



Consumer Info



[Quarterly Newsletter of Consumer Rights Education & Awareness Trust (CREAT)]

No.4/2007

October-December 2007

WHEN LAWYERS TAKE CLIENTS FOR A RIDE

On the occasion of the 60th year of Indian independence the country is in the process of looking back to its glorious achievements. This exercise of soul searching covers all aspects of the economy. Certainly the country can boast of great achievements albeit some setbacks. But if you look back the progress of the legal profession you will feel sad for the erosion of values and the rot that has set in the legal fraternity.

There was a time when the lawyers and advocates were held in high esteem. Their knowledge, expertise, social concern and ethical values for which they stood was exemplary. Even today we do have such professionals. But advocates at large have stopped down to a level of falsifying records, collecting fees for which they have done nothing and have found to be involved in several unethical practices. The article by Mr.S.S.Kumar, editor of CTJ Magazine cites the case of Poonam which should make our legal professionals put their heads down in shame.

Mr.S.S.Kumar says that Poonam A.Shah hired the legal services of an advocate, in the matter of non-execution of a sale deed by the seller of a flat in her favour under an agreement. The concerned advocate filed a suit of specific performance of the contract. The advocate asked Poonam to deposit a sum of Rs.62125 as part of the court fee to be paid for filing the suit. She also paid to the advocate an additional sum of Rs.5000 towards legal expenses.

However it turned out that the concerned advocate filed a suit for grant of injunction by paying a court fee of Rs.25 only. The advocate gave Mrs.Poonam a Xerox copy of the Court's order sheet showing that he had paid Rs.62125 as court fee. But when nothing happened Mrs.Poonam filed a complaint in the Bangalore Urban III Additional District Consumer Forum. During the proceedings it came to light that the original order sheet stated Rs.25 (rupees twenty five only) as court fee and in the xerox copy it showed Rs.62125 as the figure 621 was inserted before 25 by the advocate.

The story did not end here. The advocate dealing with the case collected another sum of Rs.75000 for purposes of execution of the sale deed. Besides, a sum of Rs.15000 was also collected from Mrs. Poonam. With all these payments the advocate should have done his job properly. But the advocate withdrew the case without informing his client. Taking all these factors into account the Forum directed the advocate to pay a sum of Rs.2 lakhs to Mrs.Poonam. The advocate challenged the order in the Karnataka State Commission. Observing that the advocate has played fraud on his client, who made her to suffer mental agony and hardship, the Commission has dismissed the appeal. God save the legal profession and the clients.#

Inner page >>>>>>>>

Delay In Deciding Cases

- 3

Steel products with ISI Mark a mandatory

- 6

Bharati Airtel guilty of Unfair Trade Practice

The country's largest mobile operator Bharti Airtel has been found guilty of adopting deceptive and Unfair Trade Practices (UTP) by the Monopolies and Restrictive Trade Practices Commission (MRTPC). The Commission has found that the mobile operator has not made proper disclosures of terms



and conditions in its subscription from for new customers.

The MRTPC took up the case following a complaint by the Mumbai based Consumer Guidance Society of India, one of the oldest consumer group in the country. While the company has denied the charges in its rejoinder

to the DGIR's report, the investigating arm has stuck to its stand. According to the complaint by the consumer organization, the terms and conditions printed on the backside of the subscriber enrolment form issued to individuals for subscription of mobile phone was totally illegible. Also the complaint said the font size of terms and conditions printed overleaf were not equal to the font size in the front page #

(Financial Express, 16.8.2007)

More items on the BIS list

The government is mulling increasing the number of sensitive items included in the list of mandatory items for which the standards of the Bureau of Indian Standards (BIS) have to be followed. This is following allegations of sub-standard imports from countries such as China, as in the case of toys. At present there are 68 items in the mandatory list.

Of late the BIS has been getting representations from consumer organizations, users and manufacturers to look at tightening of standards. Following this, standards regarding information technology, steel, electrical products, as well as food and cooking items, are being considered for inclusion in the mandatory list. A final list would be soon sent for feedback from the industry before incorporating them on the mandatory list.

As per BIS norms a product is made mandatory by the Government of India after various ministries request for the same. An item is included in the mandatory list only if it is found to impact consumer health and safety, is of security concern to the nation, or is an item of mass consumption.

GEAC clears trial of Bt brinjal

The Genetic Engineering Approval Committee (GEAC) has approved large-scale trials of what could be



the country's first-ever transgenic food crop Bt. Brinjal developed by the Maharashtra Hybrid Seed Company (Mahyco). According to GEAC officials large scale trials will be conducted at the farms of the Indian Institute of Vegetable Research, Varanasi. The trials is likely to take place over two seasons, which means consumers will not get to see the GM brinjal on their plates before 2009. So far, cotton is the only GM crop that has been approved for commercial cultivation since 2002.

