

CONSUMER RIGHTS – A CALL OF THE CENTURY*

INTRODUCTION

Today, the world is celebrating the Twenty Third Consumer Rights Day.

On this day of celebration, which is a reminder of consumer rights' and the obligation of the governance towards them. I offer my greetings and good wishes to all those who are associated with the recognition and enforcement of consumer rights' whether they are consumers, activists, law framers or associated with dispensation of consumer justice.

Consumer justice – broad canvass

Consumer justice movement is a socio-legal movement. In the field of socio-economic-legal justice, there has been no other movement as powerful and as popular as the consumer justice, for it deals with the masses, the common man or the 'little man', as Justice M.B. Shah, while a sitting Judge of the Supreme Court, chose to give the name, in one of his judgments dedicated to that common man, in whom the Constitution has vested the ultimate source of power, who has a right to vote, but on account of ignorance and for want of information, does not know whom to vote for. No other movement concerns so much day to day life and activities of common man as this movement does. It would be no exaggeration to say that consumer rights are akin to, rather emanate from fundamental rights or human rights.

Consumer Protection has assumed great importance in all industrially developed societies. With the proliferation of human needs in the consumer societies of today, it has become necessary to re-examine old notions of consumer protection such as consumer sovereignty, consumer choice and consumer satisfaction. Modern technological developments have made a great impact on the quality, availability and safety of goods and services. Due to total helplessness of the consumer on the corporate sector with its vast resources and control over media, it has been found necessary to devise new methods of regulation and control. A plethora of legislation has been enacted in all liberal democracies. In the United Kingdom and United States, powerful consumer movements spread from early sixties. Under the pressure of these movements, the consumer has been successful in focusing the attention, of policy makers and administration, on the inequities and dangers of the prevailing system. The time honoured concepts of *caveat emptor*, sanctity of contracts in matters which tend to deprive consumers of remedies against exploitation and unreasonable conditions, liability based on the principle of fault and freedom to engage in trade or profession to the detriment of unwary consumers, have been reinterpreted and applied in the context of the needs of the modern times.¹

History carries us back by twenty two years, to remember 15th March, 1983 when this day was first observed and John F. Kennedy, the President of United States of America, introduced the revolutionary notion of rights for consumers. Kennedy told the US Congress in 1962 – "Consumers, by definition, include us all. They are the largest economic group in the economy, all affecting and affected by almost every public and private economic decision..... but they are the only important group..... whose views are often not heard". The Bill of Rights, as propounded by Kennedy, was a declaration of four basic consumer rights: (i) the right to safety; (ii) the right to be informed; (iii) the right to choose, and (iv) the right to be heard. To this list, the

Consumers International has, by its powerful movement in recent years, added four more rights: (v) the right to satisfaction of basic needs, (vi) the right to redress; (vii) the right to education, and (viii) the right to a healthy environment. These eight rights now form the core of consumer movement, worldwide. The purpose of celebrating this day is to propagate consumer education, leading to a healthy environment and at the same time, to ensure that by the process of co-ordination and promotion, the consumer rights are given high priority by all governments at the international level.

The celebrations come and go. If any enlightened person were to collect the statistics, it would not be difficult to find a minimum of 365 celebrations in a year. Lest this day be reduced to the formality of celebration only, we must think of achieving, by concrete steps, a few objectives like a mission, such as: (i) to improve the quality of life of consumers by promoting consumer awareness and assertiveness; (ii) to facilitate exchange of views between vital agencies, operating in the field and stakeholders; (iii) formulating concrete recommendations to strengthen the consumer justice movement; and (iv) to see, by democratic constitutional methods, that the recommendations are enforced by strengthening the law and justice delivery system in the interest of general good of the economy and the society. I am happy to note that this inaugural session will soon be followed by a seminar wherein eminent speakers, blessed with authentic voices, would be expressing their views on "Making Consumer Fora More Effective and Functional".

The Consumer Protection Act 1986 is a unique piece of legislation. It makes provision for establishing consumer protection councils. The objectives of such councils is a charter of six rights of the consumers, as reflected in Section 6 of the Act: (i) right to protection; (ii) right to information; (iii) right to be assured; (iv) right to be heard; (v) right to grievance redressal; and (vi) right to consumer education. At the same time, it provides a quick, uncomplicated and simple mechanism for redressal of consumer disputes. The fora, founded by the Act, has a balanced combination of trained judicial minds and experts in the field of consumer service and gender justice. The Act envisages ability, integrity, standing, knowledge, experience, age and education as the touchstone on which the composition of the fora would be tested. The expanse of jurisdiction, conferred on consumer fora defies definition. From a simple purchase of goods upto banking, financing, insurance, housing, transport, processing, entertainment, amusement, electricity, water and what not, all are included. A few subjects are enumerated by way of definitions of 'service' and 'unfair trade practices' and much has been yet left open to the ingenuity and innovative faculty of those who man the fora. This is a legislation which augurs well with the Indian philosophy and idealism. Business is not just an activity; nor is it just a means for earning profits; the business has to serve the society and must be transacted on the principles of ethics and morality.

Need for a movement

There are a few things, inherent in the world of business and commerce which justify the essential need for consumer movement. In the world of business and commerce, the businessman is an experienced person and is also in a dominating position. The consumer has the money or the power to purchase, in his hands but he is the weaker lot. And, what happens when a strong businessman with experience deals with a weak consumer with money. The businessman ends up earning money and retaining experience. The weak consumer loses money and is left with only experience, earned by paying a heavy price. This is more so when the businesses are being taken over by corporations, eliminating, individual businessmen. The corporations have neither bodies to be punished nor souls to be condemned. They, therefore, do as they like.

