed to the development of universal emphasis on the need of consumer protection.
Numerous laws have been formulated for the welfare of the people but this piece of legislation in the form of Consumer Protection Act, 1986 has been so designed that it encompasses all kinds of goods and services to help the consumers in getting what he has paid for. Studies exclusively based on the Consumer Protection Act, 1986 have been undertaken by several scholars but the functioning of the Consumer Disputes Redressal Agencies under the Act have yet to be explored.

The present study entitled “Organisation and working of the State Consumer Disputes Redressal Commission and the District Consumer Disputes Redressal Forum” is an effort to examine the unexplored area of the Consumer Protection Act, 1986. The study was taken to examine the various aspects of the three tier machinery i.e. National Commission at the Central level, the State Commission at the State level and the District Forum at the District level as stipulated under the Consumer Protection Act, 1986 such as its organisational structure, personnel and financial aspects, procedural aspects, performance and consumers’ perceptions.

The Consumer Protection Act, 1986 had received the President’s assent on November 24, 1986 and the Chandigarh State Commission was established on July 1988 and the District Forum on June 1988. Both the agencies started functioning on April 1989 by the intervention of the Supreme Court. The objectives of the Consumer Protection Act are to protect the interest of consumers, to provide expeditious justice and to educate and bring awareness among the consumers regarding their rights. In the pursuit of objectives enshrined in the Act, the redressal forums had been facing numerous problems over the years for delivering justice to the aggrieved consumers. The present chapter depicts a summary of various issues involved. Remedial measures have been
suggested to further enhance efficiency and effectiveness of the organisations under investigation. In the preceding chapters, we have discussed and examined these issues and problems.

Policy perspective

On a number of occasions, the state acts like a monopolist as little relief is being provided to consumers in the sensitive area of public utilities. Much of the utilities, such as, power, water, telecommunication and cooking gas, are publicly owned, but the government either accepts no liability or claims privileges on the ground that providing these is part of the state's activity. Thus maintenance of these services are performed with money collected from the poor as well as the rich through indirect and direct taxes. However, the government is not liable for any loss or damage to a citizen flowing from their inadequate performance. The supply of water, power and telecommunication has been poor in quality, while the consumer has to pay more because he is unorganised. Despite, the fact that there are a number of Acts like Prevention of Food Adulteration, Essential Commodities, Monopolies and Restrictive Trade Practices and Weights and Measures Acts etc. to protect the interest of consumers yet they have proved insufficient and ineffective. In view of the absence of a comprehensive legislation and the deficiencies contained in the various laws, it was obvious for the Government of India to make these laws forceful. Accordingly, the Consumer Protection Act, 1986 was framed for protecting the rights of the consumers.

The Act contains 31 sections and 4 chapters. It is a comprehensive Act as its applicability extends to all 'goods' and 'services' which has enabled a large number of consumers to voice their grievances against unscrupulous private business, non-responsive public undertakings and negligent professionals. At the
same time, it has also enabled the District Forums to bring within their ambit all categories of services ranging from power, insurance, housing, banking, education to medical services. While this has widened the scope of legislation, it has also been met with a demand for virtual immunity, and in the alternative, by a lot of resistance from some of the services and professions like medical profession. There is no doubt that the policy to protect and promote the consumers was well laid out by the government but the efforts to bring into its ambit various services for providing relief to the aggrieved consumers was surely through the interpretation of the Consumer Protection Act, 1986 by the Courts.

Organisational Structure

The Consumer Protection Act, 1986 provides for the establishment of Consumer Protection Councils both at the Central and State level to promote the interest of consumers. For the redressal of grievances of consumers three tier machinery has been established i.e. National Commission, State Commission and District Forum.

The aim of constituting Consumer Protection Councils was to help the respective governments in reviewing policies for protecting and promoting the rights of consumers. The State Consumer Protection Councils have yet to prove their existence, as they are hardly functional. Our analysis shows that Chandigarh administration fulfilled the basic obligation by establishing Chandigarh Consumer Protection Council as stipulated under the Act, 1986. Due to its non- functional nature, the basic purpose of protecting the interest of consumer has remained unfulfilled. It is suggested that the Consumer Protection Councils should be reactivated by the State Governments and if need be the Courts.
can intervene to make sure that State Governments take a step forward to set up these councils in their respective states.