(Source: Business Line, 16.8.2007)

*The Board of Trustees and
Staff of
CREAT*

*Wish all readers a
Happy
and Prosperous New Year*



DELAY IN DECIDING CASES: CAN CONSUMERS GET RELIEF?

It is said that justice delayed is justice denied. It is also said that the real problem of a litigant in India starts after he get a favorable order from the Court. Both these clichés are apt to consumer complaints filed in the forum and Commissions. Though the Consumer Protection Act (CPA) says that complaints are to be disposed off within 90 days, this is not happening. Of course for the past few years there is a visible improvement in working of the forums.

If the Consumer Forums or the Commissions do not dispose of the cases within the prescribed time limits, can the forums ask the Government to pay compensation to all the consumers whose complaints are pending beyond a certain period? These and other important questions have come to the fore in the case of Government of NCT of Delhi vs. Bal Bhavan Public School.

In this case the Delhi State Commission had passed a general order stating that every consumer who shall be filing complaints under Section 12 of the CPA within effect from

1.11.2006 shall be entitled for a compensation of Rs.10000 payable by the Government of NCT of Delhi either through the Chief Secretary or Secretary (Consumer Affairs) if his complaint is not decided within the period of one year on account of the Government being guilty for deficiency in service in not following the provisions of the CPA for want



of requisite infrastructure like forums, benches of State Commission etc. It directed the Government to increase the number of Presiding officers to man the State Commission and the District Forums.

The Government of NCT Delhi challenged the above order before the Division Bench of the Delhi Court. The Bench over ruled the decision of the

State Commission stating that the Commission/Forum does not have the superintending powers which are vested in the High Court along under Article 226 and Article 227 of the Constitution of India. The issue came up before the Delhi Court.

Here again the Delhi High Court upheld the views of the Division Bench. It has said that the order of the State Commission is a new concept of retributive damages and the order beyond the defined jurisdiction of the State Commission and unrelated to the inter se dispute between the parties. It has said that the Courts have a limited role to play if they find that a particular field, the Government is abdicating its duties. But this corrective action can be taken only by the High Courts or the Supreme Court in exercise of their inherent powers and in no case the consumer disputes redressal agencies. Further the Court has observed that the directions issued by the State Commission are unrelated to the inter-se dispute between respondents.

Banks to establish internal redress mechanism



After being loaded with number of complaints against deficiency in service, the Indian Banks Association (IBA) has advised banks to ensure the formulation of mechanism redressing the complaints of

consumers. Banks have now designated nodal officers whose complete address and contact information should be available at the branch offices. Once the consumer has exhausted this option and still feels aggrieved, he/she can approach the Banking Ombudsman for redressal of complaints.

RBI Amends Banking Ombudsman Scheme



The Reserve Bank of India has made crucial amendments to the Banking Ombudsman Scheme, 2006. Accordingly, the aggrieved customers can appeal against any Ombudsman's decision. Also if the complaints are rejected, they can also make an appeal to the deputy governor's office of the RBI. However, the ombudsman has the right to reject complaints if he is not satisfied on the grounds of certain conditions. The amendments are available on the RBI website.

ICICI Bank to teach Banking to Students



In order to educate the school children about the basics of banking, Disha, the NGO front of ICICI Bank, has launched the first of its school comic books on banking with the assistance of Reserve Bank of India. The comic booklet 'Raju and the Money Tree' is also available on the RBI website.

Get Passports within 3 days



The days of waiting endlessly for the arrival of your passport by registered post may soon be a thing of the past. It is now possible to get a passport within three days. Of course you have to pay for it.. The Passport Issuance System has plans of setting up 68 new

Passport Facilitation Centres in various parts of the country in the near future for facilitating the public in getting the passport easily and quickly.

Under the Passport Seva Project, the government will outsource front-end activities to service providers, who will set up facilitation centres across the country. The centres will assist the citizens in reissuing a passport, getting a duplicate passport or an additional booklet, or change in the name. Change in the name or address would be done on the same day of filing of application.

Under this project, the service providers are allowed to levy an additional fee over the government fee for each service.

More area under organic farming

The Commerce Ministry has proposed a program to augment 40 per cent more area under certified organic cultivation over and above the 1.10 lakh hectares in a bid to boost income of organic produce growers and spare the farm land from overdose of chemical fertilizers.

