CHAPTER VII

CONCLUSIONS AND SUGGESTIONS
"Customers today want the very most and the very best for the very least amount of money, and on the best terms. Only the individuals and companies that provide absolutely excellent products and services at absolutely excellent prices will survive".

Brian Tracy

7.1 INTRODUCTION

The consumer is the forgotten man of the modern Indian economy. He is the least organized and most centrifugal element in the circle of investment, production, sale and consumption. He is generally taken for granted as one who has no alternative then to buy, in order to live in the society.

The consumer has to face number of problems day in and day out. Some of these problems are in the nature of unfair trade practices, misleading and deceptive advertisement, offering gifts and prizes, spiraling prices, promotional contests etc.

Modern technological developments have made a great impact on the quality, availability and safety of goods and services. Due to the total helplessness of the consumer in the corporate sector with its vast resources and control over the media, it has been found necessary to devise new methods of regulation and control. As a result, plethora of legislations has been enacted to protect the interest of consumers.

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1 http://www.woopidoo.com/business_quotes/customer-quotes.htm dt 30.03.10
2 Gulshan S S, Consumer Protection and Satisfaction Legal and Managerial Dimensions, (Wiley Eastern Ltd., New age International Publisher Ltd, New Delhi, 1995) at 3
3 Id at 4
4 Saraf D N, Law of Consumer Protection in India, (NM Tripathi P. Ltd, Bombay, 2nd Ed. 1990) at 2
In fact, laws to control and punish businessmen indulging in adulteration and short weights have existed in India since 400BC. However, there was no organized and systematic movement to safeguard the interest of consumers. Various enactments were made by the Indian Government from time to time to protect the interest of consumers in India during the pre and post-Independence era. Under the enactments made before 1986, the consumer had to initiate action by way of civil suit, which meant a time consuming and expensive legal process. Therefore, the need for a simpler and quicker access to redress consumer grievances was felt. Accordingly the Consumer Protection Act 1986 was enacted and amended in 2002. This is one of the most important and beneficial legislations to protect the rights of consumers and provides remedies incase of defective consumer goods or deficiency in service.

The important measures to empower consumers are, right to information, education, representation and redressal. Any legislation, directly or indirectly related to consumer protection, is obliged to take due note of these rights. All these rights have been incorporated under the CP Act, 1986 to safeguard the interest of consumers.

The consumer has to be awakened to the task of making his or her own movement a success. For this purpose, better testing, information and other facilities have to be provided. Consumer literacy should be the main slogan and

5 Eradi Balakrishna V, Consumer Protection Jurisprudence, (Lexis Nexis, New Delhi, 2005) at 49
this should lead to creating consumer power in order to stop exploitation. It has been rightly remarked,

"To enact a law is, however, only to hope and at best to ordain that it may be followed. To ensure that the consumer protection laws are observed faithfully and fruitfully, it is necessary to spread legal literacy among the common consumer, trader and among social workers in the consumer protection movement and to enshrine the right to know, the right to complain and the right to redress and remedy the law of the land. Such laws will help to build up citizen consciousness and citizen vigilance and activism".  

According to consumer protection activist, Ralph Nader, "The fibre of a just society in pursuit of happiness is a thinking active citizenry". It is the extent of participation and the sense of involvement of the people that will lead to real and effective consumer movement.

Consumer education should be an integral part of the basic curriculum of the education system imparting sufficient knowledge about health, nutrition, food adulteration, prevention of food borne diseases, product hazards, labeling, weights and measures, prices, and credit conditions. Proper uses of media can be supportive in this regard. Presently the most important areas of concern are food, clothing, shelter, health care, drinking water, sanitation, education, energy and transportation.

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7.2 OVERVIEW

In the initial stage of study the concern of consumer in terms of the remedies available to him under the Consumer Protection Act, 1986, has been highlighted and the chapter lays down the complete scheme of the study and the preferences for which the study is carried out. The focus is on the effectiveness of Consumer Dispute Redressal Mechanisms, structural as well a functional, having laid down the basic premises of the research study.