To redress the grievances of the consumers, the State Commission and the District Forum were established in the year 1988. Initially, the size of the redressal agencies was small but over the years it has grown structurally and functionally. The number of complaints has been rising tremendously and that is why Chandigarh administration has very rightly established another District Forum to accommodate the rising number of complaints.

The study also suggests that the role of the government does not end at the conferment of rights through legislative process and the creation of redressal machinery. In fact, the importance of consumer rights lie in their enforcement in its true perspective. This can be achieved only if the objectives and goals of the organisation are well laid out and conform to the attainment of goals.

The study indicates that by understanding the perception of goals as seen by the employees of the agencies, this researcher got a significant entry to monitor some aspects of the general functioning of the organisations under investigation. Our analysis shows that a fairly large number of officials of the agencies are not clear about the goals, these quasi-judicial bodies are expected to pursue. In fact, the officials seem to regard their day to day activities as goals of their organisations. However, the study suggests that urgent attention is needed to the indoctrination of employees of these agencies regarding the goals of agencies under review. The study visualizes that once the goals are clarified, arranged in order and understood, and internalised by the functionaries, it will be possible to bring about considerable changes in the behaviour of the officials with a view to facilitating the attainment of the organisational goals.
With regard to the resources placed at the disposal of the redressal agencies for the attainment of the goals it was observed that more than half (50.38 per cent) were either highly dissatisfied or fairly dissatisfied and hardly 12.50 per cent of the respondents were neither satisfied nor dissatisfied and over 37.12 per cent were either fairly satisfied or highly satisfied with the resources.

Personnel and financial aspects

The Consumer Protection Act, 1986 requires to set up three tier adjudicatory machinery of National Commission, State Commission and District Forum. Each of them consists of judicial member as the presiding officer and two members for District Forum and State Commission and four members for National Commission. It is not necessary for the members to have legal qualifications and experience under the Act. It is provided that at least one of these non-judicial members would be a woman.

The state governments are required to seek clearance from Central Government before setting up a District Forum and a State Commission, and notifying appointments of the members. The state governments are saddled with all responsibilities for providing infrastructure i.e. building, books, office equipment etc. to these agencies.

The quality of justice rendered by the redressal agencies is dependent upon the quality of the people who constitute them. In this regard our study shows that out of 37 incumbents who served as Presidents / members on these agencies during the course of one decade as many as 37.85 per cent were judges, 35.13 were educationists, 10.81 per cent each were bureaucrats and social workers and 5.40 per cent were advocates. It is evidently clear from the membership that majority (43.25 per cent) of the incumbents
have legal background and the kind of experience they have acquired during their long innings in the Courts as judges / advocates leave their imprints of procedural complexities of ordinary Courts on the working of these tiny quasi-judicial agencies which are meant to impart quick justice to the consumers.

Regarding the tenure of the Presidents and members, the study shows that only 54.05 per cent of incumbents could complete their tenure of five years as prescribed under the Act. As many as 21.62 per cent left within two years and 5.40 per cent left after three years and 13.53 per cent left after four years while 5.40 per cent were re-appointed in the National Commission. It is suggested that allowances should be raised to retain the Presidents and members to complete their terms. Their leaving in the middle of the term disrupts the smooth functioning in judicial process of decision making.

With regard to decision making activity, the Act has laid down that in both State Commission and District Forum, the President and at least one member sitting together would hear the parties and examine, before giving the final verdict. However, the amendment Act of 1991, dealt with the question of difference of opinion among members. It provided that if the President and member differed on any point or points, they would refer these to the other member, and the opinion of the majority would constitute the final order. In other words, the two non-judicial members, acting jointly, might override the President. If both the non-judicial members are drawn from the senior bureaucracy, the President can no longer prevent high headedness of bureaucrats if the ex-bureaucrat members decide to render him ineffective. For the performance of the various activities within the State Commission and the District Forum, the President and the members require the help of Private
Secretaries, Reader and other administrative staff. The study indicates that more than 66.6 per cent employees disliked the presence of deputationists in their organisation as 83.3 per cent of respondents opined that deputationist's have joined their organisation with a single motive of getting financial benefits. The above mentioned facts lead us to say that there are no set recruitment policy for the agencies under investigation. Our study leads us to suggest that there should be a selection committee headed by the President of the State Commission, to recruit its own cadre who would be well versed with the problems of consumers rather than depending on deputationists who serve for a fixed tenure and thus lack sense of belongingness towards the organisation. In view of the increasing workload, it is suggested that the redressal forums should have their own cadre who are committed and who can guide the consumers instead of appointing deputationists temporarily.

