

Preface

The present treatise is a composite study of different legislations having a significant bearing on the protection of consumer interests. It gives a conjoint view of the basic policies and enforcement mechanisms envisaged by each of them. In contrast to various books on the consumer protection laws, this study is not exclusively confined to the Consumer Protection Act, 1986. The treatise, therefore, covers not only specific consumer centric laws, but also other legislations spread over to different branches of law, both general and special. The general laws include the relevant provisions of the Constitution, criminal law, contract law and law of torts. The special legislations, *inter alia*, include: the Essential Commodities Act, 1955; the Prevention of Food Adulteration Act, 1954; the Prevention of Black Marketing Act, 1980; the Standards of Weights and Measures Act, 1976; the Bureau of Indian Standard Act, 1986; the Drugs and Cosmetic Act, 1940; the Sale of Goods Act, 1930; the Indian Telegraph Act, 1858; the Telecom Regulatory Authority of India Act, 1997; the Electricity Act, 2003 and the Competition Act.

The prime reason for taking up this study has been that the above-mentioned legislations have proceeded in an *ad hoc* manner and are scattered under different branches of law. Being so disjoint, these laws are often lost sight of, of course to the detriment of consumers, for whose benefit these laws have been made. The object of studying them together, therefore, is that these laws do not continue to be ignored. The need is to realise that the consumer protection depends not only on the redressal of grievances under the Consumer Protection Act, 1986 but also on the effective implementation of the policies under other enactments.

It is also notable that the legislations studied in this treatise came into existence in a piecemeal manner and do not lay down a uniform enforcement mechanism or operative schemes. Most of them provide for a separate machinery for the implementation of their policies making the procedures arduous and the remedy bleak. Since, there is a need for framing comprehensive policies on consumer safety and liability of manufacturers, sellers and service providers, the whole gamut of the pro-consumer laws and schemes contained in different legislations needs to be examined to have an effective and viable consumer redressal scheme. The present treatise is an effort in this direction.

Further, there exists an equal urge for awareness and understanding of consumer protection laws among the lay-men and the law-men – activists,

lawyers and judges. The consumers need it more as the common people, living in modern market economy, with different modes of marketing in which there is lessening interaction between the seller and the buyer, are all the more under stress because of the problems of food adulteration, low quality goods, poor services and deceitful inducements. They must be properly educated about their interests and the ways of redressal of their grievances through formal and informal measures. In an attempt to educate them, the present treatise has been written keeping the stakeholders in view and making it available to all other concerned agencies and individuals involved with mass awareness programmes and the media. The persons from professions other than law, like medical doctors, engineers and business executives are also now equally keen to have such a treatise for their ready reference. Even the law teachers and students need it because they are undergoing vexatious exercises to find these laws. It is also necessary to keep in mind that all the persons involved in different transactions are also the consumers at a given point of time. The book can, therefore, be used by all interested groups to control the multifaceted consumer problems.

The treatise consists of 21 chapters, divided into six parts. *Part - I*, is the Introductory part comprising of chapters 1 and 2. Chapter 1 gives an account of the consumer protection movement and the development of laws in certain countries, including US, UK, some other European and Asian countries. It also details out the factors for the development of consumer movement and the policies reflected in the UN Guidelines for Consumer Protection and the EC Product Liability Directive. Chapter 2 gives a thematic account of the constitutional mandate and other legislations on consumer protection in India and also highlights the role of non-governmental organizations in consumer protection movement.

Part - II of the treatise, divided into chapters 3 to 7, deals with the legislations on production and distribution of essential commodities, prevention of food adulteration, prevention of black-marketing, infant milk substitutes and the procurement and supply of sugar. Chapter 3, deals with the Essential Commodities Act, 1955 and explains the control mechanism for distribution and making available essential commodities to the common people at a fair price. The prescribed penalties for contravention of the provisions of the Act and the orders passed thereunder have also been discussed. Chapter 4, dealing with the Prevention of Food Adulteration Act, 1954, gives a detailed account of the mechanism for prescribing standards for food, establishment of a central food laboratory to conduct tests on food samples and regulation of import and manufacture of food items. It also gives details about the method of analysis of food and imposition of penalties for offences under the Act. The Prevention of Black-Marketing and Maintenance of Supplies of Essential Commodities Act, 1980, which

specially provides for the preventive detention of persons indulging in black-marketing and causing obstructions in the proper supply of essential commodities has been dealt with in chapter 5. It mainly covers the issues about the execution of detention orders, powers to be exercised in relation to absconding persons, disclosure of grounds of detention to the accused, working of advisory boards, revocation of detention orders and release of persons in appropriate cases. Chapter 6 contains discussions on the Infant Milk Substitutes, Feeding Bottles and Infant Food (Regulation and Production, Supply and Distribution) Act, 1992. It details out the scheme of prohibition on advertisements for the distribution, sale or supply of infant milk substitutes and feeding bottles. Regulatory mechanism for the maintenance of standard of infant milk substitutes has also been extensively dealt with therein. The Sugar Control Laws, viz., the Sugar (Special Excise Duty) Act, 1959, the Sugar (Regulation and Production) Act, 1961, Levy Sugar Price Equalisation Fund, Act, 1976 and the Sugar Undertakings (Taking over the Management) Act, 1978 have been covered in chapter 7 of the treatise, explaining their underlying policies and implementation measures.

