

CHAPTER-III

PERFORMANCE REVIEWS

FOOD, CIVIL SUPPLIES AND CONSUMER PROTECTION AND PUBLIC HEALTH AND FAMILY WELFARE DEPARTMENT

3.1 Implementation of Acts and Rules relating to Consumer Protection

Highlights

The Consumer Protection Act, 1986 was enacted for empowerment of consumers through speedy and simple redress of consumer disputes and by spreading awareness. No significant initiative has been taken since formation of State for empowerment of consumers. The State Commission was set up after two and a half years, Consumer Councils were not established, there were no intervention for generating Consumer awareness, disposal of cases was slow, enforcement mechanisms for other acts related to consumer protection were also functioning under severe constraints and there was almost no monitoring by the State Government. The following key audit findings emerged from the review:

There were 2898 pending cases in State Commission and District Forums as of March 2005 and there was no initiative from the Government to facilitate their timely disposal. Only 33 *per cent* cases in State Commission and 20 *per cent* cases in District Forums were decided within the stipulated time frame of 90/150 days.

(Paragraph 3.1.8)

Consumer Protection Councils for promoting and protecting the rights of consumers were not established at any level.

(Paragraph 3.1.11)

Funds were not provided in the State Budget or obtained from GOI for consumer awareness/ education, NGOs were not involved, Consumer Welfare Fund and Consumer information centres were not set up.

(Paragraph 3.1.12)

Enforcement of Prevention of Food Adulteration Act has virtually come to a standstill due to inadequate number of inspectors and very few samples were collected and tested in respect of food items with high risk of adulteration.

(Paragraphs 3.1.14 and 3.1.15)

3.1.1. Introduction

The "Consumer Protection Act, 1986" was enacted by the Parliament in 1986 for protection of interests of consumers both for goods supplied and services rendered. While there were earlier statutes for checking, controlling and prosecuting defaulters for poor quality of goods and services provided, they did not confer right to the consumer for invoking their provisions or seeking redress against defaulters. The enforcement and prosecution was done only by the Government.

The Consumer Protection Act, 1986 and the Consumer Protection (Amendment) Act, 2002 empower the consumer to directly seek legal remedy against goods manufacturers and service providers.

This review focuses on implementation of Consumer Protection Act (Act), and enforcement of other consumer related Acts such as Standards of Weights and Measures (Enforcement) Act 1985, Prevention of Food Adulteration (PFA) Act 1954 and Drugs and Cosmetics Act 1940 in the State.

3.1.2. Audit objectives

Main objectives of the review were to assess:

- Whether any documented policy for achieving intended objectives and strengthening of infrastructure exists;
- Extent to which the adjudication mechanism has been created as prescribed in the Act;
- Whether Consumer Protection Councils had been notified and were functioning;
- Whether there was timely redressal of Consumer grievances.
- Adequacy of staffing and infrastructure in district forums and the State Commission;
- Whether various initiatives had succeeded in creating awareness amongst the populace and
- Enforcement of other related Acts.

3.1.3. Audit Criteria

Functioning of the State Commission, District Forums, the Department of Consumer affairs, Controller Food and Drug Administration and Controller Weights and Measures, initiatives for generating awareness and timeliness of disposal were assessed with reference to the framework provided in the respective Acts and Rules and executive instructions issued there under. Availability of adequacy of infrastructure, staffing and funding were assessed with reference to the relevant Rules, norms and orders issued by the Government and the State Commission.

3.1.4. Organisational set-up

The State Consumers Dispute Redressal Commission (State Commission) heads the redressal mechanism for the Consumer Protection Act in the State and is assisted by District Forums. The State Commission and District Forums consist of a President and two members each, besides secretarial staff. The State Commission functions under the National Consumer Dispute Redressal Commission (National Commission), New Delhi.