Though there is an overall dissatisfaction of resources among the employees but with regard to the financial position of the State Commission and the District Forum, the analysis showed that both the State Commission and the District Forum are fairly satisfied with the funds they received during the period under review. An increase has been witnessed in the amount received and expenditure incurred.

Performance

Various aspects of performance evaluation of redressal agencies have been examined in chapter 6 and 7. The important conclusions have been summed up below: -

The Consumer Disputes Redressal Agencies have to follow simple and summary procedure to redress the grievances of the
consumers. A separate procedure both for 'goods' and 'services' is prescribed in the Act.

An intensive analysis of 50 burnt out cases reveals that in the case of District Forum nearly 50 per cent of complaints related to financial services alone including debentures, shares, insurance, housing etc. as compared to consumer goods which constituted of small percentage (12 per cent) only. The objective of filing complaints in the District Forum was to get speedy and simple redressal as neither stamps duty or court fee is to be paid. This had made the approach simple for the common man to seek justice. But, the fact is that the process is neither simple nor speedy. The intervention of the lawyers delays the process. It was observed that more than half (76 per cent) of the complainants approach the advocates to fight their case due to the technicalities involved as stated by more than one third (34.21 per cent) of respondents. Moreover, the Act has presented a time bound period of 90 days within which the complaint would be disposed of in cases where testing is not required and where testing is involved, the limit is 150 days. However, the data collected reveals that in the District Forum none of the complaints required testing. As many as 44 per cent of complainants opined that it took nearly one year to finally dispose of a complaint. Such a trend can be attributed to the frequent adjournments being allowed by the judges. However, lawyers representing the complainants do try to prolong the complaints on one pretext or the other which is against the spirit of the Act.

The real strength of these agencies lies in the degree of confidence, which they generate in the minds of the people. For this, it is essential that justice should not only be done but should manifestly and undoubtedly be seen to be done. This can only be achieved when State Commissions / District Forums keep in mind
that they have to function fairly, justly, reasonably, economically and effectively. The data indicates that 38 per cent of the complaints were dismissed and no relief was given on the ground that the complainants could not produce any evidence to prove the deficiency or negligence of the opposite party. As many as 40 per cent pertained to partial relief, replacement/repair of product and out of court settlements. However, a ray of hope is definitely there as 22 per cent of the complaints were paid full amount for loss incurred.

The State Commission is vested with appellate and revisionary powers. So the nature of complaints received by the State Commission is different from the District Forum. True to the nature of this agency, it was found that 75 per cent of complaints pertained to housing, banking, insurance etc. and involved a big amount ranging between 10 to 20 lakhs as compared to the one-fourth complaints that involved postal services, advertising, telephone etc. However, an interesting feature of our study is that 68.75 per cent of the complaints were refused on technical grounds and as many as 31.25 per cent received compensation up to 5 lakhs.

Similar features were revealed with regard to appellate cases too as more than 78.79 per cent of appeals were related to the Insurance, housing and banking sector and only 21.21 pertained to automobiles, postal services, telephone and medical services. However, in 57.58 per cent of cases compensation was refused, in 24.24 per cent cases the claim was reduced and only 12.12 per cent of the complainants were fully compensated while 6.06 percent complainants were ordered to appear in the District Forum.

The Act being compensatory in nature states that those who provide goods or services against payment can be ordered to: - (i)
remove defects as pointed out by investigating laboratory from the goods. (ii) replace defective goods with new ones. (iii) return the price. (iv) pay compensation for loss of injury caused by negligence. (v) remove defects or deficiencies in the services. (vi) discontinue the unfair trade practice or the restrictive trade practice. (vii) not to offer the hazardous goods for sale. (viii) withdraw the hazardous goods from being offered for sale and (ix) to provide for adequate costs to parties. However, the list has a serious lacuna that it does not provide for return of excess price charged. The Act states that a complaint can be made if, among other things, "a trader has charged for the goods mentioned in the complaint a price in excess of the price displayed on the goods or any package", however, it fails to mention any relief that may be granted in case of excess price has been charged. Such mistakes in drafting the Act indicate lack of interest in the legislation on the part of legislators including ministers, and over dependence on bureaucracy.

