

Role of Consumer Dispute Redressal Agencies in India

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Abstract

Consumer Forums have been established across country at the different levels with view to provide speedy, less expensive and simple dispute redressal to the consumers.

For achieving the objectives, section 9 of the Consumer Protection Act provides three tiers

Dispute redressal agencies.

A 'National Consumer Dispute Redressal Commission' established by Central Government by the notification. This Court is known as "National Commission".

A 'State Consumer Dispute Redressal Commission' established by State Government with Prior approval of the Central Government, by notification. And this Court is known as "State Commission".

A Consumer Dispute Redressal Forum established by the State Government in each district Of the State by notification. And this Court is known is 'District Forum'.

Thus, the Act proposed to set up the hierarchy of three redressal agencies. (1) National Commission, (2) State Commission, (3) District Forum.

This chapter ends with Consumer Protection Councils at the three levels and an impact survey. According to section 16 (1A) of the Act, State Government appoints every member of the State Commission on the recommendation of the selection committee comprising,namely-

- a) President of the State Commission—known as Chairman.
- b) Secretary, Law department of the state—Member
- c) Secretary in- charge of the department of the state consumer affair—Member.

A] Introduction –

Consumer exploitation in India can be brought down only with proper awareness of the consumers about their rights. There are many platforms which they can approach to put in their complaints and escalate it to achieve justice. The Consumer Protection Act, 1986 was enacted to provide a simpler and quicker access to Redressal of consumer grievances. However, from the analysis of performance with regards to the disposal rate of cases of various Consumer Disputes Redressal Agencies in India, it has been found that the agencies at the district level are working more efficiently than those at the national level and state level. Therefore, there is still need of agencies functioning at state and national level to dispose of the pending cases as early as possible by creating supplementary benches as per the provisions of Consumer Protection Act, 1986.

B] CONSUMER PROTECTION ACT 1986

The Government understood the need to protect consumers from unscrupulous suppliers, and several laws have been made for this purpose. We have the Indian Contract Act, the Sale of Goods Act, the Dangerous Drugs Act, the Agricultural Produce (Grading and Marketing) Act, the Indian Standards Institution (Certification Marks) Act, the Prevention of Food Adulteration Act, the Standards of Weights and Measures Act, etc. which to some extent protect consumer interests. However, these laws require the consumer to initiate action by way of a civil suit involving lengthy legal process which is very expensive and time consuming.

C] CONCEPT OF CONSUMER DISPUTE

According to Section 2 (1)(e) of the Act, 'Consumer Dispute' means a dispute where the person against whom a complaint has been made, denies or disputes the allegations contained in the complaint.

If the person agrees to the complaint, there is no consumer dispute.

Complainant

According to Section

2 (1) (b) complainant means

1. a consumer; or
2. Any voluntary consumer association registered under the Companies Act or under any other law for the time being in force; or
3. The Central Government or any State Government, who or which makes a complaint
4. One or more consumers, where there are numerous consumers having the same interest.

(1) The practice of making any statement, whether orally or in writing or by visible representation which—

(i) Falsely represents that the goods are of particular standard, quality, quantity, grade, composition, style or model;

- (ii) Falsely represents that the services are of a particular standard, quality or grade;
- (iii) Falsely represents any re-built, second-hand, renovated, reconditioned or old goods as new goods;
- (iv) Represents that the goods or services have sponsorship, approval performance, characteristics, accessories, and uses or benefits which such goods or services do not have;
- (v) represents that the seller or the supplier has a sponsorship or approval or affiliation which such seller or supplier does not have;
- (vi) Makes false or misleading statement concerning the need for, or the usefulness of, any goods or services;
- (vii) Gives to the public any warranty or guarantee of the performance, efficacy or length of life of a product or of any goods that is not based on an adequate or proper test thereof;
- (viii) makes to the public a representation in a form that purports to be a warranty or guarantee of a product or of any goods or services; or a promise to replace, maintain or repair an article or any part thereof or to repeat or continue a service until it has achieved a specified result, if such per ported warranty or guarantee or promise is materially misleading or

D] Redressal Forums have been established at three different levels

“**District Forum**” by State Government. At least one in each district or in certain cases one District Forum may cover 2 or more districts.

“**State Commission**” by State Government.

“**National Commission**” (National Consumer Disputes Redressal Commission)

Working of Redressal Agencies

E] COMPOSITION AND MECHANISM OF REDRESSAL AGENCIES

Members of the councils are selected from various areas of consumer interest, who are, when possible, leading members of state wide organisations representing segments of the consumer public so as to establish a broadly based and representative consumer council.

