



LAW OF CONSUMER PROTECTION IN INDIA (2nd ed. 1995). By D.N. Saraf.
N.M. Tripathi Private Ltd., Bombay. Pp. xxiv+510. Price Rs. 400.

THE AUTHOR of the book under review¹ dedicates it to his parents, referring to them as “who gave me all I have got”. This shows his utmost sense of respect for them, as also the expression of his humility. Respect begets respect. The author has the gift of writing concisely with an elegance of style which makes it easy for the reader to understand the broad principles of the law of consumer protection in India. References to upto date caselaw on relevant topics by the author and the addition of all other relevant statutes in the appendices, takes the book to a higher wavelength of excellence and thus generating respect for the author by the reader.

The law of consumer protection is an important statute from the viewpoint of common citizens, social organisations, academicians as also the judges, as well as the practising lawyers.

While discussing the sections and important topics the book articulately brings out the evolution of consumer law, developments in this statute and the policy in India *vis-a-vis* the profile of consumer, the regulatory measures for the benefit and protection of the consumer in respect of various commodities and services offered by the sellers; including government organisations and professionals.

The book under review is a comprehensive treatise on various aspects of consumer law. It has been designed to be a handy manual for lawyers and follows a scheme convenient for a practitioner as also an official handling Consumer Protection Law. In view of the fast emerging importance of Consumer Rights and their awareness, it is also an educative primer for the students of law.

The book is divided into eight chapters. In the first chapter, the author has discussed the evolution of consumer law in UK and USA and also highlighted the importance of Consumer Sovereignty. The chain of events leading to amendments in Monopolies and Restrictive Practices Act of 1969 has also been discussed.

The second chapter of this edition of the book contains revisions on manifold aspects and new developments occurring after 1991. Various commercial organisations are controlled wholly by the government. The examples are Railways, Road Transport, Postal Services, Telecommunication, generation and distribution of Electricity, Life and General Insurance *etc.* The services offered by such governmental organisations to the common citizens are also governed by the safeguards highlighted under the consumer protection law. The author has however taken note of this fact that there are some aspects of services which have been excluded from the purview of Consumers Protection Act 1986. The examples are the claims in respect of damages to goods caused in transit by the Railways, as

1. D.N. Saraf, *Law of Consumer Protection in India* (2nd ed. 1995).



also the injury caused to passengers using Railways. Such claims are within the exclusive jurisdiction of the Railway Claims Tribunal.²

The third chapter is devoted to the contract based rights and remedies. When a consumer utilises the services offered by an organisation, he is entitled to the protection. In the epoch making and landmark judgment in *Lucknow Development Authority v. M.K. Gupta*,³ the Supreme Court upheld the rights of the consumers vis-a-vis Consumers Protection Act. Recently a single judge of Calcutta High Court however held some provisions of the Consumers Protection Act of 1986 to be *ultra vires* the Constitution and stayed the proceedings before various Consumer Redressal Forums, but the Division Bench of Calcutta High Court itself stayed the order of the single judge of that court.⁴

The author has lucidly explained in this book that the Consumers Protection Act has so far successfully stood the critical scrutiny of a number of High Courts and even the Supreme Court in the last three years. The Apex Court has critically examined the various provisions of the Consumers Protection Act and has not only found them in order, but also had held that the protections under this Act are necessary to stem the rot in this country.

The fifth chapter of the book exhaustively deals with the remedies under the Monopolies and Restrictive Trade Practices Act. It may have been better for the author to suggest that the Consumers Courts should be brought under article 323 B of the Constitution, like the Central Administrative Tribunals. As on date, the High Courts are holding differing views, and sometimes the proceedings before the Consumer Redressal Forums are stayed by some Benches of the High Courts. On the other hand others have held that the High Courts are already overburdened with heavy arrears and that is the precise reason why a separate hierarchy of tribunals has been created. The Consumers Redressal Forums are also in the nature of Tribunals dealing exclusively with the matters relating to protection of the rights of the consumers, hence should be shelved under article 323 B of the Constitution of India, to avoid varying decisions of High Courts, particularly when the Supreme Court has found the said statute to be *intra vires* the Constitution as mentioned above.⁵ The author has however highlighted the fact that the Consumers Protection Act meets the long felt necessity of protecting the common man from such wrongs for which the remedy under the ordinary law for various reasons has become illusory.

The sixth chapter highlights the remedies made available under the Consumers Protection Act 1986. The author has clearly explained the scheme, constitution and procedure of various tiers of consumer redressal forums, for the understanding of common man.

The seventh and eighth chapters of the book deal with the penal provisions explained and the existing state agencies of consumer protection.

2. Railway Claims Tribunal set up under the Railway Claims Tribunal Act 1987 and further amendments enacted in 1993 under the Railways Act 1989.

3. 4 SCALE 370 (1993).

4. *The Times of India*, 8 March 1996 (Delhi).



The quality of printing is very good and the book has a nice get up. It will be found to be useful manual by a vast plethora of readers.

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