A beneficiary other than the person who spends the money may also file a complaint. But for this, the complaint must be made in the district where the cause of action arose, where the defendant resides. This comes in the way of many aggrieved consumers. Thus, if one buys something at a nearby town which happens to fall in another district the complaint must be made in that other district for instance, if one buys something by sending money through mail the complaint must be made only at the place where the seller resides, not where the buyer resides. It is observed that maximum complaints in the forum are related to shares and debentures which the consumers tend to buy and later realize that the shareholders have fleeced with impunity.
Similarly, the Redressal Agencies have been entertaining a considerable number of frivolous complaints and grossly inflated claims. The consumers are exploited by lawyers who take up frivolous cases and raise false hopes in the consumers only to extract fees. In such a situation if cases are not implemented, all the enthusiasm about the Act would wane and consumers would be forced to submit to the unfair trade practices of the manufacturers and traders. Therefore, there is need to establish a cadre of its own so that consumers who wish to seek relief through these redressal agencies are adequately briefed and guided, particularly when it comes to gathering and presenting evidence in support of their case. Each redressal agency should also have a well-equipped library for reference where consumers can get laws and other relevant material.

The three tier structure of the CDRA’s at the National, State and District level has been created so that each of them has an autonomous role to play. The District Forum has original jurisdiction to redress complaints up to a claim of Rs 5 Lakhs. The State Commission has original jurisdiction to settle claims up to Rs. 20 Lakhs and National Commission can entertain any claim for damages above Rs 20 Lakhs.

An over-all performance in terms of complaints received and disposed of in the redressal agencies reveals that with regard to the National Commission, 15,458 complaints were filed out of which only 40 per cent were disposed of during the period under review. On an average, the National Commission had been receiving 2,208 complaints per annum. Against this receipt, the disposal of complaints per year on an average had been 893. With the rising number of complaints, the number of complaints pending have also reached an alarming mark.
With regard to the State Commission, the study shows that out of 1,809 complaints filed, 70 per cent were disposed of and 30 per cent were pending during the period under investigation. To be more specific, the study revealed that the State Commission was able to decide only 40 per cent of complaints within 90 days and 60 per cent of the complaints were decided beyond 90 days. Moreover, out of the total complaints disposed of 31.79 per cent of the complaints were decided in favour of the consumers and 33.37 per cent against consumers. As many as 9.55 per cent were dismissed for non-appearance of either party and 25.29 per cent complaints were dismissed on technical grounds. In order to cater to an increasing number of complaints filed before the redressal agencies, it is suggested that the number of Benches should be increased. The analysis of the District Forum shows that out of 12,388 complaints filed 59 per cent complaints were disposed of and 41 per cent were still pending. Out of the total complaints disposed of 50.57 per cent was decided in favour and 28.67 per cent of complaints were decided against the consumers. As many as 11.16 per cent were dismissed for non-appearance of either party and 9.60 per cent were dismissed on technical grounds. The District Forum was able to decide 64 per cent of complaints within 90 days as stipulated under the Act and 36 per cent of the complaints were decided beyond 90 days. The disposal of the complaints showed that out of the total disposal of complaints 50.5 per cent of the complaints were decided in favour of the consumers.

After the appropriate orders have been passed to both the complainant and the respondent, it is required that the orders have been justifiably implemented. But, if the redressal agencies order a firm to pay some money to an aggrieved consumer as compensation and the firm refuses to comply with the order, the redressal agencies have the power to attach the amount from the

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firm's bank account or fine and imprison the firm's proprietor. However, many firms disappear without leaving a trace as no records are maintained by the redressal agencies. Therefore, in the absence of information about its accounts or properties no attachment can be made and in the absence of address, the firm's proprietor cannot be fined or sent to prison. Thus, it is suggested that the shareholders can be asked to furnish their permanent account number given by the income tax department and the particulars of their bank account. However, companies and businessmen can be asked to mention their bank account particulars in brochures, bills and vouchers to help the redressal agencies in making recoveries and its execution more forceful.

