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RESEARCH ARTICLE

“THE SERF OF MODERN SOCIETY IS THE CONSUMER” AN ANALYSIS OF CHALLENGES FACED BY CONSUMER PROTECTION ACT.3

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Abstract

Consumerism today has become an international force. The nuance of consumer protection, fulfillment of consumer aspirations and satisfaction is now recognized as an integral component of each and every welfare oriented economic development process.

It is now over a decade since the Consumer Protection Act, 1986 was passed after year of lobbying by the various consumer organizations. The redressal machinery, however, is not fully satisfactory. The number of cases pending in the district forums is piling high. Unless consumer groups take determined action to see that the institutions set up for their protection work effectively, the redressal agencies will go the way of civil courts, where litigants have to wait for years and spend fortunes for the settlements of their disputes.

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Introduction Of Consumer Movement:-

Consumers play a vital role in the economic system of a nation because in the absence of effective demand that emanates from them, the economy virtually collapses. Mahatma Gandhi said “A consumer is the most important visitor on our premises. He is not dependant on us, we are on him. He is not an interruption to our work; he is the purpose of it. We are not doing a favor to a consumer by giving him an opportunity. He is doing us favor by giving us an opportunity to serve him.” (Dr Gomathi,2007)

The well known Adam Smith was right when he said “consumer is the sole end and purpose of all production and the interest of the produce ought to be attempted to, only so far as, it may be necessary for promoting that to the consumer.”

The relationship between the buyer and the seller was governed by the maxim ‘Caveat emptor’ – ‘Let the buyer be aware’ According to this maxim, the onus is placed on the buyer to protect his own interest by ensuring that he purchases is at good quality. The rule accorded well with the principle of ‘laissez – fair’. That the buyer is served best by free competition between seller: However, with changed situations and technological advances, consumer is no longer in a position to make an effective choice in terms of quality and price, at late, unfortunately cheating by way of over changing black marketing, misleading advertisement’ etc. has become the common practice of greedy sellers and manufactures to make unreasonable profits. Some of the companies try to engage I unscrupulous exploitative and unfair trade practices’ like defective and unsafe products, advertising hoardings, false and misleading advertisements. The earlier approach of ‘Caveat Emptor’ which means ‘Let the buyer be aware’, has now been change to ‘Caveat Venditor’ which means ‘Let the seller be aware’. There is an active need for having awareness on the consumer protection rights. The consumer designated as ‘King of the market’ needed protection by law to safeguard his interests.(Garg,1990)

The factors responsible for emerge of consumerism are

- a. Information gap
- b. Performance gap
- c. Role of impersonal and unresponsive institutions.
- d. Budget squeeze.
- e. Every increasing complexity of legislative controls and goods.
- f. Altered patterns of communicating.

Significance Of The Study:-

The study will be useful for the consumer in providing guidelines for the availability of various laws for the protection of their basic interest as legitimate consumers.

Objectives Of The Study:-

To analyze the challenges faced by Consumer protection act.

Review Of Literature:-

The book by **Jag Pravesh Chandra** titled “**Rights of Consumers**” deals with consumer protection in India. It puts across the disappointments and frustration of the dissatisfied consumer. It is an attempt to create better understanding between the merchants and consumers. Merchants must understand and accept the concept of consumerism. Consumer’s rights, tricks of traders. etc. are enumerated. There is a request to the press to help the consumer movement by providing coverage and reproducing the grievances of consumers. Setting up of a consumers Affairs Centre exclusively for treating consumer related matter is suggested.

Malathesh S. has made an attempt to assess opinions of consumers. They study undertaken by him is an opinion survey of consumers in Ahmedabad. This survey is undertaken to evaluate the impact of functioning of CERC. The survey was conducted by CERC during October 1980 to know the opinion of its subscribing members about the activities and publications of CERC. About 50 percent respondents belonged to the age group of 46 to 55, 89 percent were males, 60 percent were postgraduates and 61 per cent in the income group of Rs. 2000 and above. CERC’s strategy to seek legal remedies for various issues and its success in exposing the inefficiency and uneconomical working of many of the public sector corporations are widely welcomed by the respondents. They feel that there is a need to take up issues which are affecting the large segments of the common people. This survey also reveals that consumerism is gaining ground and consumers are becoming more conscious of the need for accountability of monopolistic organizations.