The Consumer Protection Act has authorised the Central Government to make rules as to the composition of the Central Council. Accordingly, the Central Government has provided that the Central Council shall consist of the following members not exceeding 150, namely :—

1. The Minister in-charge of Consumer Affairs in the Central Government who shall be the Chairman of the Central Council;
2. The Minister of State (where he is not holding independent charge) or Deputy Minister in-charge of Consumer Affairs in the Central Government who shall be the Vice-Chairman of the Central Council;

3. The Secretary in-charge of Consumer Affairs in the Central Government who shall be the member-secretary of the Central Council;
4. The Minister in-charge of Consumer Affairs in States;
5. Eight Members of Parliament—five from the Lok Sabha and three from the Rajya Sabha;
6. The Secretary of the National Commission for Scheduled Castes and Scheduled Tribes;
7. Representatives of the Central Government Departments and autonomous organisations concerned with consumer interests—not exceeding twenty;
8. Representatives of the Consumer Organisations or consumers—not less than thirty-five;
9. Representatives of women -not less than ten;
10. Representatives of farmers, trade and industries-not exceeding twenty;
11. Persons capable of representing consumer interest not specified above-not exceeding fifteen;

A] District Forum

This shall consist of:

1. A person who is, or has been, or is qualified to be a District Judge, its President
2. two other members shall be persons of ability, integrity and standing and have adequate knowledge or experience or have shown capacity, in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration, one of whom shall be a woman.

Appeal against orders of the Dist. Forum

Any person aggrieved by an order made by the District Forum may appeal against such order to the State Commission within a period of 30 days from the date of the order. The State Commission may entertain an appeal after 30 days if it is satisfied that there was sufficient cause for not filing it within that period.

B] Sitting of the District Forum – For conducting any proceedings to resolve a consumer dispute, at least two members of the Forum must be there one of whom should be the president.

Where the member, for any reason, is unable to conduct the proceeding till it is completed, the President and the other member shall conduct such proceeding de novo i.e. from the beginning.

State Commission

It shall consist of—

1. A person who is or has been a Judge of a High Court , who shall be its President ;
2. Two other members (as for District Forum).

Appeals against orders of State Commission

Any person aggrieved by an order made by the State Commission may appeal against such order to the National Commission within a period of 30 days. The National Commission may entertain an appeal after 30 days if it is satisfied that there was sufficient cause for not filing it within that period

C] Sitting of the State Commission – Every proceeding is required to be conducted by the president of the State Commission and at least one member thereof sitting together.

However, if for any reason the member is unable to conduct the proceeding till it is completed, the president and the other member shall conduct such proceeding afresh.

D] National Commission

This shall consist of –

1. A person who is or has been a Judge of the Supreme Court, who shall be its President. (No appointment under this clause shall be made except after consultation with the Chief Justice of India) .
2. 4 other members (qualifications: As for District Forum /State Commission).

Sitting of the National Commission – The disputes must be disposed of by at least three members of the National Commission, one of whom must be the president (or the senior most member authorised to work as president).

Where the member(s) for any reason are unable to conduct the proceeding till it is completed, the president (or the senior most member acting as president) shall conduct the proceeding afresh.

Role of Dispute Redressal Agencies Procedure to be followed by the District Forum [Section 13] –

The following procedure is equally applicable to the District Forum, State Commission with required modifications and National Commission.

Where laboratory test is required to determine the defect in goods –

A consumer is supposed to file as many copies of the complaint as there are number of judges, with all essential information, supporting papers like correspondence, and specifying the compensation demanded.

On receipt of such complaint—

(a) The District Forum should refer a copy of the complaint to the opposite party directing him to give his version of the case within a period of thirty days which can be extended to forty five days.

(b) The District Forum may require the complainant to deposit specified fees for payment to the appropriate laboratory for carrying out the necessary analysis or test in relation to the goods in question.

(d) Upon receiving laboratory's report, its copy will be forwarded by the District Forum to the opposite party alongwith its own remarks.

(e) In the event of any party disputing the correctness of the findings, or the methods of analysis or test adopted by the appropriate laboratory, the District Forum shall require the objecting party to submit his objections in writing.

(f) The District Forum will give an opportunity of hearing to the objecting party.

(g) The District Forum shall issue appropriate order after hearing the parties.

Where no laboratory test is required to determine the defect in goods or the complaint relates to services

(a) On receiving the complaint, the District Forum should refer a copy of the complaint to the opposite party directing him to give his version of the case within a period of thirty days which can be extended to forty five days.