Consumers’ perceptions

Consumers’ perceptions towards administration are conditioned not only by the functions a government performs, but also by their confidence in the justice and integrity of public officials. The redressal agencies have been established to protect the interest of consumers. But, in most of the cases instead of sympathy, there has been apathy, and, instead of speedy redressal of grievances, there has been inordinate delay. If this trend continues the objective of creating these redressal agencies will be lost. The dissatisfaction with regard to goods and services of consumers has been confirmed by that part of our study, which deals with consumers’ perceptions.

The problems relating to the government services have assumed such alarming dimensions that it constitutes the lion’s share of litigation in all the three jurisdictions. The study shows that 51 per cent of the consumers are not satisfied with the telecommunication services out of which 61.81 per cent had to bribe the officials or use influence to get the job done and 15.97 per
cent believed in routine action while 22.22 per cent had approached the District Forum. Similarly, with regard to water and electricity bills, 51 per cent respondents were dissatisfied though all the respondents had faced problems at one time or another. The consumers also feel that once they buy a product the dealers stop responding to them. In the case of Chandigarh Housing Board it was observed that out of the total respondents as many as 38.00 per cent got the flat while 56 per cent were left out due to the lottery method used in the allotment and 6 per cent never applied for the plot as they already owned a house of their own. With regard to medical services, it was observed that 56.38 per cent of respondents preferred to go to government hospitals and dispensaries in case of illness while 38.29 per cent of respondents went to private hospitals or clinics and 5.33 per cent of respondents never had any experience of hospitals as they never had any health problem.

In the recent times, a large variety of products are available to the consumer, which leaves the consumer confused. The study reveals that 54 per cent of respondents are aware of ISI mark and 46 per cent of respondents were not aware. Further, out of 54 per cent of respondents only 30 per cent bought products that had ISI mark and the remaining 70 per cent even though aware did not buy ISI marked products. It was found that 63.47 per cent bought packed goods and 36.53 per cent preferred loose. Out of those who bought packed goods only 32.41 per cent were satisfied and 67.59 were not satisfied with the quality of the product packed. To add to the woe of consumers advertising too affected the buying behaviour of the consumers. Our study shows that more than one-third (37.95 per cent) of respondents felt advertisements helped them in making choices whereas 57.80 per cent opined that it affected them adversely while 4.25 per cent of respondents showed lack of
interest in advertisements. Moreover, 63.12 per cent of respondents felt that they generally paid more than the actual price while 25.88 per cent never paid more than the actual price and 11 per cent would buy whatever the cost might be.

To protect such consumers who easily give in to the will of sellers it was essential to know if they were aware of the Consumer Protection Act, 1986. It was found that only 37.24 per cent of respondents were aware and 57.80 per cent were not aware that they had been sheltered under the law and 4.96 felt it was of no use to them as they have little resources to buy products.

The respondents who were aware felt that it is a waste of time and money as these redressal agencies have failed to give time bound decisions thereby pointing to the fact that 'justice delayed is justice denied' especially when the amount involved is small.

The Consumer Protection Act, 1986 was formulated after a lot of effort on the part of voluntary organisations as the position of the consumers was getting worse due to the unfair trade practices used by sellers'. Though there are various legislative measures that give shelter to consumers but the Consumer Protection Act, 1986 is special of its kind. It maintains that Consumer Protection Councils should be set-up to promote the interest of consumer and educate them regarding their rights. The Act also provides for redressal machinery at National, State and District level so that justice is easily accessible to the consumers' regarding various goods and services. The prime objective of the Act is to provide speedy redressal of grievances, which it has failed to comply. The fast increasing number of complaints and despite the fact that negligence and deficiency is on the rise nothing is being done to save the redressal agencies from becoming similar to the courts.
Our study leads us to suggest that these Redressal Agencies should be empowered similar powers as the Civil Courts as such a change can prove to be a powerful tool in the hands of the consumers. The study stresses on the need for consumer education and consumer awareness programmes. It is the duty of the government to provide adequate information to the public about the District Forums and State Commissions and procedures for filing complaints before them. Therefore, with a little more awareness of the redressal agencies amongst the masses, it can surely curb the malpractice among the traders and manufacturers.