The law steps in to protect the weak, *i.e.* the consumers. I am reminded of a very interesting anecdote. A child asked his father – “Why a man cannot have two wives? Why the law punishes bigamy?” The father replied – “Son, the law helps those who cannot help themselves”. It may be called a cynical statement, when Oliver Goldsmith told in ‘The Traveller’ – “Laws grind the poor, and rich men rule the law”; or when Clarence Darrow told in 1936, in an interview given to the ‘New York Times’ – “Law [is] a horrible business”. So far as the field of consumer justice is concerned and the way the consumer fora have come up in dispensing consumer justice, the cynical sayings stand substituted by positive messages. According to Cicero – “The people’s good is the highest law”. Or, to quote Justice Oliver Wendell Holmes Jr., “The life of the law has not been logic; it has been experience”². The consumer justice dispensation has reinforced Jefferson’s belief, expressed in 1789 – “The execution of the laws is more important than the making of them”.³

On this day, I congratulate the fraternity of consumer justice dispensers in the country, led by Justice M.B. Shah. The consumer fora are delivering practical, real and useful justice. Law accompanied by technicalities and rigidity may prove to be a tyranny. But the consumer justice in India reminds me of what Chief Justice Chandrachud said in the leading case of *Olga Tellis*,⁴ “Commonsense, which is a cluster of life’s experiences, is often more dependable than the rival facts, presented by warring litigants”.

Ladies and gentlemen! We have just now listened to the thoughts full of knowledge and wisdom coming from the lips of Justice M.B. Shah, the Chairperson of National Consumer Disputes Redressal Commission and the two Hon’ble Ministers. And, none else could have been more authentic in their respective expressions than Shri Bhardwaj and Shri Pawar, respectively, the Hon’ble Ministers for Law & Justice and for Consumer Affairs. Taking advantage of the presence of the two Hon’ble Ministers, I would like to invite the attention, as the first servant of Indian Judiciary, that there is need to strengthen the consumer justice delivery system in the country which has, by its performance, justified its existence. They need manpower, funding, modernization and blending of technology for more efficient discharge of their duties. It is easier to prevent accumulation of arrears but it is difficult to liquidate the arrears, once they have accumulated. I would appeal to the Hon’ble Ministers to see that the consumer justice delivery system does not suffer from lack of man power, infrastructure or basic needs. It has to be an effective, a functional and not a limping system.

Shortly, we will have the opportunity of listening to other eminent speakers who have been successfully playing the role of senior officers of the Court, day in and day out. Soon the book “Landmark Judgments of NCDRC” would be in your hands, after I have enjoyed the pleasant privilege of releasing the same. It is sure to prove a compendium of consumer jurisprudence.

You have been kind enough to listen to me with patience and without exhausting your tolerance, I would like to end by sharing with you a small story.

“A man went to a barbershop to have his hair and his beard cut as always. He started to have a pleasant conversation with the barber who attended to him. They talked about so many things on various subjects. Suddenly, they touched the subject of God. The barber said: “Look man, I don’t believe that God exists as you say.”

“Why do you say that?” asked the client. “Well, it’s so easy; you just have to go out in the street to realize that God does not exist. Oh, tell me, if God existed, would there be so many sick people? Would there be abandoned children? If God existed, there would be neither suffering nor pain. I can’t think of a God who permits all of these things.”

The client stopped for a moment, thinking, but he didn't want to respond, in order to prevent an argument. The barber finished his job and the client went out of the shop. Just after he left the barbershop, he saw a man in the street with long hair and a beard (it seems that it had been a long time since he had his hair cut and he looked so untidy).

The client again entered the barbershop and he said to the barber: "Know that? Barbers do not exist."

"How come they don't exist?" asked the barber. "Well I am here and I am a barber."

"No!" the client exclaimed. "They don't exist because if they did there would be no people with long hair and beard like that man who walks in the street."

"Ah, barbers do exist, what happens is that people do not come to me."

"Exactly!" Affirmed the client. "That's the point. God does exist, what happens is that people don't go to Him and do not look for Him, that's why there's so much pain and suffering in the world."⁵

The story carries a powerful message for all those who are associated with consumer justice delivery system. They must be able to generate that confidence in the consumer, that your right will be upheld and injustice shall be redeemed, if only you come to us! And, if you can afford to reach us there will be no pain and sufferings, suffered by any consumer!!

Consumer justice is not a sideline. It is an essential and integral part of justice delivery system. 'With reference to the consumer movement and the international obligations for protection of the rights of the consumer, provisions have been made with the object of interpreting the relevant law in a rational manner and for achieving the objective set forth in the Act. A rational approach and not a technical approach is the mandate of law.'⁶ All those associated with the system must take pride in feeling that the sacred duty of dispensing justice has been bestowed on them by the Divinity. The year 2005 is the "Year of Excellence in Judiciary". I hope that in this year, the justice delivered by consumer fora would also achieve new heights of excellence. Their ideal ought to be, in the words of Bhagwad Puran: "I do not wish for a Kingdom, Heaven or rebirth; but I wish for the destruction of the anguish of living beings, subjected to suffering".



* Inaugural speech delivered on a Seminar on "Making Consumer Fora More Effective and Functional" on the occasion of World Consumer Day' DAY At FICCI Commission Hall on 15th March, 2005.

1. D.N. Saraf, *Law of Consumer Protection in India*, Second Edition, preface to the First Edition.
2. Arthur T. Morgan, *The Handbook of Quotations*, p. 174.
3. Arthur T. Morgan, *The Handbook of Quotations*, p. 175.
4. AIR 1986 SC 180.
5. East and West Series, Vol. 47, No. 3, p. 17.
6. *India Photographic Co. Ltd. v. H.D. Shourie*, (1999) 6 SCC 428 (431).