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SUBJECT- CONSUMER PROTECTION ACT

CLASS- LL.M. II semester

Who is a consumer?

According to the Consumer Protection Act 1986, a consumer is a person who purchases goods and/or services for his own use and not for reselling or using the good for production or manufacturing. Thus, if a person buys a loaf of bread for eating it he/she is a consumer but when a person buys wheat for using it to produce loaves of bread, he/she is not a consumer. Consumer's rights and duties go hand in hand. Humans are not self-sufficient beings and thus they engage themselves in contracts pertaining to buying and selling of goods and services. Markets are the place which satisfy our needs for primary and luxury goods. People as consumers or sellers are often unaware of their rights, duties and the redressal commissions. The consumers have rights and responsibilities to be followed,

Thus, the act aims at highlighting-

- The consumer's rights and duties as well as the sellers.
- Protects the consumers from the unfair trade practices the sellers might engage in.
- In case of a breach of a contract, remedies that the plaintiff can resort to.
- Information about the various commissions which aim at providing redressal to the party who suffered damages.
- Court fees that needs to be submitted along with the application highlighting the grievance of the consumer.

Rights of a consumer-

The Consumer Protection Act protects only the consumers. So, if a person who is not a consumer and uses goods for commercial purposes files a grievance, the grievance will not be entertained by the consumer redressal commissions.

As consumers, we have the following rights-

- Right to consumer education and to update ourselves with all the new schemes launched by the government.
- Right to be heard in the consumer forum.

- Right to be protected and seek redressal against traders using unfair means and unfair practices. For instance, we all hear about e-portals scamming and looting people of the hard earned money on the false pretext of giving them a job with a handsome pay. The people who availed their services became consumers and since there was a deficiency in the service the consumers had the right to approach consumer forums for redressal.
- Right to have access to a variety of goods at fair prices.
- Right to be safe from hazardous goods.

Duties of a consumer-

Every right has a corresponding duty, the right of an individual is the duty of another. Duties of consumers are very essential to be followed as it saves one from further issues. For instance, if an individual has the right to be safe from the purchase of hazardous goods correspondingly the seller had the duty to not sell goods which pose a threat to the

consumers. Duties of consumers are listed below-

- Duty of consumer to pay for the services or goods purchased or used. However, if a client decides not to pay for the services, here is what u can do.
- Duty of consumer to check weights, balances, prices etc. and read the labels carefully.
- To update oneself about the various schemes of consumer protection.
- Duty not to fall in the trap of misleading information and advertisements.
- Not to buy goods from black markets.
- To be an ethical consumer and procure the bills, receipts etc. for the good and services purchased. If a consumer fails to take them then he/she might find it difficult to file a complaint and prove the defect in the good.
- Duty to gain knowledge about consumer rights and duties and to spread awareness about the same.
- Duty to file a complaint in case there is a defect in the good or service so purchased.

Who can file a complaint in the consumer redressal commission?

- A consumer who purchased the defected goods or availed deficient services can file a complaint in the consumer redressal commission.
- If there is a hazardous good being sold in the market, a consumer or a group of consumers can file a complaint on behalf of the general public who also might be consumers of the same. Here is how to file a Public Interest Litigation (PIL).
- A complaint can also be filed by a consumer protection association.

How to file a complaint in a consumer redressal commission?

Step 1: File a complaint in the consumer redressal commission which has the jurisdiction to address your grievance along with the court fee of the various forums as specified in the act. DD To check No format has been provided for filing a complaint and it is not mandatory to hire a lawyer.

Step 2: Keep copies of all the necessary documents such as bills, receipts, electronic mails, telephonic conversations etc. It is also important to submit a copy of the necessary documents along with the complaint.

Step 3: Ensure that the complaint is filed in writing within 2 years of purchasing the good or the service.

Step 4: The complaint must include the name and contact information of the person who has the grievance and against whom the grievance is being filed. It should also specify the method of redressal which include replacing the defected good with a good of similar description but without defect or removing the defect from the good or compensation for the damages suffered due to the defects in the good or the service.

Step 5: The forum will give the party against whom the complaint has been made a period of 30 days to appear before the forum and to defend himself/herself.

Step 6: The forum can also order testing of the goods in laboratories to determine the defect(s) in the goods as mentioned in the complaint. After giving opportunities to both the parties and hearing them, the forum will deliver a judgment.

Step 7: If either of the parties is not satisfied with the decision, an appeal may be made to a forum higher in the hierarchy of consumer redressal commissions.

What are the various consumer redressal commissions?

The act provides for three consumer redressal commissions. At the apex of the hierarchy we have National Consumer Redressal Commission.

National Consumer Dispute Redressal Commission

Section 21 of the Consumer Protection Act provides for the establishment of a National Consumer Disputes Redressal commission which can deal with cases whose cause of action lies anywhere in the territory of the country or the parties reside or carry on business anywhere throughout the territory of the country. Its pecuniary jurisdiction is more than Rs. 1 crore, this means it can deal with cases wherein the amount claimed in the suit exceeds Rs. 1 crore. If any of the party is not satisfied with the judgment, an appeal can be made to the Supreme Court of India within a period of 30 days. The NCDRC can keep an eye on and hear appeals from the State Consumer Disputes Redressal Commission and the District Consumer Disputes Redressal Commission.

State Consumer Dispute Redressal Commission

Every state has to establish a state forum in order to redress the grievances of the consumers and to unburden the NCDRC. The state forum can deal with cases whose cause of action lies within the territory of the state or where the party/ parties reside or carry on business within the boundaries of that particular state. The pecuniary jurisdiction is upto Rs. 1 crore, this means that a complaint claiming an amount between Rs. 20 Lakhs and Rs. 1 Crore can be addressed by the state forum. If the any party is not satisfied with the judgment, an appeal can be made to the NCDRC of India within a period of 30 days. The state forum can keep an eye on and hear appeals from the District Consumer Disputes Redressal Commission also known as the district forum.

District Consumer Dispute Redressal Commission

Every state has to establish a district forum in each district within the state in order to redress the grievances of the consumers and to unburden the NCDRC and the SCDRC. The district forum can only deal with cases whose cause of action lies within the territory of the district or where the party/ parties reside or carry on business within the boundaries of that particular district. The pecuniary jurisdiction is

upto Rs. 20 Lakhs, this means that a complaint claiming an amount below Rs. 20 Lakhs can be addressed by the district forum. If the any party is not satisfied with the judgment, an appeal can be made to the

SCDRC of the state within a period of 30 days. The district forum is subject to the scrutiny of the SCDRC and the NCDRC as it is the lowest in the hierarchy of consumer redressal forums.