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A Study on Ensuring Speedy and Expeditious Consumer Justice

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ABSTRACT

The idea of consumer protection witnessed new dimensions with the passage of a recent Consumer Protection Act, 2019. India being member of United Nations is committed to act upon the revised United Nations Guidelines for Consumer Protection (UNGCP)ⁱ 2015 which provides that member states need to come up with Consumer Protection policies essentially giving the consumers a cost effective, reasonable and expeditious platform to redress their grievances. The objective of this article is to analyze that how creating proper legal and administrative measures can make way for speedy consumer justice and lead to consumer centric approach in the governance. The earlier Consumer Protection Act, 1986 though provided three tier institutions in the form of Consumer Forums at district level, Commissions at the State and National levels. The working of these forums ushered many changes by promoting the interest of consumers as the disposal rates of complaints were fairly good. However, Critical scrutiny shows that the final disposal in many cases is getting delayed for variety of reasons such as traditional legal work process and attitude, lack of infrastructure and awareness etc. Therefore this article will try to assess the provisions in the new Act of 2019 as well as other existing statutory legal provisions such as exploring other mechanisms like Alternative disputes resolution, Lok Adalat etc. for achieving the objectives of speedy and effective Consumer Disputes Resolution.

(Key Words: United Nations Guidelines for Consumer Protection, Alternative dispute Resolution, Consumer Protection Act 2019, Grievances).

INTRODUCTION

The very idea of consumer protection envisages speedy justice to the needy person can be traced under Article 21 of the Indian Constitution which has progressively interpreted by the Courts by holding that speedy and fair justice essentially comes from right to life and personal liberty given under Article 21 of the Constitution.

Likewise the Preamble guides us to secure justice in social, political and economic sphere. There are many texts and scriptures from ancient times validating the philosophy of protection of consumers such as Arthasashtra of Chanakyaⁱⁱ reveals that the State had the authority to dictate the trade and commerce for the interests of consumers.

Given the huge population of India, rapid urbanization and globalization has led to rise in market forces influencing the customer's choice and behavior in every aspect of the life. Contemplating the data of Ministry of Consumer Affairs, presently there are more than 5 lakh cases related to consumer matters in various forums across the country. Given the scale of presence of business entity we have seen the cut throat competition and misleading advertisement which ultimately harms the interest of the innocent buyers. To check these activities new provisions such as punishment for misleading advertisements, product liability of manufacturers has been introduced. This calls for opting mechanisms beyond traditional measures to ensure swift justice which are simple and quick. The Consumer Protection Act of 1986 was an important piece of legislation in the sense that it protected socio-economic rights of the consumers covering all goods and services. However it did not have specific provisions related to mediation, arbitration or other instruments for speedy resolution of consumer disputes. The New Consumer Protection Act of 2019 provides for mediation.

OBJECTIVES

- To look into various aspects for recognizing and promoting measures for achieving simple, speedy redressal of grievances related to consumers.
- To find out and to examine disposal of the matters within stipulated time and to see that object and the purpose of Consumer Protection Act, 2019 is fulfilled.

METHODOLOGY

This research work is doctrinal in nature which has included the collecting of secondary data from many important books, journals, government reports that have been published, articles, and information has been gathered from various websites for the study. The present study clarifies the current situation by providing some facts and outlining the issues. The current study assesses the performance of Consumer Protection Act, 2019 in a critical manner.

REVIEW OF LITERATURE

The following key work on the many components of consumer protection and awareness done by various researchers has been evaluated here in order to help the study understand the gap in research.

Consumer Awareness about Different Consumer Protection Legislations in India Dr. Ishwar Mittalⁱⁱⁱ In this study, it was discovered that people would rather accept and put up with injustice than oppose it. This is a result of consumers being unaware of effective strategies for dealing with them. The consumer movement is currently in its infancy in India. Most individuals aren't even aware that consumerism is a movement that is directly related to the defence of their interests. The government has made numerous constitutional measures to safeguard consumers.

In his research Garg (2010)^{iv} found that the consumer redressal organisations are successfully delivering prompt and appropriate justice. To ensure that consumers receive the full measure of justice, however, pending cases at the state and central levels must be urgently resolved. The analysis found that district forums' overall disposal rate is significantly higher than that of the State and National Commissions. Additionally, he came to

the conclusion that district forums performed better than the other redressal institutions created under the Statute. He recommended that the National and State Commissions reassess how they are handling the open cases.

In their study Elwin Konattu and Dr.V.K.Sudhakar^v said that the Consumer Protection Act of 1986 talks about consumer rights and allows for their promotion and protection. In a market previously dominated by organised traders and providers of products and services, it outlines the rights and remedies of consumers. To protect consumers, the Act requires the creation of consumer protection councils at the national level, in each of the states, and in each of the districts. It also highlights the need for strong redressal mechanisms that guarantee consumer protection. There is a three-tiered consumer dispute resolution system in place, consisting of district fora, state commissions, and national commissions. The study's main goal is to inform readers about how the redressal mechanism works in the country.

