

SPORTS AND RECREATION SECTOR

1. What is the sports and recreation sector?

The sports and recreation sector is a dynamic and growing industry in India, playing a crucial role in promoting physical and mental well-being, fostering social connections, and contributing to the national economy. In recent years, the sector has witnessed significant growth driven by the Make in India initiative, Khelo India program et. al. The governance of sports in India generally falls within the list of matters states have the power to govern under the Indian constitutional scheme.

2. What are the grounds for complaint available?

- Defective equipment or merchandise: includes broken or poorly manufactured products, inaccurate size, or materials that don't perform as advertised.
- False advertising or misleading claims: involves overstating the performance or benefits of a product, hiding crucial information, or using deceptive imagery.
- Safety hazards: could encompass unsafe designs, faulty materials, or products that lack proper safety warnings or instructions.
- Counterfeit or fake products: refers to products that are replicas or imitations of genuine brands, often made with inferior materials and potentially unsafe.
- Durability issues: involves products that wear out quickly, break easily, or don't hold up to their intended use.
- Discrimination or accessibility issues: involves products or services that are not inclusive for people with disabilities or specific needs, or marketing practices that are discriminatory or offensive.
- Poor customer service: includes long wait times, unhelpful staff, rude or unprofessional behavior, or difficulty resolving issues.
- Warranty problems: involves difficulties getting products repaired or replaced under warranty, receiving inadequate service, or delays in processing claims.
- Delivery issues: involves late deliveries, damaged goods during shipping, or incorrect or

incomplete orders.

- Pricing errors or misleading costs: involves hidden fees, unexpected charges, or prices that are higher than advertised.
- Return and refund policies: involves difficulties returning unwanted products, receiving unfair deductions from refunds, or long wait times for processing returns.

3. When complaints would not be accepted?

- Consumers must file appeals against an order within the limitation period. Failure to do so can lead to the rejection of the appeal.
- Frivolous Complaints: Complaints deemed vexatious, frivolous, or lacking sufficient basis can be dismissed by the consumer commission.
- Jurisdictional Issues: Consumers must file complaints with the appropriate jurisdictional authority. If a complaint falls outside the jurisdiction of the chosen commission (e.g., District Commission for complaints under ₹1 crore), it will be rejected. Careful consideration of the complaint value and commission jurisdiction is crucial.
- Procedural Errors: Filing complaints under incorrect sections of the CPA or relevant sports/recreation regulations can lead to rejection.
- Lack of Consumer Status: To be eligible for consumer protection under the CPA, the complainant must fall under the definition of a "consumer" as defined in the Act. For instance, complaints from professional athletes who participate in sporting activities as part of their professional obligations may not be considered.
- Evidence and Proof: Insufficient evidence or lack of proof to substantiate the allegations in the complaint can result in its dismissal.
- Concurrent Litigation: Filing the same complaint in another judicial forum (e.g., civil court) before approaching the consumer commission can lead to its rejection due to "lis pendens" (already pending litigation).
- Settlement or Arbitration: If the dispute has already been settled through mutual agreement or resolved through arbitration as per contractual terms, the consumer commission may not entertain the complaint.
- Malicious Intent: Complaints filed with malicious intent or aimed at harassment or

personal vendetta can be dismissed by the commission.

4. What are the modes or methods of complaint available?

The consumer must first reach the service provider through the customer care of the particular opposing party. On unsatisfactory response the customer may take further steps such as:

1. Recourse to CAS

A party may approach CAS in Switzerland, which is the apex body in global sports for the settlement of disputes. However, the jurisdiction of CAS can only be invoked if the rules and regulations of the concerned NSF allow this (as, for example, the AIFF does) or if a separate arbitration agreement exists. Notably, while doping disputes allow for CAS appeals under the National Anti-Doping Rules 2021, many NSFs lack provisions for CAS recourse, prompting the Delhi High Court to recommend its inclusion.

2. Recourse to Writ Jurisdiction

Typically, courts only interfere if the decision is illogical, suffers from procedural impropriety or shocks the conscience of the court; for instance, decisions of governing bodies relating to selection of teams, suspension of athletes, disciplinary proceedings,⁶¹ conferment of awards, and so on have been considered to be purely within the domain of governing bodies.

3. Arbitration

Arbitration in India, regulated by the Arbitration and Conciliation Act of 1996, covers both civil and commercial disputes unless excluded by statute or judiciary. Sports-related disputes, often of a personal nature, are eligible for arbitration. The Indian government has actively endorsed sports dispute resolution through arbitration and established the Sports Arbitration Centre of India (SACI) in 2021. SACI, an independent body supported by the Ministry of Law and Justice, aims to efficiently and

transparently resolve sports-related disputes.

