

MOVEMENT IN CRISIS

DESPITE the fact that the concept of consumer protection in India is centuries old, dating back to the age of Kautilya, there was no strong and vibrant movement until the enactment of the Consumer Protection Act (CPA) in 1986. The main purpose of the CPA was to develop a strong and broad-based consumer movement, to provide simple, quick and inexpensive redressal of grievances and to involve and motivate consumer organizations. While some of these objectives have been achieved, consumers remain an exploited lot.

However the initial euphoria did not last long. The national commission and certain High Courts delivered judgments which not only defeated the objective of the CPA, but also set back the consumer movement. For example, the Madras High Court gave a "hair splitting" judgment excluding private doctors from the purview of the CPA. While this is not binding, it created a precedent..

The National Commission closed its door to students. It has taken the view that in carrying out its statutory functions of conducting examinations, evaluating answer papers and publishing results, universities are not performing any service for a consideration and, therefore, a student cannot be regarded as a "consumer" as contemplated under the CPA. In a more recent case, the apex court has held that an LPG manufacturing company (Indian Oil Co, in this case) and its distributors are not liable for injury or death caused by a gas cylinder explosion.

Many public utility services including the postal service, railways and the state-owned airlines have claimed immunity from the CPA. There is a move by the banking sector to set up a Lok Pal to deal with consumer complaints. The idea is to opt out of the CPA's purview.

With the scope of the CPA being narrowed, the consumer movement is in some sort of a crisis. The strength of legislation lies in its capacity to enlarge its scope and powers with the passage of time. On the contrary, the CPA is moving in the opposite direction. Except the case of housing, not many services have been brought under the CPA's scope in the past decade.

The state of the redressal machinery is worse. It is ironical that the very courts which should solve the problems of consumers are themselves facing problems. Throughout the country district for and State Commissions are faced with the apathy of the State Governments. It required a Supreme Court directive to State Governments to set up district for and State Commissions.

And there is inadequate provision of funds to district for and State Commission by the respective governments. As a result, these bodies are ill-equipped in terms of space, Staff, office equipment, etc,

For instance, in Karnataka, successive Governments have not been able to constitute the State Consumer Protection Council, a mandatory provision under the CPA. The Bangalore (urban) Forum which receives 50 cases on an average per day, has a backlog of 6,000 cases.

Even the National Commission is not without its share of problems. The CPA provides that the National Commission shall have a president and four members, including a woman social worker. But at no stage has the commission had its full complement. The latest available statistics show that 2,000 cases are pending with the National Commission.

Till 1994 more than three lakh cases were filed in district for a across the country. Out of this, 58 per cent had been disposed of. But only 40 per cent of the cases were decided within the stipulated time limit of 90-150 days. In State commission, nearly 32,000 cases have been filed, out of which only 32 per cent have been disposed of within the prescribed time limit.

A recent study conducted by the India Institute of Public Administration (IIPA) and sponsored by the Ministry of Consumer Affairs has shown that at least 31 per cent of the respondents were not aware of the CPA or of the procedure for filing complaints. Many felt that procedures in the consumer courts were technical and time consuming. Many respondents did not find any difference between civil and consumer courts.

The granting of adjournment has also frustrated consumers. When the CPA was introduced, it was hoped that consumers would be able to argue their cases without the help of lawyers. But unfortunately, lawyers have started appearing, resulting in adjournment of cases and increase in cost of litigation.

The Standing Committee on Food and Civil Supplies and Public Distribution has suggested that lawyers should not be allowed in consumer courts. It laid two conditions for the appearance of lawyers-firstly, when the complainant has engaged a lawyer, and secondly, when the consumer court permits the engagement of a lawyer owing to legal complexity of a case.

The habit of challenging the decisions of consumer courts in High Courts has also led to the weakening of consumer for a. There is a demand by consumer activists that decisions of consumer courts, which are enforceable like any other decree of a civil court, should be brought under the purview of Article 323(B) of the Constitution so as to exclude the writ jurisdiction of High Courts.

The greatest setback to the consumer movement has been the failure of the opposite parties to comply with the order of the consumer courts. Even if a consumer is able to get a favourable order passed by the consumer court, he is not sure of its implementation. Many consumers have found that the opposite parties have disappeared soon after the decisions are given. Even invoking Section 27 of the CPA which empowers for a to issue arrest warrants for non-compliance with orders has had little success.

Though a large number of voluntary consumer organizations have been doing their best to keep the movement going, their efforts have not had much of an impact. The Central Government has come out with a scheme of financial assistance for consumer organizations. Here again, the eligibility conditions have prevented new groups availing themselves of the benefits.

The activities of consumer organizations have been limited to cities and towns. The rural masses are not aware of the CPA nor of their rights. Most organizations remain identified with one nurtures it. Again these organizations are run by individuals who are employees, utilizing their spare time for consumer welfare. Unfortunately consumer organizations have also become prey to politics.

A few influential consumer organizations have been able to corner a large proportion of funds at the expense of small, genuine groups. Consumer groups situated in metropolitan cities have been able to muster funds not only from within the country, but from abroad as well.

The five-star culture of some reputed consumer organizations needs to be checked if the movement has to percolate down to the masses. Consumer movement must reflect the problems of the common man.
