

The various chapters on the emerging importance of egalitarian consumer protection philosophy and practicable approach to the subject by enacting and enforcing the Consumer Protection Act, 1986, are reflective of the active national interest to serve the long awaited cause of vast consuming populace. The book is an attempt to evaluate and re-evaluate the emerging economic law which has intimate relationship with the existing economic circumstances. They are key factors in the consideration of protecting the just interest of vast consuming public with a view to usher a new era of consumer justice through law and its instrumentalities and effectively widespread consumer movement. The Act alone cannot accelerate the speed of widespread consumer movement which is poised to go forward and equally important is to put in motion the grievance redressal machinery. The governmental role is certainly positive to avoid any kind of conflict which may erupt in the initial stages of a developing movement.

The book is a systematic legal research endeavour to correlate the different aspects of consumer protection laws and their application in achieving consumer justice in the real sense. When this study started a decade ago there was hardly any vibration in the field, now at least some perceptible change is visible by way of consciousness on the part of voluntary consumer protection organisations, governmental and non-governmental consumer protection agencies, creation of consumer courts under the Act, 1986 and above all growth of consumer consciousness which is vital to a movement. Annexure 15 reveals the development of consumer movement at the central, state levels and in some states upto district levels. The movement will spread up to district levels in the near future by formation of District Forums (Consumer Court at the district level under the Act, 1986).

Formation of 'National Consumer Disputes Redressal Commission (the National Commission) is the highest consumer protection court in the country. The National Commission has started functioning in New Delhi of which a retired judge of the Supreme Court is President and four persons are its members. Many states have set up the 'Consumer Disputes Redressal Commission' (the State Commission) under the Act which have also started functioning. Actually Annexure 15 is the mirror which provides statewide status of the movement in the country. All these significant developments unhesitatingly will lead to the development of socially and economically oriented consumer protection law and public policy.

Consumer Protection Law in India

It is noteworthy that 22 states and Union territories in the country have constituted the Consumer Protection Councils under the Act. A number of states have taken the Central Government's approval for setting up the District Forums and the State Commission (consumer court at state level). Some of the states have notified the State Commission and a few District Forums but these Forums have been made functional only in a few states and Union territories.¹ How far the consumer courts and consumer protection councils in the states will work for that reasonable time needs to be elapsed. Nevertheless, the government has accorded high priority to the programme of consumer protection but its success can only be effective and popular if consumer movement right from urban to remote rural areas, from rich, middle class people to poorest of the poors who live below poverty line, participate actively and attribute for the success of the new experiment. In the whole process the cooperation of trade and industry, and farmer, government and non-governmental organisations, youth and women, press and T.V. and above all consumers themselves have to take the initiative to protect themselves.

In building up strong consumer movement it is necessary that consumer protection councils in the states, constituted under the Act, in collaboration with the voluntary agencies must take initiative to protect the consumer's basic rights as laid down in section 6(a) to (f) of the Act. Sometimes moral persuasion on the trader also works well but in case a trader fails to give redress to the consumer who has a valid claim in that eventuality, the state council or voluntary agency can have initiative to request the government department responsible for enforcement of law, if breached, to take the trader to the consumer court according to the monetary jurisdiction and either of these agencies should provide the requisite evidence. Some suggestive methods are:

- (1) moral persuasion on the trader as a grievance redressal technique.
- (2) disclosure of the name of the trader and his malpractices to the public at large through all mass media.
- (3) rendering of advice and assistance to the consumer is very much necessary to persuade him to take the matter to the consumer court under the Act.
- (4) providing advice and assistance to the consumer to pursue the case till his wrong is redressed fully.

¹ See inaugural address of Sukh Ram, Minister of Food and Civil Supplies at the Third Meeting of the Central Consumer Protection Council, held at New Delhi on 6 September, 1988.

In the whole consumer movement, consumer cooperatives occupy a very vital place for playing an effective role in resisting the price spiral, establishing better shopping and trade practices and developing constructive resistance mechanism. If the well articulated and scientific approach is adopted then the consumer will generate his faith to build up a strong and viable consumer movement based on well accepted co-operative principles and practices. If this is done then consumer cooperatives can reach all the strata of society through consumer cooperative movement.