The Consumer Protection Act and Standards of Weights and Measures (Enforcement) Act are implemented by the Food, Civil Supplies and Consumer Protection Department headed by the Principal Secretary to the Government. The Controller Weights and Measures is the administrative head for implementation of the Standards of Weights and Measures (Enforcement) Act and is assisted by one Joint Controller, one Deputy Controller at State level and Assistant Controllers and Inspectors at field level.

The Controller, Food and Drugs Administration is the administrative head for implementation of Prevention of Food Adulteration Act and Drugs and Cosmetics Act, and is assisted by Deputy Controller, Food Inspectors, Drug Inspectors and Chief Medical and Health Officers who are ex-officio Deputy Directors, Food and Drugs Administration at District level. The Secretary to the Government in Health and Family Welfare Department oversees the implementation of the Act.

3.1.5. Audit Methodology and Scope

A test check of records for the period November 2000 to March 2005 was conducted between April and September 2005 in the offices of the Director, Food, Civil Supplies and Consumer Protection, State Commission and four District¹ Forums out of 16 District Forums; Controller, Food and Drug Administration, Deputy Directors Food and Drug Administration Bilaspur, Durg, Raigarh and Raipur, Civil Surgeon cum Hospital Superintendent, Ambikapur and Raigarh and Controller Weights and Measures. The four District Forums were selected by including the capital district, two district² selected by sampling out of the four districts selected by the ORG-MARG and one district³ selected by sampling out of remaining. The sampling methods used were SRSWOR⁴ and PPSWR⁵ respectively. The audit methodology used was review of documents and discussion at various levels of auditee organizations.

The services of ORG Centre for Social Research, a division of the AC Nielsen ORG-MARG Private Limited, were commissioned by the Comptroller and Auditor General of India for the purpose of carrying out a sample survey amongst consumers, complainants, NGOs, manufacturers, etc. The ORG-

¹ Bilaspur, Dhamtari, Raipur and Surguja

² Dhamtari and Surguja

³ Bilaspur

⁴ Simple Random Sampling without Replacement

⁵ Probability proportional to size with replacement

MARG carried out survey in the State covering 1472 consumers spread across urban and rural areas in four⁶ (including three test checked by Audit) districts besides 236 complainants and nine manufacturers/service providers. Findings of the survey have been included in this review at appropriate places. The executive summary of the survey findings of ORG-MARG is given as *Annexure* to this Review.

Audit findings

3.1.6 Financial Management

The State Government provided funds in annual budget to the State Commission and the District Forums for implementation of the Act under Major Head 2408 Grant No. 39. The State Commission reallocated funds to District Forums. Details of provisions and expenditure incurred during November 2000 to March 2005 as per books of the Accountant General were as under:

(Rupees in lakh)

Year	Provision	Expenditure	Savings (-)/Excess (+) (%)
(November)2000-01	124.64	119.48	(-)5.16(4)
2001-02	137.34	69.63	(-) 67.71(49)
2002-03	85.80	56.74	(-) 29.06(34)
2003-04	85.01	87.10	(+) 2.09(2)
2004-05	160.03	140.17	(-) 19.86(12)
Total	592.82	473.12	(-) 119.70

Persistent savings on salaries

The large savings were mainly on salaries. The Commission stated that this was due to shortage of staff. A provision of Rs.10 lakh each was made during 2001-02 and 2002-03 for conversion of eight part time District Forums to full time forums but the conversions did not take place and the funds remained unutilized.

Consumer welfare funds was not constituted

No provisions were made in the State budget for Consumer education and no grants were received from GOI for Janjagriti Shivir, free legal aid etc.

State Consumer Welfare Fund was not constituted as of October 2005. However a provision of Rs.25 lakh for State share was made in the budget for the year 2005-06.

Non -release of GOI fund Rs.75 lakh to the commission by State Government

Ministry of Consumer Affairs, Food and Public Distribution of GOI has sanctioned (March 2005) financial assistance of Rs.75 lakh for the State Commission under the Central Sector Scheme of financial assistance to consumer forums in the States/Union Territories for the strengthening of infrastructure. The same was not allocated to the State Commission till August 2005.