Chapter II deals with the historical development and the internationally recognized consumer rights through a comparative study of the two of the leading nations namely USA and UK. The study has also taken into account that fact of the beginning of consumer movement in other developed nations like Japan, Australia, and Poland. Through this chapter deals with the development of consumer movement in India, the national consequence of higher sensitivity of the consumers and the concern of the State in protecting the consumer rights have been discussed elaborately. From this premises the researcher develops his concern has to how the ideal of consumer protection is
imported in the Indian psychic by drawing illustrations from the ancient as well as medieval period. This early initiation of the idea of consumer protection has indeed laid a deep rooted foundation for a legal spectrum, to provide consumer protection. The chapter has discussed various legislations prior to independence as well as post independence, where in the idea of consumer protection has been incorporated in to these legislations.

It is of course only in the year 1986 that a enactment of dedicated legislation in the form of the Consumer Protection Act of 1986, was enacted. The objective of the legislation and the various Consumer Protection Redressal Agencies there in, are also discussed in detail in this chapter. Having laid down the broad canvas of consumer protection, the researcher has further taken his research to specific areas and therefore the fourth chapter zeroes down the discussion more specifically on the two areas of Housing and Insurance Sector.

Housing is an essential component of right to life. In the recent times with the government’s proactivity towards providing dwelling family housing units, there has been a large number of legislations and government notifications encouraging setting up of housing plots, housing conglomeration, flat system, etc, which has resulted in large number of middle class and lower middle class persons anxiously entering in to contractual relationship with the service provider in this system, resulting in breach of promise, and deficiency in services. This chapter explains the extent to which the Consumer Protection Act, 1986 has provided relief to such aggrieved persons. Certain decisions of the Apex Court are also highlighted in this regard.
The second area of choice for the research is that of insurance sector. With the high risk, life time insurance has become the way of life in human dealings in all most all sectors except may be the realm limited to religion and spiritualism. Though there are many sectors of insurance, considering the fact the most of the insurances are relating to Life Insurance, and with many private players entering this arena, the research study and analysis is focused on Life Insurance, more specifically on claims settlement through the mechanism of Consumer Protection Act, 1986.

The study of disputes relating to claims settlement has given certain anticipated revelations regarding the inconvenience and hindrance caused to claimant, and prompt settlement is mostly a mirage. The problem of course seems to be the failure of the adjudicatory system and the adjudicators as such, to adapt to the changing situations, interpretations and analysis of a law which calls for speedy and prompt redressal which cannot be subjected to traditional interpretations and procedural wranglers. This has resulted in not only prolonged litigation but much hand burn for the concerned consumers.

The Consumer Protection Act, 1986 as amended, is a best mediocre attempt at consumer protection. Better late than never, when it comes to law in India, it lacks teeth in several areas, like safety, standard, quality. Due to this the
provider of services, still enjoys absolute freedom in India, to disregard safety, standards and quality when it comes to consumer protection\textsuperscript{9}.

Chapter V espouses the need to have a system of standardization in terms of services so that it becomes much easier for an adjudicator to determine from accepted standards. The researcher has cited some illustrative national and international standards and argued that the immediate need in this sector is for standardization on certain defined parameters. The benefits that mat accrue by such standardization has also been elaborated in this chapter. No doubt there is of course an urgent need to ensure that the mechanisms and systems are capable of fulfilling the very objectives of such a path breaking and consumer oriented legislations.

Having theoritized on this issue of faulty and ineffective consumer redressal system, the researcher has substantiated his hypothesis and propositions through a scientifically formulated field study and data analysis. The core contents of chapter VI deals with the findings obtained from the field study of the functioning of Consumer Dispute Redressal Agencies in the two districts of Goa namely North Goa and South Goa. The researcher also collected data from the State Consumer Dispute Redressal Commission. The data collected from the CDRA has been systematically analyzed to bring out the main contentions of delay in deciding complaints, that is defeating the very object of

\textsuperscript{9} http://www.consumerdaddy.com/a-12-history-of-consumer-protection.htm dt. 31.03.10
the legislative exercise. The findings speak for themselves and bring out the fundamental issues in the failure to fulfill the legislative objects.

Having conducted the in-depth study it is but natural for the researcher to draw certain specific conclusions as an outcome of the study and in the process prove the hypothesis, as enumerated in the initial chapter of the research study.