J.S. Sundaram’s book “**Consumer Protection in India**”, deals with various problems faced by consumers in India. The book tries to evaluate various remedies available to consumers in India. The book asserts the case for consolidating and promoting the movement in the light of intolerable exploitation. The role, significance, and functioning of Standards (ISI, Agmark), protection instruments (MRTP) rederssal agencies, Mobile courts, (District/State/National Commissions), and the government (budgetary-policy in relation to consumer protection) are highlighted.

K.P.S. Kamath, a noted consumer activist has published a book titled “**Servants, Not Masters**”. This book is a narration of the author’s bizarre ordeals with the bureaucrats, the police force, and other public servants. Drawing heavily on the Gandhian Philosophy, the book crystallizes the lessons for consumer activists outlining the teaching troubles, pitfalls, and possible remedies, basic formalities guiding principles. Strategies, and tactics, and efficient and effective use of media, legal, and other forces. Cases, episodes, references, and a draft Consumer’s Bill of Rights all effectively included to provide a wide perspective.

M.R. Pal’s booklet, “**Guidelines to consumers Rights and Responsibilities**” aim to create and awareness among them on way of protecting themselves against malpractices.

A.J. Rebello has made an attempt to write a good deal about consumer movement and problems of Indian consumers. This article in Indian Express, a leading national daily, deals with all these facets or Indian consumers. In the article “**consumer Movement Catching On**”, the author traces the growth of the consumer movement in Gujarat. The district forums are reported to be gaining impetus as more and more people come to them with their complaints.

The villagers have sought advice and help from these forums, showing increased consumer awareness. The forums have been functioning in line with the rules, i.e. sorting cases as far as possible within 90 days. The services of the commissions and forums range from guidance on how to file of a complaint to setting it. The article advises to retain receipts bills while purchasing goods and services.

Challenges Faced By Consumer Protection Act:-

The Consumer Protection Act Effective:-

Making the Consumer Protection Act effective is therefore, the first challenge facing the consumer movement in India. There are now about 1000 organizations of consumers inexistence, but all the cities and towns have not been covered. The rural areas where the greater part of our nine hundred million consumers lives are still virtually untouched by the consumer movement. Though the aim is to have a Consumer Complaints Redressal Forum in every district, it is not easy for poor rural consumers to go to the forum with complaints, nor do many consumers have an awareness of ways to assert their consumer rights. The solution lies in training rural workers who're already active in the villages. Mass media should be used to penetrate rural houses. Creating consumer awareness in the vast reaches of rural India with its variety of customs, traditions and languages and little formal education is the second challenge for the consumer movement.

Fall Out Of The Liberalization:-

Another matter of concern for the consumer is the likely fall out of the liberalization policy adopted by the government. Undoubtedly, liberalization is going to bring us many benefits, notably, up to date technology, more competition and better products, more employment and investment opportunities. But some possible adverse effects must be taken into account. The export to India of drugs, pesticides and cosmetics which are sometimes banned in the countries from which they originate is likely to be much easier with liberalized import laws. Consumer groups will have to be on their guard against such products and services. For example, obesity treatments, hair restoration treatments and arthritis cures which were not approved in the countries of origin have been brought in here through collaboration and launched with tremendous publicity.

Misleading Claim:-

Consumers organizations need to take action against them for their misleading and highly exaggerated claim 'laws against cigarette and liquor advertising are being openly flouted through advertising on hoardings and through cable television. Consumer movement needs to be extremely alert regarding dubious or hazardous products entering the country in the wake of liberalisation. Some other emerging areas of consumer protection are environment protection, investor protection and freedom of information. Relentless increase in environmental pollution of all kinds has totally impoverished the quality of our lives and is taking a heavy toll of our health. Consumer groups need to strongly support and work with environmentalists. Every consumer will have to join with others to reduce pollution in hither own neighborhood .Lastly, the concern of consumer movement should also be to discourage racism, communalism, violence, and conspicuous consumption. Violence is today the real hero in most T.V.serials and films. It enters our homes, assaults our senses and influences all of us, specially our children. In the words of Anwar Fazal, Regional Director, United Nations Development Programme for the Asia Pacific Region, "The Consumer Movement should be directed towards service to the people and the Environment instead of just ensuring value for money for consumers.'