For a valid arbitration agreement, it must be in writing, commonly found in individual contracts or within governing body rules applicable to athletes upon membership. The Arbitration Act grants courts broad powers to provide interim relief during arbitral proceedings. This includes measures like securing the disputed amount or appointing a receiver. General principles for granting interim reliefs in India involve demonstrating a prima facie case, a balance of convenience, and the likelihood of irreparable injury if the relief is not granted.

4. Approaching any other appropriate judicial or quasi-judicial body:

The complainant is free to take the service provider to a court or any other suitable venue (judicial or quasi-judicial). The proceedings in consumer commissions are not mired by the niceties of procedure, allowing the complainant to file a complaint for himself. As a consumer, the aggrieved party can take the service provider to the appropriate consumer commission, based on the pecuniary and territorial jurisdiction.

The jurisdictions of the various consumer commissions are as follows

- a) District Commission: The aggrieved consumer can reach out to the District Commission under section 34 of the CPA, 2019, which provides that the district commission shall entertain matters where the value of the goods or services paid as consideration does not exceed more than one crore rupees.
- b) State Commission: In cases where the value of the goods or services paid as consideration is more than one crore, but less than 10 crores, the consumer can approach the State Commission. Moreover, in cases of unfair contracts, the State Commission has original jurisdiction and the consumer can be directly approached. An appeal against the order of the District Commission can also be made under section 47 of the CPA, 2019.
- c) National Commission: The National Commission can entertain matters where the value of goods or services paid as consideration exceeds 10 crores. Section 58 also provides that complaints against unfair contracts can be entertained by NCDRC when the amount of value paid exceeds 10 crores. The NCDRC also has appellate

jurisdiction against the orders of any State Commission and Central Authority.

Moreover, it must also be kept in mind that section 100 of the CPA, 2019 provides that the remedy under CPA is in addition and not in derogation of other available remedies.

Another remedy available to consumers is mediation. Chapter 5 of the Consumer Protection Act provides for establishing mediation cells and resolving consumer complaints using mediation.

5. Central Consumer Protection Authority

If the commission finds violations of rights of consumers or in notice of trade practices which is unfair it can inquire or cause an inquiry, either on receipt of complaint or suo moto or as directed by Central Government. If the commission finds, after preliminary inquiry, of an existence of a prima facie case of consumer rights violation or it is in notice of any unfair trade practice or any wrong or inaccurate advertisement which is prejudicial to public interest or to the interests of the consumers, it can order an investigation by the District Collector or by Director General. The consumer can complain to the District Collector of the respective district for investigation and subsequent proceedings by the CCPA. He/she/they can also submit a complaint via email, at com-ccpa@nic.in.

5. What are the regulatory bodies in this sector?

1. The Department of Sports (DOS), under the aegis of MYAS, is mandated with, inter alia, formulating policies and guidelines, laying down eligibility conditions for national sport federations (NSFs) and determining the quantum and extent of grants and financial assistance available to them. DOS also oversees the participation of Indian sports teams in tournaments abroad, the participation of foreign sports teams in international tournaments in India, esports as part of multi-sports events and the functioning of the Sports Authority of India (SAI).
2. The All India Council for Sports acts as an adviser to MYAS.
3. The SAI is an autonomous body under the DOS. Its objectives include talent scouting,

training and preparation for national teams, sports infrastructure development, international events and implementing various schemes of the DOS. DOS and SAI work in tandem with the Indian Olympic Association (IOA) and NSFs, as well as state governments, state and location level federations and bodies.

4. Board of Control for Cricket in India (BCCI), which operates autonomously without dependence on the government for financial assistance.
5. Indian Hockey Federation
6. All India Chess Federation
7. All India Tennis Association
8. Amateur Kabaddi Federation of India
9. Wrestling Federation of India
10. All-India Football Federation (AIFF)

6. What are the rules, Acts, and Guidelines that govern this sector?

1. National Sports Development Code of India (2011)
2. Sports Authority of India Service Bye-Laws and Conditions of Service Regulations, 1992 ("SAIR"):
3. National Sports Policy 1984/2001 ("NPS"):
4. The Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act

7. What are the landmark judgements in this sector?

1. The Managing Director, Kerala Tourism Development Corporation Ltd. v. Deepti Singh and Ors: Deepti Sharma booked accommodation at Hotel Samudra for a family holiday. During their stay, her spouse became unconscious and drowned in the hotel's swimming pool. The National Consumer Disputes Redressal Commission (NCDRC) found the hotel liable for negligence as the lifeguard on duty was also assigned bartending tasks. The Supreme Court emphasized the duty of care owed by the hotel to maintain a safe environment. Allowing a lifeguard to perform bartending duties was deemed a breach of this duty, leading to a deficiency in service. The appeal was dismissed, affirming the hotel's negligence in the tragic incident.

8. What is the format of the complaint to be made under this sector?

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