7.3 HYPOTHESIS

The first hypothesis proposed is

1. Time taken for disposal of complaints

Functioning of the CDRA depends upon the disposal of complaints. According to the Consumer Protection (Amendment) Act, 2002 the authorities under this Act should decide the complaint within 3 months or within 5 months (in case of analysis of sample) as laid down under Sec 13 (3A)\(^1\) of the CP Act, 1986.

Complaints are not disposed as per the time frame prescribed under this Act by the Consumer Dispute Redressal Agencies. In practice the Consumer Dispute

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\(^1\) Sec. 13 (3A) of Consumer Protection act, 1986: Inserted by Act 62 of 2002, Every compliant shall be heard as expeditiously as possible and endeavour shall be made to decide the complaint within a period of three months from the date of receipt of notice by the opposite party where the complaint does not require analysis or testing of commodities and within five months if it requires analysis or testing of commodities. Provided that no adjournment shall be ordinarily granted by the District Forum (DF) unless sufficient cause shown and the reasons for grant of adjournment have been recorded in writing by the forum, provided further that the DF shall make such orders as to the cost occasioned by the adjournment as may be provided in the regulations made under this Act, provided also that in the event of a compliant being disposed of after the period so specified this DF shall record in writing, the reasons for the same as the time of disposing of said complaint.
Redressal Agencies take approximately more than one year in disposing the complaints. Sometimes the complaint is pending before the Redressal Agencies for five to six years.

The statistical analysis of the empirical data in this regard points to the fact that only 8.8% of complaints/ appeals were disposed within 3 months as prescribed under the CP Act, 1986. 31% of complaints/ appeals are pending for more than 4 years. Thus proving the hypothesis proposed by the researcher. The Table No.33 and Bar Chart No. 39 of Chapter VI are evidence and substantiation of the above statement.

Further, to cross verify this hypothesis the researcher also analyzed the empirical data. Table No. 35 and Pie Chart No. 41, in Chapter VI, indicates that 69% of the public opinioned that the CDRA are taking more than a year in disposal of complaints. 23% informed that the CDRA takes 9 months in disposal of complaints. Only 4% says that the Fora takes 3 months in the disposal of consumer complaints. It is clear that the CDRA are not in a position to dispose the complaints within the period specified under the Act.

The researcher is of the opinion that the hypothesis proposed has been proved and therefore the research is useful and stands validated.

a. Reasons for delay

To ensure speedy remedy the Consumer Fora are free from the shackles and trappings of the court. It certainly helps in speedy remedy. Functioning of the
Fora has been simplified by Amendment Act, 2002 which by incorporating a
new provision, where by now the Fora can issue interim order.

The researcher verified the reasons for delay in disposal of complaints filed
before the CDRF. The researcher after careful verification and through his
personal observation identified the major reasons that may be responsible in
delay in administration of consumer justice. The statistical analysis of
empirical data indicates that 41% of the consumers expressed that
adjournment of the complaint is the main reason for the delay in disposal of
complaints. As per Sec 13 (3A)\textsuperscript{11} of the Act, the Fora ordinarily shall not grant
adjournment unless sufficient cause is shown and the reasons for grant of
adjournment have been recorded in writing by the Fora. From this it is clear
that the Fora are violating the provision of the Act. The second reason for delay
is non appearance of the opposite party (29%). Overall it is clear that there
are three reasons for delay they are adjournment, non appearance of opposite
party and workload. The Table No.36 and bar chart Fig No. 42, in Chapter VI
provides detailed substantiation of the contention mentioned above.

The researcher also conducted an empirical study to find whether there is a
need to extend the time limit specified under the CP Act, 1986 in disposal of
consumer complaints.

\textsuperscript{11} Supra note. 8
67% of the persons interviewed stated that they are happy with the time limit specified under the Act. Only 33% expressed that they are not happy with time limit and informed that there is a need to extend time limit up to 1 year. 66% express their view that extension of time limit leads to greater delay which may hamper in the fulfillment of the objective of the Act. The Table No.37, Fig No. 43, Chapter VI substantiates the above mentioned contention.