(b) The opposite party on receipt of a complaint referred to him may—

(i) Admit the complaint

(ii) Deny or dispute the allegations contained in the complaint, or

(iii) Omits or fails to respond within the time given by the District Forum.

(c) Where the opposite party admits the allegation, the District Forum should decide the matter on the basis of the merits of the case and the documents before it.

(d) The District Forum shall issue an appropriate order after hearing the parties and taking into account available evidence.

After the proceedings, the National Commission shall issue the orders accordingly.

1. Jurisdiction: If the relief claimed in the complaint is less than Rs. 20, 00,000/-, then the complaint must be filed before the District Consumer Forum. If the relief claimed is between Rs. 20, 00,000/- and Rs. 1, 00, 00,000/-, then the complaint must be filed before the State Commission. When the relief claim exceeds Rs. 1, 00, 00,000/- then the complaint must be filed before the National Commission at New Delhi. However, see point 6(j) for more details regarding jurisdiction of the Consumer Courts.

2. A 'prescribed fee' is payable for filing a complaint before the District Forum, State Commission or National Commission as follows:

Upto 1 lakh	– Rs.100/-
1 lakh to 5 lakhs	– Rs.200/-
5 lakhs to 10 lakhs	– Rs.400/-
10 lakhs to 20 lakhs	– Rs.500/-

It can be paid by Demand Draft in favour of “President, State Consumer Disputes Redressal Commission, and Chennai.”

Relief available against complaint [Sections 14 and 22] – A complainant can seek any one or more of the following relief under the Act:

- (a) To remove the defect pointed out by the appropriate laboratory from the goods in question;
- (b) To replace the goods with new goods of similar description which shall be free from any defect?
- (c) To return to the complainant the price, or, as the case may be, the charges paid by the complainant;
- (d) To pay such amount as may be awarded by it as compensation to the consumer for any loss or injury suffered by the consumer due to the negligence of the opposite party;
- (e) To remove the defects or deficiencies in the services in question;
- (f) To discontinue the unfair trade practice or the restrictive trade practice or not to repeat it;
- (g) Not to offer the hazardous goods for sale;
- (h) To withdraw the hazardous goods from being offered for sale;
- (i) To provide from adequate costs to complainant.

When a complaint cannot be filed – A complaint on behalf of the public which consists of unidentifiable consumers cannot be filed under the Act.

POWERS OF THE REDRESSAL AGENCIES AND ENFORCEMENT OF THE ORDERS

Powers of the Consumer Forums [Sections 13(4), 14(1) and Rule 10]

For the purpose of adjudicating a consumer dispute, section 13(4) has vested the Consumer Forums with certain powers of a civil court. Apart from these powers, the Central Government has provided some additional powers to them under Rule 10 of the Consumer Protection Rules, 1987. Finally section 14 of the Act has provided them with the power to issues orders.

Powers akin to those of civil court [Section 13(4)] – The Forums are vested with the Civil Court powers with respect to the following:

- (a) Summoning and enforcing the attendance of any defendant or witness and examining the witness on oath;
- (b) Discovery and production of any document or other material object producible as evidence;
- (c) Receiving of evidence on affidavits;

- (d) requisitioning of the report of the concerned analysis or test from the appropriate laboratory or from any other relevant source;
- (e) Issuing of any commission for the examination of any witness; and
- (f) Any other matter which may be prescribed.

Additional powers of the consumer forums [Rule 10] –

- (a) To remove the defect pointed out by the appropriate laboratory from the goods in question;
- (b) To replace the goods with new goods of similar description which shall be free from any defect?
- (c) To return to the complainant the price, or, as the case may be, the charges paid by the complainant
- (d) To pay such amount as may be awarded by it as compensation to the consumer for any loss or injury suffered by the consumer due to the negligence of the opposite party;
- (i) To provide for adequate costs to complainant.

Penalties for non-compliance – Every order made by the District Forum or State

Commission, or the National Commission may be enforced in the same manner as if it were a decree of the court. [Section 25] . When any such person fails or omits to comply with the order, the District Forum, or State Commission, or the National Commission, as the case may be, may punish him with—

- Imprisonment for a term ranging between one month and three years, or
- With fine ranging between Rs. 2,000 and Rs. 10,000, or both

Conclusion -

Consumer protection is always a matter of great concern. From the analysis of performance with regard to the disposal rate of cases of various Consumer Disputes Redressal Agencies in India, it is found that the agencies at the district level are on the top followed by national level and state level it is observed that district level agencies are working efficiently than the national and state level agencies[v]. There is still need of agencies functioning at state and national level to dispose of the pending cases as early as possible by creating supplementary benches as per the provisions of Consumer Protection Act, 1986.

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