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A study on the working of Customer disputes redressal agencies

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Abstract

This study details the effectiveness and performance of the consumer redressal agencies in India. It shows that the agencies are working professionally and trying to redress the grievances of consumers at the earliest. The performance is analysed based on the number of cases disposed at the National commission, State commission and the District forums. It is evident from the analysis that the district forums performance is better compared to others and the National Commission and State Commissions have to review their working so that the pending cases can be disposed at a fast rate which will bring the smoothness to give justice to consumers on the right time.

Keywords: Redressal agency, Customer disputes, Court, Jurisdiction

1. Introduction

Every order made by the redressal agencies is enforced in the same manner as if it were a decree or order made by a court in a suit pending therein. In the event of the redressal agency's inability to execute the order, it can be sent to the Court in whose jurisdiction

- a) The case of an order against a company, the registered office of the company is situated.
- b) The case of an order against a person, the place where the voluntarily resides or carries on business or personally works for gain, is situated.

There shall be established for the purposes of this Act, the following agencies, namely:—

- (a) A Consumer Disputes Redressal Forum to be known as the 'District Forum' established by the State Government in each district of the State by notification: Provided that the State Government may, if it deems fit, establish more than one District Forum in a district.
- (b) A Consumer Disputes Redressal Commission to be known as the 'State Commission' established by the State Government in the State by notification;
- (c) A National Consumer Disputes Redressal Commission established by the Central Government by notification.

The CAP established a three-tier structure for redressal of consumer disputes. The Redressal machinery consists of the following agencies, namely,

- a) Consumer Disputes Redressal Forum known as the 'District Forum'
- b) Consumer Disputes Redressal Commission known as the 'State Commission'.
- c) National Consumer Disputes Redressal Commission known as the 'National Commission'.

District Forum

Composition of the District Forum Each District Forum consists of a president and two other members and one of them should be a woman.

The president is a person whose has been or is qualified to be a District Judge.

The two other members are persons of ability, standing and integrity 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.

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Appointment

Every appointment to the District Forum is made by the State Government on recommendation of selection committee consisting of:-

- i) The President of State Commission - Chairman
- ii) Secretary, Law Department of the state - Member
- iii) Secretary in charge of the Department dealing with Consumer Affairs in the State – Member-

Guidelines for Filing

Term

A member of the District Forum holds office for a term of 5 years or up to an age of 65 years, whichever happens earlier and is not eligible for appointment.

Jurisdiction

- 1) The 'District Forum' has jurisdiction to entertain complaints where the value of goods, services and compensation claimed (if any) does not exceed Rs. five lakhs.
- 2) A complaint can be filed in the District Forum in whose territorial jurisdiction the opposite party or parties, at the time of instruction of complaint, actually and voluntarily resides, carries on business, has a branch office or personally works for gain.
- 3) If any of the opposite parties does not voluntarily reside, carry on business, have a branch office or personally works for gain the District Forum should grant permission or the opposite parties should consent to such an institution.
- 4) The complaint can also be filed before the District Forum in whose jurisdiction the cause of action, wholly or in part arises.

Findings of the District Forum

If, after the proceedings, the District Forum is satisfied that any of the allegations contained in the complaint about the services are proved, it shall issue an order to the opposite party directing him to do one or more of the following things:

- 1. To return to the complainant the charges paid.
- 2. 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.
- 3. To remove the deficiency in the services in question.
- 4. To provide for adequate costs to parties.

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.

State Commission

Composition of State Commission

State Commission consists of three members. One of them is the President and one of the members should be a woman.

The President of the State Commission is a person who is or has been a judge of the High Court.

The two other members are person 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.

The Consumer Protection (amendment) Act, 1993 has provided that no appointment is to be made except after consultation with the Chief Justice of High Court.

The other two members are appointed by the State Government on the recommendation of a Selection Committee consisting of:-

- i) President of State Commission -Chairman
- ii) Secretary of the Law Department of the State -Member.

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

National Commission

The President is appointed by the Central Government after consultation with the Chief Justice of India. The other members are appointed by the Central Government on the recommendation of a Selection Committee consisting of:-

- a) a person who is the judge of the Supreme Court, nominated by the chief Justice of India - Member
- b) Secretary of the Department dealing with consumer affairs in the Government of India - Member.

Appeal against orders of the National Commission

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

Procedure for filing a Complaint

The complainant or his authorized agent can present the complaint in person or send it by post to the appropriate forum or Commission, as the case may be. No fee is charged for filing a complaint before the District Forum or the State Commission or the National Commission.

Important Points

- 1) Each of the members and the opposite parties are to be sent a copy of the complaint.
- 2) The complaint himself should possess two or more copies of the complaint.
- 3) If the complainant desires so he can send a copy to an active voluntary consumer organization.
- 4) A complaint should always be supported and verified by an affidavit.