The APEDA contacted the governments of Andhra Pradesh, Chhattisgarh, Gujrat, Haryana, Karnataka, Madhya Pradesh, Maharashtra and Rajasthan and developed project proposals for assistance under the relevant schemes of the Ministry of

Agriculture. The products covered for organic farming encompass brinjal, banana, grapes, pomegranates, mango, chilli, turmeric and



vegetables, wheat and rice, soyabean, sesame, arhar, basmati rice, onion, garlic, baby corn, pulses, ginger, coffee, vanilla, pepper, coriander and orange.

The total expenditure for development of organic farming on a project mode in eight states would entail Rs.94.30 crore out of which Central assistance would be Rs.51.71 crore from Ministry of Agriculture and Rs.8.82 from APEDA, Rs.3.42 crore from State Government assistance and another Rs.30.35 crore from private investment. It is estimated that the proposed area covering 40000 hectares might fetch export revenue of about Rs.120 crore after a span of three years.

(Source: *Business Line*, 16.8.2007)

Consumer Health

Do not store mineral water for long time



Mineral water stored for long time in plastic containers could be deadly, says

a study that revives concerns about the safety of bottle water, the world's fastest growing drinks industry worth \$1.2 billion a year.

The online edition of Daily Mail, London reported that plastic containers release antimony and other toxic substances that lead to increase in toxicity in the stored water. Larger quantities of the deadly contents in water can cause violent vomiting and even death. It is also observed that the levels almost doubled when the bottles are stored for three months.

(Source: Consumer Network)

Governance

Corruption complaints against educational institutions centralized

The Ministry of Human Resource Development has centralized the system of filing corruption complaints against central educational institutions. Complaints can also be given directly to the Chief Vigilance Officer. Extraordinary delay in dealing with the complaints and negligence on the part of the concerned officials has forced the ministry to centralize the system of filing complaints.

Corruption complaints against Central Universities, Indian Institutes of Information Technology, National Institutes of Technology, Central Board of Secondary Education, University Grants Commission, AICTE, and National Council for Technical Education, National Council of Educational Research & Training, KVS, Navodaya Vidyalaya Sansthan and other Central Educational Institutions can be made to their respective Central Vigilance Officers (CVOs) besides the CVO in the Ministry.

(Source: The New Indian Express: 12.11.07)

Pictorial depiction of ill-effects mandatory from December

The Central Government has decided to make it mandatory for cigarette companies to depict images of cancerous tumours, decaying teeth and infected throat on cigarette packets and all tobacco products manufactured after December 1, 2007. However depicting the skull and bones sign has been made optional. The decision had to be delayed twice this year in February and then in June due to opposition from the tobacco industry.

The Government has now decided to make it mandatory that packets of all tobacco products, including those imported, will carry photographs of oral cancer patients and babies affected by passive smoking. Unlike the statutory warning currently carried, these pictures and accompanying messages in bold

type will occupy at least 50 per cent of the display area.

Fines will be slapped on those not complying with the directive. Anybody who produces or manufactures cigarettes or tobacco products without the specified warning will face imprisonment of up to two years or a fine of Rs 5,000 or both. If the offence is committed for the second time, the imprisonment will be extended to five years with a fine of Rs. 10,000 and for subsequent convictions, the imprisonment may extend to two years with a fine of Rs 3,000. The warnings will be in English and regional languages while the message and the picture to go with it will be rotated every 12 months by the Ministry of Health and Family Welfare.

(Source: Indian Express-11.10.07)

Costly Parliament Session

Do you know what it costs the tax payer when the Parliament is in session? With the proceedings in the



House disrupted frequently, it is essential to know how the public money is wasted. According to the calculations made by MINT, a business newspaper the cost per minute of the Parliament session is Rs.26000

(Source: Mint)

Governance

CAG findings have no takers

The expenditure incurred on preparing the Report by the Comptroller and Auditor General of India for the year 2005-06 is a whopping Rs.12782 crores. According to the Performance Report of the Audit and Accounts Department Rs. Rs 4,371.21 crores was spent on the report for the Union Government, State Governments and Union Territories (UTs) accounted for Rs 8,410.71 crores,

The volume of work involved was also massive. Under the Central audit, 1.49 million vouchers were audited for the Union Government, States and UTs while number of Audit Notes issued was 39,179. Similarly, under local audits the figures were 64,543 and 64,460 respectively.

In spite of undertaking such a voluminous task for the country's benefit, the administration is not responsive. Crores of tax payers money in preparing the report goes down the drain as Central and State Government's have not replied to its recommendations for years. The report says that the Ministries and departments did not comply with the orders of the Union Government against 5,381 paragraphs contained in the Audit Reports presented before Parliament until November 30, 2005, which was required to be submitted not later than March 31 2006.