In Chaudhari's (2015)^{vi} recommendations, all stakeholders should take the initiative to find solutions to customer issues in order to enhance the way the agencies now function. According to the report, the lack of knowledge of the Act, a lack of employees, the use of legal stall tactics, and the sheer volume of cases filed are the likely causes of the backlog.

Agrawal (2010)^{vii} Here we can see that Despite having plenty of laws and regulations, that the situation of consumers is appalling. Many laws have a number of flaws. The way many laws are being applied is flawed. The enforcement apparatus is ineffective and dishonest, and customers are unaware of the numerous laws' possible remedies. Therefore, the government should close legal loopholes and vigorously enforce existing laws.

Rambabu and Vinodkumar (2017)^{viii} were of the view that the effectiveness of Redressal agencies has been evaluated by counting total of cases that were submitted, resolved, and still ongoing. The research recommended that the agencies' facilities be upgraded. To aid the ordinary man, consumer forums should be created at the level of revenue divisions. The non-profit organisations ought to be more proactive and start the process of resolving the open cases.

Pushpa Girimaji (2019)^{ix} Even though consumers rejoiced in these triumphs, there have been significant worries about how these institutions operate, particularly the slow judicial system. The promised "Simple, Quick and Inexpensive" redressal has been rendered meaningless by the inclusion of not called for nitty gritty in the process by those handling and not putting judgement over the cases and the frequent adjournments given by them at the request of lawyers. This is true even though excessive procrastination in the appointment of staff and the members of the adjudication panel by concerned governments have frequently stopped the functioning of these tribunals. A low value on consumer pain has also been placed by the courts' meagre compensation awards, deterring consumers from contacting these forums.

Sai Nirmala 2018, In this study we can see that for Consumer Affairs Alternative Dispute Resolution Mechanisms (ADRs) can be created and are they are being used for a variety of additional reasons, in addition to lessening the load on the courts and delivering swift justice to people. In comparison to the traditional judicial system, alternative dispute resolution procedures are comparatively affordable. Therefore, these methods aid litigants who are unable to cover the costs associated with the standard method of resolving disputes through the courts. ADR processes also increase the community's participation in the resolution of disputes.

Vijayarani, Deepa (2015)^x the performance of Redressal Agencies was assessed by them from 2003 - 2014 and they came with the finding that for customers to receive full and fair justice, they believed that it was imperative that all three levels of pending consumer claims be resolved quickly.

Manmohan and Auxcelian (2015)^{xi} according to them India's redressal mechanisms play a crucial role in defending the rights of consumers by granting justice to those who have been wronged. To ensure prompt justice and enhance consumer welfare, the government should take action to assess the effectiveness of dispute resolution organisations.

Bhamy Shenoy (2017)^{xii} In his study paper consumer courts established at the district, state, and national levels have not achieved the goals set forth in the consumer protection Act of 1986. Parliament's original goal was to deliver swift justice with minimum delays and without the assistance of lawyers. These courts have not succeeded in achieving their goal. The consumer movements in India still have a long way to go before they can adequately address the critical demands of the long-suffering people who aren't getting the services and protection they were promised. For analyzing 1.2 billion people, the author has made reference to approximately 2000 consumer groups throughout India. He also suggested that a new consumer revolution is required to overcome the existing difficulties which should not be carrying the scheme of the old legislations.

DISCUSSIONS

According to Shri Piyush Goyal, Minister of Consumer Affairs the new Act (Consumer Protection Act 2019), which became effective in July 2020, has a provision with the reference of consumer disputes to Mediation, with the cooperation of both parties, in order to provide a quicker and peaceful form of settlement of consumer disputes. This would not only cut down on the time and money spent on the legal proceedings, but it will also shorten the time that cases are pending. Additionally, the government is actively promoting the use of electronic mediation^{xiii} (e-mediation). This will assist in ensuring that impediments such as distance and geographic location do not exist when parties choose mediation as a means of case resolution.

EXISTING LEGAL PROVISIONS FOR FASTER AND ALTERNATIVE DISPUTE RESOLUTION:

Alternative Dispute Resolution (ADR) essentially refers to the resolution of conflicts outside of court through the use of techniques such as arbitration, conciliation, mediation, judicial settlement, etc. The main goal of Alternative dispute resolution is to ensure that disputes are resolved quickly, fairly, and transparently. Section 89 of the Code of Civil Procedure of India as well the Legal Services Authorities Act, 1987, have already established a clear legal framework for the ADR.