2. Cost of litigation

One of the objectives of the CP Act, 1986 is to provide inexpensive justice. This Act was enacted with a view to provide justice at the grass root level to the consumer who is unable to approach the court due to his financial incapacity. Lack of financial capacity is a reason for avoidance of court. This hindrance has been removed by the Act as of now one need not pay any court fee or engage a lawyer. Though Amendment Act, 2002 requires fees to be deposited by the complainant but the amount is nominal and that has been provided by the rules. After the Amendment the cost of litigation has been less compared to that of the ordinary Courts. To verify this object the researcher interviewed 279 consumers. Their opinion has been presented in Table No. 38, Doughnut Chart No.44, and Chapter VI of the present study.

Accordingly to that table, 80% of the consumer opined that the cost of litigation before the CDRA is much less compare to the ordinary court. 20% expressed a view that there is no difference and the cost of litigation is the
same whether it is the Court or CDRA. It is clear that the cost of litigation is less. The objective of the Act is achieved. Hence the hypothesis is proved and the research is significant.

3. Procedure followed by the CDRA

Procedure followed by these Consumer Fora is designed to be simple, and the complaints are to be disposed summarily without following any procedural formalities. However, in reality the Presiding officers actually follow many procedural formalities. The reason is that those who are appointed were previously members of the regular judiciary. The dispute which involves affidavit, evidence, examination and cross examination of witness are beyond the purview of this Act. All the above points prove that the procedure followed by the Consumer Fora need to be simple. To verify this object the researcher interviewed 279 consumers. Their opinion is shown in the Table No. 39, Doughnut Chart No.45 of Chapter VI.

Table No. 45 highlights that 85% of the consumer expressed that the procedure followed by the Consumer Fora is simple compared that of to the ordinary court. Only 15% opined that the procedure is slightly complicated and same as followed by the ordinary court. In practice the hypothesis put forth by the researcher is justified, because the Presiding officer and members follow the same procedure followed in the ordinary court.
4. Satisfaction of the Consumer

Establishment of CDRA would be fruitless unless the consumers are satisfied with its functioning. To verify this the researcher interviewed 279 consumers. 65% of them are not happy with the functioning of CDRA functioning in the State of Goa. Only 35% are satisfied with its functioning. The majority of the consumers are not satisfied with the functioning of CDRA. Orders of the Consumer Fora are found to be mostly infavour of trader or seller.

Basing on the data analyzed in the Table No. 40, Doughnut Chart No. 46, Chapter VI, it is clear that the hypothesis proposed by the researcher is proved.

Further the researcher has also verified the orders passed by the CDRA to verify the satisfaction of consumers in relation to orders passed. The researcher has collected information from 166 consumers (150 complainants and 16 officers of CDRA). The Table No. 41, doughnut Chart No. 47, Chapter VI expresses 77% of the consumers interviewed opined that they are satisfied with the orders passed by the CDRA. Only 23% are not satisfied with the orders passed by the CDRA functioning in the Goa State. Overall around 70% of the (majority) the consumers are satisfied with the functioning and orders passed by the CDRA.
Further to cross verify the satisfaction of consumers in relation to orders passed by the CDRA the researcher verified and analyzed the statistical data.

Table No. 34, Bar Chart. 40 of Chapter VI, explains that 60% of the consumers are satisfied with the relief provided by the CDRA functioning in the State of Goa. This also proves that 60% orders are in favour of the consumers. As a result they are satisfied with the functioning of CDRA.

From this it can be concluded that the hypothesis put forth by the researcher is partly proved.

5. Appeals preferred to GSCDRC

Complainants who are dissatisfied with the orders passed by the District Consumer Fora can approach the State Commission. More number of appeals proves dissatisfaction of the consumers.

The statistical analysis of the empirical data indicates that 20% of the appeals are filed against Housing and Insurance sector. Number of appeals is 30% in relation to housing sector alone. From 2006 till 2008 there is increase in filing appeals against the orders passed by the District Fora. Due to their experience at the District Fora complainants do not prefer appeals to State Commission against the orders of District Fora, assuming that consumer justice is time consuming and protracted. Table No. 24 of Chapter VI provides detailed substantiation of the contention mentioned above. This further proves that the hypothesis put forth by the researcher is proved and the present research is meaningful.
6. Status of opposite party

If the complaint is against government, there is a possibility that the government may delay the process in justice administration. The record shows that in housing sector above 90% of complaints are filed against private builder or contractor, only around 10% of complaints are against Goa Housing Board. Further in case of Insurance 85% of complaints are against other private and smaller insurance companies like NIAC, OIC, ICICI, remaining 15% of complaints are against the biggest company that is LIC of India. This shows that majority of the complaints are against private builder/ private insurance company.

