

Role and Composition of Consumer Forums in India

Abstract

In this era of consumerism, consumers are vested with more power under Consumer Protection Act era. A three-tier redressal machinery has been established under Consumer Protection Act to resolve various issues related to consumer grievances. Consumer forums have been established to protect the consumer from the discriminating trade practices of producers and sellers. Consumer courts are the special purpose courts that deal with cases regarding consumer disputes, problems and grievances. These are prudently set up by the government to shield the consumer rights. Their main role is to maintain fair trade practices by the vendors towards consumers. Consumers file a complaint against a seller if they are distressed or exploited by sellers. The court will only rule in favor of the consumers if they have genuine proof of exploitation. If a consumer does not produce the proper documents required for filing a suit then it is very difficult for the consumer to even file a case.

Keywords : consumer forums, consumer grievances, composition of consumer forum, jurisdiction of consumer forums.

Introduction

District Forum

Each district of the state shall have a Consumer Disputes Redressal Forum known as 'District Forum'. The state governments are free to establish more than one District Forums in a district, if they deem it necessary keeping in view the requirement of the district. The office of the District Forum shall be located at the headquarters of the district. The working days and office hours of the District Forum in a state shall be the same as that of the state government.

Composition of District Forum

The District Forum is to consist of president and two members (one of whom shall be a woman) to be appointed by the State Government on the recommendation of a selection committee constituted under the Act.

The president of the forum should be a person who is, or has been, or is qualified to be a District Judge. Two other members, must be persons of ability, integrity and standing, and has adequate knowledge or experience of, or have shown capacity in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration. Every member of the District Forum shall hold the office for term of five years or up to the age of 65 whichever is earlier. However, he shall not be eligible for reappointment.

Jurisdiction of the District Forum

Pecuniary

The District Forum has the jurisdiction to entertain complaints where the value of the goods or services and the compensation, if any, claimed does not exceed rupees twenty lakhs.

Territorial

It provides that a complaint shall be instituted in a District Forum within the local limits of whose jurisdiction:-

1. The opposite party or each of the opposite parties at the time of institution of the complaint-actually and voluntarily resides, carries on business, has a branch office or personally works for gain.
2. The cause of action, wholly or in part arises.

Who can make the Complaints

A complaint may be filed by:

1. The consumer to whom such goods are sold or delivered or agreed to be sold or delivered or such service provided or agreed to be provided.
2. Any recognized consumer association whether the consumer to whom the goods sold is member of such association or not.

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3. One or more consumers having same interest, with permission of the District Forum, on behalf of , or for the benefit of, all consumers so interested.

4. The central or State Government.

The complainant or his authorized agent can present the complaint in person before the consumer forum /commission. The complaint may also be sent by post . there is no fee to be paid for filing a complaint.

The Procedure on Receipt of a Complaint

The consumer forum shall on receipt of a complaint relating to any service or goods, refer a copy of the complaint to the opposite party directing him to give his version of the case within a period of 30days. This period cannot be curtailed.

Where the opposite party admits the allegation made by the complainant, the forum shall decide the complaint on the basis of the merit of the case and documents presented before it. But where the opposite party denies or disputes the allegations contained in the complain, or omits or fail to take any action to represent his case within the above stipulated time, the forum should proceed to settle the consumer dispute on the basis of the evidence brought to its notice by the respective parties.

It shall be obligatory on their agents to before the forum on the date of hearing or other date to which hearing could be adjourned. Where the complainant or his agent fails to appear on such dates, the forum may in its discretion either dismiss the complaint for default or decide it on merit. Where the opposite party or its agent fails to appear on the date of hearing, the forum may decide the complaint ex-parte.

Power of District Forum

The District Forum shall have the same power as are vested in Civil Court under the code of Civil procedure, 1908 while trying a suit. The District Forum has been vested with the powers of a Civil Court, but is not strictly bound to follow the rules of evidence as laid down in Indian Evidence Act. However, the District Forums have to also follow the procedure laid down in rules framed by the Central Government and by the State Governments.

State Commission

Composition of the State Commission

The second in the hierarchy of consumer Redressal Forums is the State Commission. The State Commission is required to be established in each state by the respective state governments. The commission consists of a President and two members. The President of the commission should be a person who is or has been a Judge of a High Court. The two other members, who shall be persons of ability, integrity and standing and have adequate knowledge or experience of economic, law, commerce, accountancy, industry, public affairs or administration; one of them should be a woman. The appointments of the President and the members are to be made by the respective state governments. The President of the State Commission shall receive the salary of the Judge of the High Court if appointed on whole time basis.

Jurisdiction of the State Commission

Subject to the other provisions of this Act, the State Commission shall have jurisdiction to:

1. To entertain-(i). Complaints where the value of goods or services and compensation, if any, claimed is above rupees twenty lakhs but does not exceed rupees one crore. (ii) appeals against the orders of any District Forum within the state.
2. To call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any District Forum within the state, where it appears to the State Commission that such District Forum has exercised a jurisdiction not vested in it by law.

The State Commission shall have jurisdiction to entertain appeals against the order of any District Forum within the state. Any person aggrieved by an order made by the District Forum may prefer an appeal against such order to the State Commission within a period of thirty days from the date of the order. The model form of the complaint is given in the annexure-II.

Appeals

Any person aggrieved by an order made by the State Commission in exercise of its power may prefer an appeal against such order to the National Commission within a period of 30 days from the date of the order in such form and manner as may be prescribed.

National Commission

Establishment and Constitution of the National Commission

The National Commission is the Apex body at the Centre to settle the consumer disputer under the Act. The commission is to consist of a President and four members. The President of the National Commission can be a sitting Judge or a retired Judge of the Supreme Court. The Chief Justice of India has to be consulted before the appointment of the President. The other four members should have the same qualification as in the case of District Forum or the State Commission, one of whom should be a woman. Every member of the National Commission shall hold the office for a term of five years or up to the age of seventy years, whichever is earlier and shall not be eligible for re-appointments.

The President of the National Commission shall be entitled to salary, allowances and other perquisites as are available to a sitting Judge of the Supreme Court.

Jurisdiction of the National Commission

The National Commission shall have jurisdiction:

1. To entertain, (i). Complaints where the value of the goods or services and compensation, if any, claimed exceeds rupees one crore. (ii). Appeals against the orders of any State Commission.
2. To call for the records and pass appropriate orders in any consumer disputer who is pending before or has been decided by any State Commission where it appears to the National Commission that the State Commission has exercise a jurisdiction not

vested in it by law. The model form of the Complaint is given in annexure-IV.

Powers of and Procedure Applicable to the National Commission

There is no special procedure to be followed by the National Commission. However, the Act provides that the National Commission shall, in disposal of any complaints or any proceedings before it, have the power of a Civil Court and follow such procedure as may be prescribed by the Central Government.

Appeal

Any Person aggrieved by an order made by the National Commission in exercise of its power may prefer and appeal against such order to the Supreme Court within a period of thirty days from the date of the order.

The main objectives of the Consumer Protection Programme, through strong Consumer Forums, are:-

1. To create suitable administrative and legal mechanisms which would be within the easy reach of consumers?
2. To involve and motivate various sections of society such as consumer organizations, women and youth to participate in the programme.
3. To assist, encourage and provide financial assistance to Governmental and Non-Governmental organizations to take up various consumer protection activities; and
4. To generate awareness among consumer about their rights and responsibilities, motivate them to assert their rights and not to compromise on quality and standards of goods and services and seek redressal consumer courts, wherever required.

References

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