In case of State and UTs Audit Reports presented in the Legislatures up to November 2005, the remedial Action Taken Notes (ATNs) in respect of 11,771 draft paragraphs were not submitted by the respective State & UTs Governments to their respective public Account Committee until March 2006. The top three states with maximum number of pending ATNs against their name are Bihar (4,582), Maharashtra (1,187) and Madhya Pradesh (1,011)

(Source: Press Trust of India, 6.5.2007)

Standards

Steel products with ISI Mark a mandatory

The Ministry of Consumer Affairs has issued the Steel and Steel Products (Quality Control) Order 2007, under which 17 varieties of steel products must have ISI certification to conform to specified standards, failing which the steel producers would be punished under the Bureau of Indian Standards Act 1986. The order will come into force after 6 months from the publication in the gazette. A period of 6 months is given to enable the steel producers of such steel items to get the ISI Certification.



Violation of the provisions of the order will lead to imprisonment for a term which may extend to one year or with fine for up to Rs.50000 or both. The 17 varieties of steel products include semi-finished steel for re-rolling, long products used in infrastructure and construction, steel plates for pressure vessels and boilers and tin plates for packaging food products among others. Products like Grills window panes and export items are excluded.

The sub-standard or defective products not conforming to the specified standards would be deformed by cutting into lengths less than 1.5 meters and disposed off as a scrap within 3 months.

Another Milestone

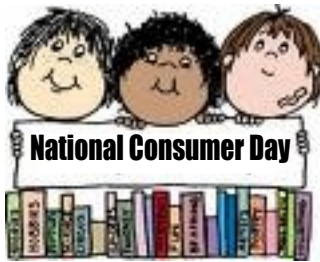
CREAT-Included as an Investors' Association by SEBI

CREAT has been recognized by SEBI as an Investors' Association for a period of one year from August, 2007. Under the guidance of SEBI, CREAT aims to concentrate on educating Investor Protection by organizing workshops for the representatives of consumer organizations, publishing leaflets and flyers to make investors aware of their rights. CREAT will also publish a quarterly newsletter INVESTOR ALERT exclusively on matters related to shares, stock market, investor protection etc. The first issue for the quarter October-December 2007 will be released on 24th December 2007 on the occasion of National Consumer Rights Day.

CREAT had organized a workshop on investor education and protection on 27th November 2007 in which more than 50 consumer activists were present. For more details refer to Investor Alert quarterly newsletter of CREAT.

WHAT AILS THE CONSUMER MOVEMENT

Yet another National Consumer Day was observed yesterday throughout the country.



Newspapers earned large sums by way of carrying advertisements issued by the concerned Ministries. A few crores were spent to bring Ministers and bureaucrats who spoke about the need for consumer awareness. Departments directly concerned with consumer protection poured out statistics to defend their activities. The whole show will be repeated on 15th March when the day will be observed as World Consumer Rights Day. The question is whether these sorts of shows promote consumer awareness? Will it lead to a safe and fair market place to the consumers?

After two decades of the Consumer Protection Act (CPA) coming into force there is very little improvement in the status of the consumers. She continues to be exploited in shops, malls, hospitals, nursing homes, beauty parlours and not to speak of the service providers like transport, telephone, banks, credit cards etc. Though the CPA has been able to provide some relief, it is insignificant compared to the

wrong doings in the marketplace. While the Government is still addressing age old problems like adulteration, short weights and measures, new forms of exploitation are being invented every day. Days like the National Consumer Day need to address such issues.

Take for instance agreements with unilateral conditions and one sided contracts. What about penalty levied on pre-closure of loans taken for purchase of vehicles, house,

The nation will be observing the National Consumer Rights Day on 24th December 2007. This article written on the occasion of last year's national consumer day (25.12.2006) is reproduced as we feel it is still relevant

flats etc.? Misleading advertisements like zero per cent interest on loans are common. How true is this claim? What about short weight or measure in packaged commodities? Even well known brands are found to indulge in this unfair trade practice. Forget about the private sector. Just have a look at the number of complaints filed against government bodies and institutions in the Consumer Forums. Provident Fund, ESI, Life Insurance, Telephones, Municipalities

and housing development authorities top the list. The message is clear. Everything is not well within the Government.

The significance of National Consumer Day needs to be viewed in this background. Strengthening consumer movement is as essential as empowering consumers. The State should focus on educating and building the capacity of consumer organizations numbering more than 100 in Karnataka. Consumer movement lacks technical skills as well as financial resources. A scheme should be evolved to assist consumer groups. Providing them training, information, teaching them lobbying and advocacy skills can be thought of. The State should formulate a Consumer Protection Policy. Annual award for the best performing consumer groups is another way of encouraging consumer movement.