Under the India's Civil Procedure Code, 1908 talks about Disputes which can be resolved outside of court.-

(1) Here it says that the court has to formulate the terms of settlement and deliver them to the parties for their comments. After getting back the parties' response, the court may reformulate the terms of a potential settlement where it can refer the matter to (a) arbitration, (b) conciliation, (c) judicial settlement, including settlement through Lok Adalat, (d) mediation, or (e) any other appropriate forum.

(2) In the case where matter is referred for arbitration or conciliation, for example, the provisions of the Arbitration and Conciliation Act of 1996 shall be applicable entailing that the arbitration or conciliation procedures were referred for resolution in accordance with the terms of that Act; (b) The court shall refer the matter to the Lok Adalat in compliance with the rules of Section 20 law governing legal services authorities, 1987, as well as any other provisions That Act will be applicable to the dispute so referred to the Lok Adalat.

Legal Services Authorities Act 1987 says that Lok Adalats which are made up of currently working or retired judicial officers as well as other people, comprising of social workers and representatives of women, shall be set up on occasion.

The court may refer cases that are current or expected to be brought before it to the Lok Adalats, which will try to resolve them by reaching an agreement or settlement between the parties while upholding the principles of justice, equity, and fair play. As Such no execution proceedings, appeal, review, revision, or other legal action is required in order to carry out the Award. The ultimate goal of swift, affordable justice is successfully attained. All consumer disputes are suitable for Alternative dispute resolution including those in which a trader, supplier, manufacturer, or service provider wants to preserve his professional or corporate credibility, as well as issues involving "product popularity,". Further the new legislation has included online filing of complaints (e-complaints).

The New Act has undergone a significant transformation, but it has also been able to keep some of its previous provisions while including new ones. The Act emphasises the critical role that mediation plays in resolving consumer disputes coming within Chapter V of the Act, which in turn nudges the respective parties to participate in mediation after the complaint is admitted or at any other time in the process. If the Central Authority members determine that mediation is appropriate and there is a reasonable chance that the issue can be resolved, they may do so, however if mediation is unsuccessful, the complaint will move forward. Section 79 of the aforesaid Act says that the mediation can be held consumer mediation located at the District commission. Consumer Protection Act 2019 specifies that a national mediation cell must be established by the central government, and each state government must set up a consumer mediation cell that operates within its territory.

The mediator's role in the new Act of 2019 must be noted and discussed in great detail^{xiv}. The mediator must constantly stress that it is the parties' duty and responsibility to arrive at a decision and that he shall not dictate his own as a means of resolving the dispute. The mediator must persevere to work upon an amicable and mutually agreeable resolution of the dispute between the parties, carry each party's perspective to the other, aid them in identifying the issues, minimizing the contentious issues, working on areas of compromise, and finally, generate options.

RECOMMENDATIONS

- Creating and enabling required infrastructure that can promote mechanisms for amicable settlements of consumer disputes.
- Promotion of various alternative disputes resolution means such as e-lok adalat, arbitration, with special emphasis on period bound mediation for faster resolution of consumer disputes.
- Promotion of technology and digital initiatives such as UMANG(online platform for creating consumer awareness and redressal grievances), eDaakhil (an online portal that allows consumers to file complaints at their convenience).
- Awareness campaign, checking loopholes in existing regulatory and legislative framework is need of the hour.
- Proper training of mediators, arbitrators and lawyers and staff at various levels.
- Coordination between the Centre and the State Government as State Government is a major Stakeholder.

CONCLUSION

It is difficult to overstate the significance and usefulness of employing Alternative Dispute Resolution (ADR) methods in the contemporary age of electronic commerce and the virtual world. 2018 is termed as the Year of E-Commerce by Consumers International, a worldwide association of more than 200 consumer organization connected to the United Nations. The year 2017 had the theme "Better Digital World." Due to the overwhelming backlog of consumer cases before consumer forums, the Indian legal system are being forced to consider for innovative developments for the quick resolution of consumer matters. India, where the majority of consumers worldwide reside, is dedicated to advancing consumer welfare through innovative legislative developments. It is essential that quick action be taken to establish the ADR mechanism in a significant way in order to give concrete form to the vision and aspirations provided under the new Consumer Protection Act, 2019 and, in the process, to assist consumers from all facets of society and those who are situated throughout the nation, including remote and rural regions. Moreover wider publicity has to be given particularly for the people residing in rural area as they are the most vulnerable and exploited consumers. As new facets of consumer protection is emerging, use of technology for dispute resolution is the need of the hour. Moreover proper training to members of State and District commission is quintessential. Consumer protection law has significantly advanced as a result of several modifications over time and of judgments made by consumer forums and the Indian Supreme Court, the establishment of mediation centre as an alternative dispute resolution method in consumer courts is a progressive decision which can empower the consumers in a true sense.

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