Part - III, consisting of *chapters 8 to 11*, deals with the legislations which are mainly concerned with setting up of standards and maintenance of units of weights and measures. The main legislation on the subject, the Standards of Weights and Measures Act, 1976 has been discussed in chapter 8, covering specification of standard units, machinery for maintenance of standards, test of models and cognisance and compounding of offences regarding violation of prescribed standards. The provisions about levy of prescribed fees for approval of models and verification have also been given in this chapter. The Standards of Weights and Measures (Enforcement) Act, 1985, which contains general provisions about registration of users of weights and measures, periodical verification and stamping, inspection, search, seizure and forfeiture of counterfeit measures, has been discussed in chapter 9. Chapter 10 of the treatise deals with the Bureau of the Indian Standards Act, 1986, under which the Bureau of Indian Standards has been established to monitor the maintenance of standards and marking and quality certification of goods. It gives details about the constitution, functions and powers of the executive committee, advisory committee and other committees of the Bureau. The requirements about grant of licence, conduct of searches and seizure and penalty for improper use of standard mark have also been mentioned in this chapter. Chapter 11 deals with the Agricultural Produce (Grading and Marketing) Act, 1937 explaining the conditions for entitlement to put AGMARK symbol on products of authorised producers. Procedures for Agmarking goods, compulsory grade designation and prosecution of offenders under the Act have also been described in this chapter. Chapter 12 deals with the Jute Packaging Materials (Compulsory Use in Packaging Commodities) Act, 1987 and gives details

about the specification of the commodities for jute packaging, constitution of a standing advisory committee and implementation of the policies under the Act.

Part – IV, incorporating *chapters 13 to 15*, deals with laws regulating import, production and supply of medicine. The main focus is on maintenance of standards of drugs and cosmetics, including Indian medicine. Chapter 13 contains discussions on the Drugs and Cosmetics Act, 1940, explaining the basic purpose, constitution and functions of the regulatory bodies, viz., the Drugs Technical Advisory Board, the Central Drugs Laboratory, and the Drugs Consultative Committee. It also brings to focus the regulations regarding manufacture, sale and distribution, inspection and analysis of drugs and cosmetics to maintain their purity. It further explains the constitution and working of the *Ayurvedic, Siddha and Unani* Technological Advisory Board and other control mechanisms in respect of medicines produced in the Indian systems of medicine. The Drugs and Magic Remedies (Objectionable Advertisement) Act, 1954, which deal with prohibition of advertisements about magic remedies and scrutiny of misleading advertisements has been dealt with in chapter 14. It also deals with cognisance of offences and penalties for contraventions thereunder. The Indian Medicine Central Council Act, 1970 has been discussed under Chapter 15, giving details about the constitution of Central Council of Indian Medicine and the relevant committees, recognition of medical qualifications for enrolment, regulatory measures, maintenance of registers of practitioners of each system of Indian Medicine and provisions for commission of inquiry in case of violations.

Part – V, having *chapters 16 to 20*, deals with the special laws relating to sale of goods, rendering of different kinds of services to consumers and competition. Chapter 16 analyses the specific provisions of the Sale of Goods Act, 1930 on conditions and warranties which are directly concerned with consumer protection. The chapter contains details about the pro-consumer principles like restriction of doctrine of *caveat emptor*, goods being true to their description and of merchantable quality, and suitability of goods to the purpose for which they are purchased. Implied conditions with respect to sale by sample have also been discussed in this chapter along with the modifications having been made in the corresponding English law.

Chapter 17 deals with the Indian Telegraph Act, 1885 and the Wireless Telegraph Act, 1933 which are concerned with the establishment, maintenance and working of telegraphs, and possession of wireless telegraphy apparatus. The issues discussed therein include: obligation of the telegraphy authority to make available telephone connections to consumers, grounds of disconnection, arbitration of disputes, deficiency in service, revocation of licences and compensation. Chapter 18 deals with the Telecom Regulatory Authority of Indian Act, 1997 which has been passed to

bring the quality of telecom services in India to world standards at reasonable prices. In this chapter the composition, functions and powers of the Telecom Regulatory Authority have been discussed along with the mechanism of dispute settlement and provisions for appeal to the Supreme Court. Chapter 19, dealing with Laws Relating to Electricity, gives a detailed account of the policies about supply of electricity under the recently enacted Electricity Act, 2003 which replaced all the earlier Acts including the Electricity Act, 1910, the Electricity (Supply) Act, 1948 and Electricity Regulatory Commission Act, 1990. In this chapter, besides examining the underlying policies of the newly enacted law, the focus has been on the important schemes for distribution of electricity, standards of safety and maintenance of supplies alongwith the constitution, powers and functions of the central and state electricity regulatory commissions. Chapter 20 deals with the Competition Act, 2002 which has repealed the Monopolies and Restrictive Trade Practices (MRTP) Act, 1969. In this chapter, besides making a brief mention of the provisions of the MRTP Act relating to consumer protection, the competition policies under the Competition Act, like prohibition of cartels, abuse of dominant position and restriction of other anti-competition policies have been discussed with reference to protection of consumer interests.

Part – VI, comprising of *Chapter 21*, has been exclusively devoted to discussions on the Consumer Protection Act, 1986 to examine its objectives, coverage, mechanism for advancement of the consumer movement and redressal of consumer grievances. Further, the nature of the liability of manufacturers, sellers or service providers under the Act has been explained therein. The manner of seeking relief and the contribution of the judiciary in extending the remedies available under the Act to maximum possible areas of consumer interest have also been brought to focus. The chapter contains relevant judicial pronouncements on the entitlement of relief to consumers for deficiency in services, like banking, insurance, housing and construction services, transportation, education, electricity, postal services, medical services and others.

The study of different laws has revealed many lacuanea in them because of which they fail to protect the consumer interests. Despite the plethora of laws, consumers have to move from pillar to post without any assurance for a relief on any matter. It is high time that the policy makers should give a fresh look to these laws.

We hope that the book will create necessary sensitivity in this direction and at the same time will help the consumers to know their rights. It is also hoped that it will prove to be useful not only to policy makers but researchers, students and all those who have a concern for consumers.

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