It is clear from the above discussion that the various hypothesis proposed has been substantially proved and therefore the research had yielded the anticipated outcome. However in the light of the underlined purpose of this research that results of this nature should contribute towards reformation of law and legal machinery as such. Hence as an outcome of this research the following suggestions are made.
SUGGESTIONS

1. Though the CP Act, 1986 has to a greater extent come to solace of the aggrieved consumer, but considering the Indian situation and the common human psychic many more situations of consumer grievances are not redressed, simply because of the fact that the affected consumers do not approach the Fora either because of their ignorance, or because of lack of faith in the system or sheer economic inability. It is therefore necessary to adopt a proactive approach and set up a National Consumer Protection Authority (NCPA) who would suo moto initiate action and proceeding whenever the consumers are affected by the supplier or manufacture of goods or produce which would come under the category of hazardous item or are meant for direct human consumption.\(^\text{12}\)

2. In country like India where large proportion of consumers are illiterate, poor or comes under the category of disadvantaged group or groups which need protection like children, women, aged persons etc., there is a need for appropriate legal machinery to ensure that the consumer safety is not compromised in any situation. Legislation on the lines of United States of America\(^\text{13}\) aimed at protecting children from unsafe products needs to be enacted in India as well, needless to say that such legislation should have proper enforcement machinery so that the

\(^{12}\) http://www.topnews.in/centre-amend-consumer-protection-act-255560 dt 02.02.10

\(^{13}\) On August 14, 2008, President Bush signed into law the Consumer Product Safety Improvement Act of 2008. Aimed at protecting children from unsafe products, this legislation requires that all products for use by children of ages 12 and younger have additional information on a permanent label, which includes:

1. Product location
2. Date of production
3. Name of manufacturer
4. Lot or batch number

http://www.ibmd.averydennison.com/solutions/cpsi-act-of-2008 dt. 30.03.10
guilty would be punished. Besides the age old saying that prevention is better than cure is true.

3. Many of the issues and the problem of identification, whether the service or the goods are defective could be easily solved if there are systems and machineries to set out standards and norms for each category of service something similar to ISO, ISI, AGMARK could be thought of, in case of housing and insurance, where in presently an unsuspecting customer is required to follow elaborate procedures to ensure that he is justly redressed. Therefore it is suggested that each of the services should have an independent body to set up standards and minimum quality requirements. The need is more so in this era of quality where in every one speaks of quality and looks for quality.

4. The major concern in the functioning of CDRA is in terms of non availability of the Presiding Officers at regular timings. It should be noted that the CP Act, 1986 has become an important legislation which generates substantial litigation the government having undertaken to enforce such legation, the government should ensure the purpose of legislation results in the achievement of its objectives. Regular, full time Presiding Officer and members need to be appointed on regular basis for the efficient functioning of CDRA and for prompt disposal of complaints.

5. It is unfortunate that often the Government in power protracts and delays the appointment of Presiding Officer. Every day of delay ends up in increase of t backlog of complaints. The purpose of the Act being prompt settlement of disputes the governmental delay in appointment is not just counterproductive but defeats the very purpose of the legislation. Therefore there is a need to incorporate in the Statute
itself that the post of the Presiding Officers shall not remain vacant for more that 30 days at any point of time\textsuperscript{14}.

6. It is noticed especially in the State of Goa (there are several illustrative cases) that the appointing authority gives scant respect as to the needed qualifications and competence of the Presiding Officer and other members. Under the CP Act, 1986 it should be noted that this legislation deals with a very important right of citizens and the government need to be cautious, sincere and contentious in selecting of persons to occupy such important position. Therefore the \textbf{procedure for appointment needs to be transparent and open} so that the qualification or competence of such Officer remains a matter of public domain\textsuperscript{15}.