⁶ Bastar, Dhamtari, Raipur and Surguja

Implementation

Creation of adjudication mechanism

Policy for empowerment of consumer not framed

State Government had not formulated any documented policy or long/short term action plan for empowerment of consumers. The existing adjudication mechanism inherited from erstwhile Madhya Pradesh constituted to function and was strengthened to some extent after formation of the State.

3.1.7 In accordance with the provisions of section 9(a) and (b) of the Act, Consumer Disputes Redressal Forum (District Forum) in each District and State Consumer Disputes Redressal Commission (State Commission) in the State were to be established by the State Government.

The State Commission in the State was set up (May 2003) after two and a half years of formation of the new State of Chhattisgarh and the MP State commission at Bhopal continued as the State commission for Chhattisgarh. In accordance with the provision of Section 17 B, the Circuit Bench of the State Commission was established at Bilaspur in June 2003.

Non establishment of full- fledged District Forums

District Forums were established in all the 16 districts of Chhattisgarh prior to formation of the State (November 2000) by the Government of MP. Out of 16 District Forums, five⁷ were functioning as full time forums with President and members and three⁸ more were notified in December 2004. A proposal (February 2005) for conversion of part time District Forum of Korba into full time was pending with the Government (August 2005). Of the three newly declared full time forums, Koriya and Raigarh were functioning from June 2005 whereas the Bastar forum was non functional upto August 2005 and both posts of member were vacant. The part time forums had designated members but no President. The Presidents of the full-fledged District Forums had additional charge of these part time forums and held sittings on a monthly basis. Lesser number of cases filed in the part time forums was main reason for non-conversion to full time forum.

The results of the ORG-MARG survey also showed that only seven *per cent* of consumers were aware of the existence of a redressal agency. Of these, 50 *per cent* did not know the location of the district forum. The survey further revealed that only 20 *per cent* felt that the Government was making some effort to safeguard consumer rights whereas others either felt otherwise or did not have any opinion on the matter.

3.1.8 Disposal of Cases

The year wise details of filing and disposal of cases in the District Forums and State Commission during 2003 to March 2005 is tabulated below:

⁷ Bilaspur, Durg, Raipur, Rajnandgaon and Surguja

⁸ Bastar, Koriya and Raigarh

Calendar Year	State Commission					District Forums				
	Cases pending prior to the year (OB)	Cases filed during the year	Total	Disposal during the year (Percentage)	Cases pending to the end of the year (CB)	Cases pending prior to the year (OB)	Cases filed during the year	Total	Disposal during the year (Percentage)	Cases pending to the end of the year (CB)
2003	1175 ⁹	267	1442	463 (32)	979	2626	1650	4276	1484 (35)	2792
2004	979	807	1786	1054 (59)	732	2792	1544	4336	2060 (48)	2276
2005 Upto March	732	172	904	208	696	2276	333	2609	407	2202

The details of filing, disposal of cases and age wise pendency in State Commission and in each District Forum from inception to March 2005 is given in **Appendix 3.1**.

As many as 2898 cases were awaiting disposal as on 31 March 2005. The disposal of cases in the last three years ranged from 32 to 59 per cent of pending cases. This pendency has gradually accumulated since inception and the overall disposal of cases since inception was 71 per cent for State Commission and 89 per cent for District Forums.

Lower disposal in part time forums

In five part time District forums, the percentage of disposal of cases was substantially lower than overall percentage (89) and ranged between 34 (Koriya) to 67 per cent (Janjgir) despite lower number of cases filed therein.

There were 248 cases pending for more than three years and included 29 (Raigarh-26, Durg-2 and Rajnandgaon-1) and six cases (Raigarh-4, Durg-1 and Rajnandgaon-1) pending for more than five and ten years respectively. There was no initiative from the Government to facilitate the disposal of pending cases.