Consumer consciousness and education can render enough help in checking unhindered price spiral every day. In this regard Supreme Court of India in the noted *Cynamide*³ case aptly relied on the *Shree Meenakshi Mills*³ case in which it was observed:

Control of prices may have effect either on maintaining or increasing supply of commodity or securing equitable distribution and availability at fair prices. The controlled price has to retain this equilibrium in the supply and demand of the commodity. The cost of production, a reasonable return to the producer of the commodity, are to be taken into account. The producer must have an incentive to produce. The fair price must be fair not only from the point of view of the consumer but also from the point of view of the producer. In fixing the prices, a price line has to be held in order to give preference or predominant consideration to the interest of the consumer or the general public over that of the producers in respect of essential commodities. The aspect of ensuring availability of the essential commodities to the consumer equitably and at fair price is the most important consideration.⁴

The MRTP Act is also gradually and effectively working as a consumer grievance redressal apparatus. The mechanism under the MRTP Act is the most expedient, least expensive and an effective legal tool available to the consumer. It depends on the attitude and skill of the consumer to use it efficaciously and remedially. However, the consumer has to initiate a complaint against his exploitation in the marketplace by approaching the Director General (Investigation and Registration), MRTP Commission, Travancore House, K.G. Marg, New Delhi. The complaint must contain the name, address of the complainant and facts about disputes in the consumer transaction. The MRTP Commission

¹ *Union of India v. Cynamide*, AIR 1987 SC 1802.

² *Shree Meenakshi Mills Ltd. v. Union of India*, AIR 1974 SC 366 at 382-83.

⁴ *Id.* at 382-383.

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pays necessary expenses to the complainant, witness or experts summoned for rendering evidence. The consumers are free to seek advice from the constituted "Consumer Free Legal Aid Cell" on matters of compensation for the damages suffered by them due to restrictive, deceptive, unfair or unconscionable trade practices.

As the infrastructure is being developed under the Consumer Protection and MRTP Acts it is the pious hope of millions of consumers that the new era of egalitarian consumerism will usher in the country. Consumer consciousness is a very important factor in developing and nurturing a healthy consumer movement. In this regard the consumer must assert his rights when he is wronged. In the United States in the *Littlejohn* case, the American Federal Court jury awarded \$ 3.25 million as damages to Cynthia Littlejohn, 34 of Philadelphia after it found 'Bic cigarette lighter' manufactured by French-based multinational corporation defective. Cynthia Littlejohn suffered substantially from her neck to her waist when a "Flick my Bic" disposable cigarette lighter exploded in her jacket pocket.⁵ This kind of consumer awareness can help immensely in consumer injury cases.

The situation in India has started changing since the Consumer Protection Act, 1986 came into force. The consumers are becoming conscious as it is reflected well in a circulated brief report on the functioning of State Commission and District Forum set up by the State Government of Bihar. The Bihar State Commission set up under the Act, 1986 dealt with cases such as defective Salora T.V., defects and deficiencies in Ambassador car of Hindustan Motors, auto clave machine, telephone system, LPG Gas connection, non-printing of the date of manufacture on Britannia cake, etc., successfully disposed them by protecting the interest of consumers. The District Forum, Patna, the capital of Bihar State, also dealt with a wide variety of cases against Bata shoes, non-installation of telephone by the Department of Telephone, charging of excess parking fee on scooters by railway authorities and railway contractors, Patna Municipal Corporation for not providing street lights, complaint for refund of deposits and defective regulator of ceiling fan etc.⁶ The perceptible changes, as occurring, in the minds of the consumers have been noticed. Thus, it is a happy beginning for the growing consumer movement in the country. If such legal developments continue, the new system will strengthen the less expensive but reliable method of resolving consumer purchase disputes in the times to come.

⁵ "Burn victims—Bic Settlements," 73 *A.B.A.J.* 17 (June 1, 1987).

⁶ See Brief Report of the Functioning of State Commission and District Forum, Government of Bihar (supplied along with the material in Third Meeting, Central Consumer Protection Council, 6 September, 1988 (New Delhi) (Mimeo).

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