7. It is the bane on our Indian democracy that the politicians are able to interfere with all systems of administration including the judiciary with impunity. Appointment of the Presiding Officers is no exception to this malady. Therefore in order to ensure that the CDRA are not tampered by the politicians and political systems, there is a need to lay down clear criteria and procedure for appointment of Presiding Officers to the Consumer Forum. An independent body needs to be thoughts of in processing the application or names of eligible candidates for appointment as Presiding Officer.

8. It is often noticed that the presiding Officer and other members neither have expertise nor the required sensitivity in dealing with consumer grievances. There has to be a \textbf{system of training of the Presiding Officers and the members of the Fora} before they assume the office.

\textsuperscript{14} "6 months on Consumer Courts without Heads" \textit{Times of India}, (Panaji, Goa) 8\textsuperscript{th} dece2009 and "Judges Appointed to Consumer Courts – Posts had been lying vacant for 6 months" \textit{Times of India}, (Panaji, Goa) 16\textsuperscript{th} December 2009 (Appendix – II)

\textsuperscript{15} "Appointment of N Goa Consumer Forum Chief Terminated" \textit{Navhind Times}, (Panaji, Goa) 23\textsuperscript{rd} March 2010, at 2 and "Consumer Panel Chief Quits Post" \textit{Times of India}, (Panaji, Goa) 19\textsuperscript{th} December 2008, at 4 (Appendix – I)
The training should be for a period of 6 months and the responsibility of such training could be entrusted to the various Judicial Academies that exists in our country.

9. Whether it is because of lack of knowledge or that of training there have been situations where in the Presiding Officers while preparing the orders fails to substantiate their decisions with appropriate reasoning, this affects the parties to the litigation. Often it is difficult to comprehend the rationale behind such decision. It should therefore be made mandatory for the officials under the Act to act judicially and determine the rights of disputants, they should express the logical and legal basis of the same in as clear terms as possible. Giving of the reasons therefore has to be made mandatory by amending the rules.

10. The basic ideology of this specific legislation is to ensure prompt and speedy remedies to affected consumers. It is often found that even after the proceedings are completed the Presiding Officers takes considerable length of time to pronounce the orders. Thus keeping not only the consumers in suspense but often giving rise to misgivings as to the credibility of the system. It is therefore necessary to fix time limit with in which the order ought to be passed after the conclusion of the proceedings.

11. It seems that the lawyers and Judicial Officers find it extremely difficult to shed their habitual tendencies, since all these persons have the exposure of practicing before the ordinary courts. They often tend to adopt the accepted practice of asking and granting adjournments. Sec 13 (3A)\textsuperscript{16} of the CP Act, 1986 as amended, mandates prompt disposal of complaints. There is a need to amend the rules to ensure that if the number of adjournments is more that the maximum number the

\textsuperscript{16} Supra note. 8
decision of the authority remains ineffective. This would ensure that the minimum adjournments will be transformed from being mere directives to mandatory requirements. Added to this there is a need to incorporate a provision for penalizing those seeking adjournments beyond the permissible number.

12. Justice administration does not take place in a vacuum nor in the open air as it was in the ancient times. It is important that a justice administrative system does have adequate infrastructure facilities and necessary administrative support. The responsibility wholly rests on the State Government to ensure that the lack of physical facilities does not affect consumer rights. Therefore it is absolutely necessary that the State Government ensures the availability of suitable court room, office premises, and required administrative staff for the smooth and effective functioning of CDRA. The Central Government should therefore either by amending the rules or by notifications and by providing financial support lay down minimum requirements for infrastructure facilities for each of the Fora. It could adopt a scheme similar to other development or welfare schemes of the Central Government.

13. It is often noticed that the provisions for arbitration clause is incorporated in the contract between the parties. This prevents the aggrieved from approaching the C P Act, 1986. Considering the fact, the provision of arbitration clause is not a matter of choice for the litigant but that it is incorporated by one party on the other. The party affected should always be given a choice to approach CDRA despite having such a provision. The arbitration clause is normally found in a standard form of contract and therefore has to be interpreted restrictively in such a way.