Time Limit Consumer Complaints

Guidelines for Filing

The District Forum, State Commission or the National Commission admits a complaint only if it is filed within two years from the date on which the cause of action arose. A complaint filed after a period of two years is entertained only if the complainant is able to satisfy the members of the Redressal agency that he had sufficient reasons for not filing the complaint within the stipulated period. Such a complaint

cannot be entertained unless the District Forum, the State Commission or the National Commission, as the case may be, records its reasons for condoning such a delay.

Decision Time

The District Forum, State Commission and National Commission are required to decide complaints, as far as possible, within three months from date of notice received by the opposite parties. For those complaints which require laboratory analysis or testing of commodities, the periods is extended to five months.

Form for Complaint

District Forum Vs complainant

I Complaint under Consumer Protection Act 1986

The complainant begs to submit as under:

- 1) The name, description and the address of the complainant I
 - 2) The name, description and the address of the opposite parties, as the case may be, Redressal of Consumer as far as they can be ascertained.
 - 3) The facts relating to the complaint and when and where it arose.
 - 4) Documents, is any, in support of the allegations contained in the complaint.
- a) Removal of defects from the goods,
b) Replacement of the goods,
c) Refund of the price paid,
d) Award of compensation for the loss or injury suffered.

That the various facts and reasons stated above, the complainant prays that the learned District Forum be pleased to order the opposite party the relief.

Verified at that the contents of Para 1 to 4 are true to the knowledge of the complainant and nothing therein has been concealed.

Penalties

If the person against whom the complaint is made or the complainant fails or omits to comply with any order made by the redressal agency, he can be punished with imprisonment for a term not less than one month may extend up to three years or fined an amount more than Rs. 2000/- but less than Rs. 10,000/- or both. A redressal agency, if it is satisfied that the circumstances of any case so require, impose a sentence of imprisonment or fine or both for a term lesser than the minimum amount said above.

Appeals

When a person is aggrieved by the decision or a court, he can challenge the decision in a higher court. This called an appeal.

Procedure

Appeal against the decision of the District Forum, State Commission and National

Commission should be presented before the State Commission, National Commission and Supreme Court 'respectively within a period of thirty days from the date of verdict. The Supreme Court, National Commission and the State Commission may entertain an -appeal after the expiry of the said period of thirty days if they are satisfied that there was sufficient cause for filing it within that period. The procedure for the appeal is the same as that of a complaint except that it should be accompanied by the orders of the

District Forum, as the case may be. No fee is charged for filing an appeal before the State Commission and National Commission.

Guidelines for Filing

Frivolous and Vexatious Complaints

If the complaint filed is found to be frivolous and vexatious, the redressal agency can, for reasons recorded in writing, dismiss a complaint and order the complainant to pay the opposite party such cost less than Rs. 10,000/- as specified in the order.

Citizen's Charter

No discussion of consumer related issues can conclude without any mention of the ongoing campaign for the Citizen's Charter. Many consumer organization have come together to convert this dream into a-reality. They intend to give the consumers of India gift called the Citizen's Charter in the 50th year of Independence. The evolution of citizen's charter revolves around the fact that the consumers pay for all the services rendered by the government either directly or indirectly. Such being the case the government is expected to perform to the consumers satisfaction. Citizen's Charter sees the public services through the eyes of the consumer expectations.

Expectations

According to the citizen's charter every citizen will be entitled to expect

- 1) **Standards:** Clear standards should be evolved, adopted and published. These should include courtesy and helpfulness from staff, accuracy in accordance with statutory entitlement and commitment to prompt action.
- 2) **Transparency:** More transparency should come into the functioning of government agencies. No secrecy should be kept on how public services are run, the rules and procedures they follow etc. Personals dealing directly with the public should carry badges mentioning their names.
- 3) **Information:** Information should be given in plain language about services rendered and results achieved.
- 4) **Choice:** It is provision of choice wherever it is applicable. This is the best simulative ' for quality improvement.
- 5) **Non-discrimination:** No discrimination should be made between sexes, religions, caste, creed etc, while rendering service or providing good.
- 6) **Accountability:** The individuals and the organization, should be held responsible, if their performance does not meet accepted standards. They should also be answerable for lapses.- Government organizations should set standards for their various services which are time bound, strictly adhered to and constantly reviewed. - As far as possible there should be single window disposal so that citizen cannot be pushed around.

Consumer Protection Council

Central Consumer Protection Council

The Central Consumer Protection Council is established by the Central Government. It consists of Grievances

- a) Minister in charge of the consumer affairs in the Central Government who is its chairman.
- b) Such member of other official or non-official members representing such interests as may be prescribed.