Establishing consumer consultative committees (CCC) in each of the departments with public interface is another method of involving consumers. The working of consumer forums, ombudsman institutions, grievance redressal machineries needs a re-look. Consumer activists and experts can be involved in such exercises. Members and experts in the State Consumer Protection Council should take up issues raised above.

Consumer Law

Gas leakage costs HPCL Rs.10 lakhs

Liquified petroleum gas cylinders can be potential bombs inside homes, and this is what R.Lakshmi of Andhra Pradesh found out when in February 2002, the washer (o ring) in the cylinder neck malfunctioned and gas leaked out of the cylinder, leading to a fire in which she tragically suffered severe burns and died ten days later.

The minor children of the 35 year old lady and her husband filed a case in a consumer forum claiming damages of Rs.20 lakhs towards medical treatment, loss of expectation of life, and loss of future income. The Hindustan Petroleum Company Limited and the LPG dealer, became opposite parties in the case.

HPCL laid the blame on the dealer's doorstep, arguing that the dealer has to indemnify the company from all liabilities resulting from the sale of cylinders. HPCL further advised the consumer to approach the insurance company through the dealer to get compensation.

The Andhra Pradesh State Consumer Disputes Redressal Commission cited a previous National Commission case (TT Private Ltd vs. Akhil Bhartiya Grahak Panchayat) in which the court had ruled that if there has been no misuse, it can only be because of manufacturing defect that a pressure cooker might burst. Keeping this case in mind, the National Commission ordered HPCL and other opposite parties to pay Rs.10 lakhs as compensation with costs of Rs.3000. The LPG dealer was not considered liable to pay damages in this case.

(Case: R. Raga Navya & Ors vs. Hindustan Petroleum Corporation Ltd & Ors II, 2007 (CPJ 505))

POPULARISE CONSUMER GRIEVANCE REDRESSAL SYSTEMS

It is popularly believed that the consumer forums established under the Consumer Protection Act (CPA) are the only grievance redressal forums available to the citizens. Once a dispute arises consumers try to approach the forums. While there is nothing wrong in consumers in doing so, it needs to be emphasized that there are a number of other avenues available for citizens and consumers to get their grievance solved. Unfortunately these mechanisms are not known to consumers. As a result crores of rupees spent on these grievance redressal bodies are a waste.

Take for instance the Ombudsman scheme introduced in Banking and Insurance sector. Even after years of coming into force only a handful of bank customers and policy holders are aware of such a scheme. When consumers are told about these schemes, they are taken by surprise. Neither the Ombudsman's office nor the Banks covered in the scheme have taken steps to popularize the scheme. Making it available on the website is not an end in itself. Regulations require that every bank/branch should notify the details of the Ombudsman scheme in their notice boards. Has any customer visiting the bank seen such a board? The Insurance Ombudsman scheme is another wasteful exercise. At least banking ombudsman's office is in the capital city of the state. Anybody who has a dispute with insurance companies has to correspond with the Ombudsman in Hyderabad. Recently Karnataka has been brought under the Insurance Ombudsman situated in Kochi.

In addition, Banks and Insurance companies are required to have a system in place to interact with customers and solve the grievances. Very rarely the officials have time for such customer centered approach. Invariably the complaint reaches the Consumer Forums.

Three years ago the Electricity Act (EA) 2003 came into force. The EA provides for setting up on electricity consumer grievance redressal forum in each of the distribution licensee (electricity supply companies- ESCOMS) In Karnataka all the five ESCOMS have complied with the requirements. But the number of complaints received in these forums hardly justifies the amount spent on the establishment of the forums. It is reported that the number of cases is in single digit in these ESCOMS.

The reason for poor usage of these alternative forums lies both in the law and in its implementation. For example most of these informal schemes do not have provision for payment of compensation for any loss suffered by the consumer. Secondly they are not easily approachable. Finally, publics at large are not aware of the existence of these forums. Those in charge of delivering justice to the consumers should take steps to popularize the schemes. Apart from issuing notifications in the media sittings should be held in districts and taluks.

The Insurance and Banking Ombudsman and the Forum members of electricity companies should focus on voluntary consumer organizations. Workshops and seminars are to be held wherein the scheme is promoted and popularized. Handouts and pamphlets in local language are to be printed and distributed.

Published by :



CONSUMER RIGHTS EDUCATION & AWARENESS TRUST (CREAT)

No.239,5th 'C' Main Remco Layout, Hampinagar, Bengaluru-560104

Tel : 91-80-23357280, E.mail : creatorg@sify.com , Website : www.creatindia.org