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17 Need to strictly follow and implement Sec. 11 of Consumer Protection Regulation, 2005. According to Sec. 11 (3): The cost of adjournment, if asked by the opposite party or parties, shall not be less than five hundred rupees per adjournment and could be more depending upon the value and nature of the complaint as may be decided by the Consumer Forum.
that the affected party should have a choice to approach CDRA as recourse to arbitration. Ban on such jurisdiction should have been justified if it is a normal suit. But the CDRA is machinery for speedy disposal of complaints the choice will always be given to the litigant. Hence there is need to amend Sec 3\textsuperscript{18} of the Act to provide choice to the aggrieved consumer to approach CDRA or to abide by arbitration clause\textsuperscript{19}.

14. There may be situations where in the Presiding Officer (PO) may opine that limited remedy provided under the Act is unable to met out justice to the aggrieved consumer. At times it may so happen that the remedy is so miniscule or insignificant that the defaulter may continue to default knowing very well that his liability is meager. In such situations by the application of judicial mind the Presiding Officer would often like to reformulate his order and the remedy. Therefore there is a need to provide a legislation backing by providing certain inherent powers to the Presiding Officer to grant remedies beyond those which are stipulated under that Act, in those cases and situations where in the PO in the interest of justice desires to be done.

15. Government has to ensure that every citizen no matter who or where, he or she, is a beneficiary of nation’s growth and considering that the consumer grievance may even relate to a single item purchased by him by making payment. It is important that the Redressal Forum must reach to the door steps of the consumer. Therefore there is a need to set up Consumer Fora at the Taluka level. Fora at Taluka level will help the consumer to realize his rights as a consumer in the interest of large

\textsuperscript{18} Sec. 3 of CP Act, 1986: The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the tie being in force.

\textsuperscript{19} The Hindu, online edition of India’s National newspaper (Tamilnadu) 20\textsuperscript{th} November 2009
number of rural poor. Fora at Taluka level will ensure consumer justice delivery system to the poor, illiterate and disadvantaged people.

16. The whole world is moving on a fast track, paperless governance, e-governance have become the order of the day. Therefore keeping in tune with the technological advancements, the Act should not only permit but also encourage e-filing of complaints in order avoid delay and to bring in promptness.

17. One cannot forget the fact that this legislation has become one of the most important legislation as every human being is a consumer and more so in the consumer age creating awareness and constantly informing the people regarding the existence of this legislation and system of dispute settlement is mentioned under Sec. 8\(^{20}\) and 8B\(^{21}\). Though this is an enabling provision, is not made use of or rarely used. The responsibility should lie on the Consumer Councils to create awareness especially in educational institutions. There is a need to define the number of programmes the Council shall take up during a particular year and such details will ensure that the Council undertakes this responsibility. The rule should also incorporate necessary provision to ensure that the educational institutes, cooperates and provides suitable system to implement awareness programmes through organizations like Law Clubs, Law Clinics\(^{22}\), Legal Aid, NSS etc.,

These consumer clinics and clubs will not only be beneficial to the consumer will also help in inculcating numerous skills among the law students such as confidence, relationship with the complainants,

\(^{20}\)Sec. 8 of C P Act, 1986: The objects of every State Council shall be to promote and protect within the State the rights of the consumers laid down in clauses (a) to (f) of section 6

\(^{21}\)Sec. 8 A of C P Act, 1986: The objects of every District Council shall be to promote and protect within the District the rights of the consumers laid down in clauses (a) to (f) of section 6

\(^{22}\)Ali Shaber G, "Role of Law Colleges in Administration of Consumer Justice", *Legal News and Views*, New Delhi,(August 2007) at 6
interview techniques, drafting skills, argument skills, research techniques, alternative dispute resolution techniques, cooperation and coordination, leadership qualities etc\textsuperscript{23}.

18. Consumer protection and consumer rights are going to be the order of the day even in the future Indian society. Knowledge of consumer rights available remedies and procedures needs to be incorporated into the minimum information content of the educational system at school and college levels either by appropriate syllabus content or by incorporating other learning methodologies like slide shows, short film, live demonstrations, skit, debates, quiz, poster making, etc., So that the future generations will have better awareness of the rights of consumers and of their obligations as producers of goods and provider of services.