Objective of the Central Council

- The objective of the Central Consumer Protection Council is to promote and protect the rights of consumer such as:
- Right to protection against marketing of goods and services which are hazardous to life and property.
 - Right to be informed about the quality, quantity, potency, purity, standard and price of goods or services, as the case may be, so as to protect the consumer against unfair trade practices.
 - The right to be assured, wherever possible, access to variety of goods and services at competitive prices.
 - Right to be heard and to be assured that consumer's interests will receive due consideration at appropriate forum.
 - right to seek redressal against unfair trade practices, restrictive trade practices or unscrupulous exploitation of consumers, and
 - Right to consumer education.

State Consumer Protection Council

The State Consumer Protection Council is established by the State Government. It consists of

- Ministerein charge of consumer affairs in the State Government who is its Chairman.
- such member of other officials or non-official members representing such interests as may be prescribed by the State Government.

The State Council can meet as and when necessary but at least two meetings are to be held. The State Government meets at such time and place as the Chairman may think fit and such procedure in regard to the transaction of its business as may be prescribed by State Government. The objectives of the State council are the same as that of the Central Council.

Consumer Protection Act

For the protection of consumer from the malpractices of the manufacturers and traders the parliament enacted the Consumer Protection Act in 1986. But there were some loopholes in this pct. For the purpose of removing these looljholes the Parliament amended this act through the consumer protection (amendment) Act in 1993. This Act defines the consumer as also tells who can file complaints under this Act.

Who is a Consumer?

Consumer is a person who either buys any goods or hires any services. The term consumer has been defined in CPA in two parts:

- As a person who buys any goods for a consideration which has been paid for or partly paid for or promised or partly promised or any other form of deferred form of payment. The term also includes those who use the goods with the approval of the buyer. Those obtaining the goods for resale or commercial purposes are excluded.
- As a person who hires or avails of any services for a consideration which is paid for or partly paid for promised or partly promised or any other form of deferred form of payment. Those availing of the services with the approval of the first mentioned person are also included.

Who can file a Complaint

A complaint can be filed under CPA by

- A consumer
- A Voluntary Consumer Association registered under Companies Act, 1956 or any other Act.
- The Central Government or the State Government
- One or more consumers if there are many consumers having the same interest.

A complaint means any allegation made by a complainant that:

- An unfair trade practice or restrictive trade practice has been adopted by a trader.
- The goods bought or agreed to be bought suffer from any defects.
- The services hired or availed of or agreed to be hired or availed of suffer from any deficiency.
- A trader has charged for goods a price in excess of the price fixed by *ln4*' law or the price displayed on the goods or package.
- A trader has offered goods hazardous to life and property in contravention law which requires the trader to display information about the contents, manner and effect of use of such goods.

Summary of Consumer Disputes Redressal Agencies

- Establishment of consumer Dispute Redressal Agencies. There shall be established for the purpose of this act, the following agencies, namely:-
- A consumer dispute Redressal forum to be known as the 'district forum' established by the state Government in each district of the state by notification;
- A consumer disputes Redressal commission to be known as the 'state commission' established by the state government in the state by notification;
- A national consumer disputes Redressal commission established by the central government by notification.

State Consumer Dispute Redressal Commission

- A State consumer Dispute Redressal commission is commonly known as state commission is forum established at the state level in every state commission is a state government.
- Every state has a state commission which is often located in the respective state's capital.

Compositions

- A state commission consists of a president and two other members of whom one has to be a woman.
- A president is a person who is or has been a judge of a high court.

Circuit Benches

- Amendments made to the Consumer protection act made provision for the circuit benches.
- This implies that although a state commission normally functions from the state's capital, but, if required the state government can establishes its benches at some other place.

Complaints which can be filed before the state consumer dispute redressal commission

Two kinds of complaints can be filed before the state commissions:

- Complaints where the value of the goods or service and compensation if claimed, exceeds Rupees twenty lakhs

- but does not exceed rupees one crore.
- Appeal against the order of any district Forum within the state.

Powers of the state commission

The state Commissions have same powers and adopt the same procedure as the district forums.

Apart from these, the state Commission have power to transfer the case, call for the records, and may also make necessary modification in the procedure.

- State commissions have the power to call for the records and pass appropriate orders in consumer disputes which is pending before, or has been decided by the district forum. this is if, the state commission is of the view that
- (a) District Forum has failed to exercise the jurisdiction with it is vested to it by the law;
- (b) Or District Forum has failed to exercise the jurisdiction with which it is vested;
- (c) Or it has acted illegally or with material irregularity.

Transfer of Case

- A State commission can transfer a case from one distinct forum to another within the state.
- This can be done either on the application by the complainant. Or the state commission in its own motion at any stage of proceedings can transfer a case from one district forum to another in the state in the interest of justice.

If either party is dissatisfied with the decision of the state commission then an appeal against an order of state commission can be made before National Commission within 30 days after the order in question is passed. However, before filing such appeal, the appellant, if required to pay any amount to the other party, in accordance with the said order, has to deposit 50% of that amount or rupees thirty five thousand, whichever is less.

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