

CONSUMER ACT NEEDS SOME FUNDAMENTAL CHANGES.

When the Consumer Protection Act CPA was enacted in 1986, it was hoped that it would be a panacea for all consumer ills. Its in-built features like exemption from court fee, relief within 90 days, absence of lawyers and freedom from court technicalities injected fresh hope into harassed consumers.

True to its objectives, the CPA did provide some relief to consumers. Despite initial setbacks, consumer forums have fared well, considering the magnitude of the problems faced by Indian consumers. However, the experience in the last ten years has also brought to light limitations which need to be plugged.

The Act was amended in 1993 but some major lacunae still remain. For example, what happens if the presidents of the forums or the state commission or the national commission are on leave/out of town/haven't been appointed yet?

As per CPA provision consumer forums should have one president and two non-judicial members out of which one should be a woman, like the Monopolies and Restricted Trade Practices (MRTP) Commission. The idea of providing non-judicial members is to make the forums as informal as possible and to blend judicial and non-judicial wisdom in providing relief.

The MRTP commission has both judicial and non-judicial members. Under the MRTP Act, the senior-most non-judicial members can act as the chairman in case the person appointed cannot preside over the commission. The members of the MRTP Commission hold the same qualifications as that of consumer forum members. Also, any appeal against the orders of the MRTP commission can be filed only in the Supreme Court.

In the case of a consumer forum, the forum can not pass an order if the president is absent. Further, every order passed by it should be signed by the president and one non-judicial member failing which it cannot be executed. The CPA is silent on the options available when the president is absent.

Some time ago, when the president of the national commission was abroad, its work came to a stand-still. This is not an isolated phenomenon: whenever the president of a consumer forum is out of town, its work is disrupted. This is one reason for cases piling up. Consumers are made to wait for months to get their case posted for hearing.

However, thanks to a Supreme Court ruling, consumers can now get relief quickly even if the president is not available. The Supreme Court, in the case of Gulzarilal Agarwal, has decreed that the state commission can function even if the office of the chairman (president) is not functional by reason of vacancy, leave,

illness, etc. In this case, a telecom consumer filed complaint against the department for disconnecting his telephone due to non-payment of a bill which he felt was excessive. The district forum's order went against the telecom department. On an appeal, the state commission upheld the order. Finally, the case came before the national commission.

The national commission took the view that the order was passed only by two members of the state commission and the president was not one of them and that this was contrary to the provision of Section 14.2 (a) of the CPA. But the Supreme Court set this aside and upheld the order of the state commission.

Though this decision may not be palatable to those heading the forums, it is a boon to consumers. In many states, including Karnataka, the state government has not taken steps to appoint presidents for consumer forums. A recent report says that eight district forums in Karnataka are defunct due to non-appointment of presidents. In the circumstances, non-judicial members may be able to provide relief to consumers.

Every state in the country which has enacted the CPA observes its own rules. Barring two states (West Bengal and Gujarat), none of the states provide for non-judicial members to preside over consume forums. In view of the Supreme Court's decision, the CPA urgently needs amending. Is the Karnataka government listening?