Thirty three per cent and 20 per cent cases decided within prescribed time frame by the State Commission and District Forums respectively

Sub-section (3A) of section 13 of the Act provides for expeditious disposal of complaints within a period of three months from the date of receipt of notice by opposite party where the complaint does not require analysis or testing of commodities and within five months if it requires analysis or testing of commodities. However, it was observed that of the cases filed after 15 March 2003, only 33 per cent (7 out of 21 cases) in the State Commission and 20 per cent (663 out 3270 cases) in District Forums were disposed of with in the prescribed time limit. Thus the prime objective of the Act to ensure speedy disposal of the complaint cases, was not achieved.

Results of the survey showed that on an average 11 months were spent to resolve a case. The unresolved cases were pending for an average of 32 months.

Lower registration and disposal in part time district forums

It was observed that the registration of complaints and disposal of cases was much lower in the part time District Forums. On an average five cases were registered per lakh of population in part time against 20 per lakh in full time

⁹ Nine hundred and sixty eight cases received from M.P. State Commission Bhopal and 207 cases registered during November 2002 to 4 May 2003.

forums. The disposal since inception was 71 *per cent* for part time against 92 *per cent* for full time forums.

The eight part time District Forums do not have any secretarial staff and facilities like telephone, fax, computer and photocopier are not available. All of them function from the respective district collectorates. The full time forums are better provided on all these aspects and have better rate of disposal. Thus, these constraints have contributed to the lower disposal in the part time forums. While the full time forums and the Commission are better provided, removal of some of the inadequacies of staff and infrastructure narrated below would contribute to better disposal.

3.1.9 Staffing pattern

Non-existence of uniform staffing pattern

The State Government has not prescribed a uniform staffing pattern for the full time/part time District Forums. Thus the full time forums are functioning with varying complement of staff. No secretarial staff was sanctioned for eight part time district forums. In secretarial cadre all the five posts of clerk were vacant in five¹⁰ full time District Forums. Two posts of steno-typist were vacant in two¹¹ District Forums. Nine secretarial posts out of 36 were vacant in the State Commission.

It was also observed in audit that on different instances, the posts of Presidents and members remained vacant for varying periods of time which was a contributing factor for pendency and delayed disposal. Nine posts of member (two posts each in Durg, Bastar and Janjgir and one post each in Raipur, Kawardha and Korba) were lying vacant from March/May 2005 as of August 2005. Thus, the District Forums of Bastar, Durg and Janjgir were non-functional. The post of President in Sarguja District Forum remained vacant for six months (1 May 2003 to 28 October 2003). Consequently, lesser number of cases was decided (96) in 2003 as compared to the cases decided (257) in 2004

3.1.10 Non-availability of own buildings

Only three full time forums¹² had their own buildings, Ten forums were functioning from the Collectorates, building for two forums¹³ were under construction and one was functioning from a rented building. Fund of Rs.10 lakh each was provided for construction of buildings for Durg and Raipur District Forums in 1999-2000 to Public Works Department. However, construction could not be started due to non-allotment of land by the State Government.

3.1.11 Consumer Protection Councils

In accordance with the provisions of section 7 and 8 of the Act, State Consumer Protection Council (State Council) at state level and District

¹⁰ Bilaspur, Durg, Raipur, Rajnandgaon and Surguja

¹¹ Raipur and Surguja

¹² Bilaspur, Rajnandgaon and Surguja

¹³ Bastar and Raigarh

Consumer Protection council (District council) at district level were to be established by the State Government to promote and protect the rights of consumers.

No initiative had however, been taken by the State Government as yet either on creation of the State Council and District councils or framing and notifying requisite rules. Consequently, the objectives of setting up the Councils remained unrealised as discussed in the next paragraph.