Analysis Of Consumer Movement:-

Positives Of Consumer Movement:-

1. Generally consumer movements helps consumer in payment of insurance claims, replacement of defective goods, misleading advertisements, unfair practices by jewelers, wrongful fixing of terms of contracts by companies, forcing beneficiaries of welfare schemes to buy items for fixed dealers, and use of force in recovery of loans.
2. Consumer movement in India as a social force originated with the necessity of protecting and promoting the interest of consumer against fraudulent, unethical and unfair trade pact
3. The consumer protection Act, 1986 (68 of 1986) is a milestone in the history of socio-economic legislation in the country. It is one of the most progressive and comprehensive piece of legislations enacted for the protection of consumers. It was enacted after in-depth study of consumer protection laws in a number of countries and in consultation with representatives of consumers, trade and industry and extensive discussions within the Government Unlike existing laws which are punitive or preventive in nature, the provisions of this Act are compensatory in nature.

4. The act is intended to provide simple, speedy and inexpensive redressal to the consumers' grievances, and relief of a specific nature and award of compensation wherever appropriate to the consumer
5. The act has been amended in 1993 both to extend its coverage and scope and to enhance the powers of the redressal machinery.
6. It confers upon consumers eight rights i.e.: basic needs, safety, information, choice, representation, redress, consumer education, healthy environment.
7. It provides remedies to the customer in form Replace, Remove, Refund, Redres.
8. It is Consumer welfare oriented. The Consumer protection act is known for its simplicity, straightforwardness and inexpensiveness, Swift disposal of dispute.
9. The consumer movements make the rights comprehensible to layman.
10. The system is easily accessible to the public.

Negatives of consumer movement:-

The consumer movement till now has been confined to the middle class citizens in urban centres by the large. It has yet to spread among the masses in rural and semi-urban areas.

1. Professionalization of the consumer organizations is also far to be major constraint with most of them. Even as the creation of Consumer Welfare Fund by the Government has helped some of the organization by providing grants in aid, memberships subscriptions and donations happens to be the main source of finance for the majority of these voluntary organizations.
2. Devoid of practicability- legal technicalities which need lawyers to deal with.
3. Irregular functioning of consumer council.
4. Constrained powers of judge's i.e. magisterial powers (though enhanced by the amendment of 2003 but not yet implemented in the government act).
5. No austere provision to dishearten proxy litigation.

Suggestions:-

It is extremely imperative to encourage volunteers, who are gallant, audacious and for the right, concerned in consumer protection movements.

- a. Organizations, NGOs, institutions and agencies allied to consumer movements should hearten administrative advocacy in settling consumer disputes so the hitch of case pendency and delay in case disposal can be avoided.
- b. Govt. should come up with varieties of plans to establish and manage laboratories, equipped with latest available international standard technologies, for testing samples of consumer goods with a view to determining their quality, purity and relative merit.
- c. Government should enter into treaties with various countries in order to ensure extra territorial operation of the act.
- d. Government should be pro active towards the cunning policies of MNCs to exploit the consumer.
- e. A heavy sum should be taken from the multination companies in the form of security money at the time of their establishment and incorporation.
- f. Most of the Indian consumers know only COPRA but they are not aware about other laws and statutes which protect their right so along with the dissemination of COPRA consumer should be made aware about the existence of other laws i.e. MRTP, Essential Commodities Act 1955, Bureau of Indian standard Act 1986 etc.
- g. Government should make efforts to create a consensus for global consumer policy.
- h. Judicial activism should be increased in consumer related issues also and parental role should be played by the supreme Court for consumer redressal agencies.

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