19. The number of law students in the country so also in Goa is necessarily a large pool of untapped talent, if their talent and time could be utilized for the activities like research on consumer rights and judgment/order writing etc., and incorporating such activities as part of the curriculum will not only help the system but would bring in expertise and modernization.

20. It is pertinent to note that the existence and functioning of the Consumer Societies/ Organizations have positive impact with the CDRA. However they need to focus on certain defined activities which will certainly have a quantum impact on the Consumer Redressal System. The activities so suggested are\textsuperscript{24}

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\textsuperscript{23} Ali Shaber G, "Administration of Consumer Justice through Consumer Clinic", The Radical Humanist, New Delhi, (August 2008) at 26
\textsuperscript{24} Supra note.4 at 228
a. Consumer advocacy – It is the organization of public arguments and citizen’s participation with a skill that forces those in power to listen when they would otherwise ignore the consumer. Lobbying to influence the policy makers, legal suit that challenges the government for proper implementation of the law, and campaign to build support for any consumer issue are examples of such advocacy.

b. Consumer lobbying – Policy decisions by several intermediaries such as industry, business, professions and more necessary to involve unions and consumers.

c. Demonstration and boycott – Consumers should be trained to raise their voice through demonstration and boycott to protect their interest against manufacturer, trader, service provider in relation to defective goods or deficiency in services.

21. Law is of course dynamic and since this law to deal with human beings and in their everyday concern. Flexibility and adaptation to the emerging needs of the situation should be a part of CP act, 1986. Many new situations have come in to existence after the recent amendment of the Act in 2002, and therefore amending the legislation and incorporating the new challenges and at the same time remedying the lacunae and defects is need of the hour. The researcher feels the following amendments are required on the priority basis.

a) Need to amend Sec. 3 of CP Act, 1986

b) Need to incorporate new proviso under Sec 13 (3A) to limit adjournments and to incorporate penal provisions

c) Need to fix time limit to pronounce the order by the CDRA
d) Need to incorporate a provision for inherent powers to the Presiding officers of CDRA

e) Establishment of CDRA at Taluka level

f) Permission for E-filing of applications

g) Need to fill the vacancy in CDRA immediately

h) Need to appoint permanent, fulltime, competent and eligible Presiding Officers and members for the CDRA

Parliament has enacted this Act with good intention, Act in letter is no use unless it is implemented properly and to the fullest extent to achieve the objectives of the Act. The fruits of law are meant for vigilant and not for negligent. According to learned scholars Prof. Reddy D.V. N.

"No amount of legislation can guarantee a complete and effective protection to the consumers unless the consumer himself is prepared and willing to fight against the evil of consumer cheating. People will have to be vigilant and active in mobilizing their efforts and creating awareness against consumer abuse" 25.

The first and foremost requirement for legislation and legal remedies to succeed is community awareness and the will and the determination of the community. Consumer education is the most important factor, which will create awareness among the consumers.

The success of the Act depends upon the active participation of Consumers, Consumer Associations and the commitment of the Government to consider the consumer problems sympathetically while formulating its policies.

25 Reddy D V N., "Justice to the Consumer and the Consumer Protection Act" Paper submitted at National Seminar on Consumer Protection: Evolving Norms and Institutions, held at Department of Law, Cochin University of Science and Technology, Cochin, (16th – 18th March 1989)
Even after two and half decades still consumers are facing hardship in availing consumer justice in the State of Goa due to certain defects in selection and appointment of Presiding Officers of CDRA.

In a nation governed by democracy and rule of law, legislations are important instruments of social change. Legislation which deals with the rights of individuals and in this case that of consumers do play vital role in building and retaining the democratic institution. CP Act, 1986 is indeed a path breaking legislation aimed at providing necessary succor to affected consumers. The machinery for implementing of this legislation suffers from many inconsistencies and lacunae. It is only by continuous evaluation and monitoring that an effective mechanism for consumer dispute redressal grievances could come in to existence. This research is a small step in this direction where in the researcher endeavored to conduct an in-depth analysis of the machinery and its functioning under the CP Act, 1986. It is hoped that some of the suggestions and observations mentioned herein would become part of the law and system of justice administration. This is a small contribution towards the very idea of 'let justice be done though the heavens fall'.
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