3.1.12 Consumer awareness

No initiatives to generate consumer awareness

The key activity of State and District Councils was to generate consumer awareness through consumer education. Neither were the councils set up nor were any other initiatives taken by the State Government for consumer education. No funds were provided in the budget for consumer education, creation of State Consumer Welfare Fund and the State never asked for or received any grant from GOI for Janjagriti Shivir, free legal aid etc., and no initiatives were taken to involve NGOs for consumer awareness activities. District consumer information centres were not established in any district, there was no media policy for dissemination of consumer oriented information through advertisements in electronic/print media and there was no involvement of the District Administration in consumer activities. The sole consumer oriented activity undertaken by the State Government was an annual celebration of Consumer's day.

Less complaints in tribal and non industrialised districts

In such a situation consumers from urban and industrialised areas would be more aware due to exposure to media whereas those in backward areas would remain less aware. It was observed in audit that number of cases registered since inception in the District Forums of tribal districts¹⁴ of the State were only 58 per lakh of population against 124 in the District Forums of other districts. Similarly, the forums of non-industrialised districts¹⁵ registered 55 complaints per lakh against 150 complaints per lakh in the industrial districts.

Results of ORG-MARG survey revealed that 48 per cent of the surveyed consumers gave importance to knowing the Act but only 19 per cent had heard of it primarily from electronic (75¹⁶ per cent) and print media (51 per cent). Of the rural consumers surveyed, only 12 per cent had heard about the Act. Of the aware consumers 44 per cent came to know of the Act only in last four years whereas it was in existence for past 19 years. Only 0.8 per cent came to know about it from NGOs. Seventy six per cent of the consumers surveyed were not aware of consumer rights.

Of the literate consumers surveyed, 29 per cent had heard of the Act whereas only three per cent of illiterate consumers surveyed were aware of it. Of the various occupational categories in the survey sample, 65 per cent of Government Servants, 51 per cent of retired person, 43 per cent of self

¹⁴ Bastar, Dantewara, Jashpur, Kanker, Koriya, Raigarh and Surguja

¹⁵ Bastar, Dantewara, Dhamtari, Janjgir, Jashpur, Kanker, Kawardha, Koriya, Mahasamund, Rajnandgaon and Surguja

¹⁶ Some consumers came to know about their rights from more than one source and included in more than one source. Hence more than 100 per cent.

employed, three *per cent* of unskilled labourers, four *per cent* of cultivators and six *per cent* of skilled labourers were aware of the Act. This showed that the awareness was minimal in the marginal section of the society. However the manufacturers and service providers were well aware of the Act and the redressal mechanism. The skewing in the degree of awareness was to the disadvantage of the consumer.

Survey of the complainants also covered level of awareness of proper procedures. Nearly 18 *per cent* used stamp paper and 10 *per cent* deposited (before March 2003) court fees, which were unnecessary. All the complainants were literate and had average monthly household income of Rs.13,868 and were primarily from urban areas. They found the redressal system to be simple but not speedy. Most of the expenses on cases were on advocate fees. The benefit of redressal of complaints under the act thus remained restricted to educated middle income group from urban areas.

3.1.13 Monitoring

Non-monitoring at Government level

Monthly information on registration and disposal of cases in each District Forum was being received in State Commission which was sending the consolidated information for all District Forums and its own statistics to Director Food, Civil Supplies and Consumer Protection for onward submission to the Government. The Government had not produced any records to audit to show that it had done any analysis of reasons for the delayed disposal or had taken any action to facilitate timely disposal of pending cases.

Enforcement mechanism of related Acts

Prevention of Food Adulteration Act, 1954

The Act was enacted by GOI with the objectives of eradicating the menace of food adulteration and eliminating danger to human life and health arising from sale of unwholesome food items including prepared food or ready to serve food. The primary activity is collection of samples of various kinds of food items by food inspectors from shops or other establishments involved in manufacture, sale, stocking, distribution or exhibition of food items. The samples are then tested and in cases of adulteration or not meeting specified standards, defaulters are prosecuted by the Health and Family Welfare Department.

Test check of the records of Controller, Food and Drugs Administration and Deputy Director, Food and Drugs Administration of four selected districts¹⁷, revealed following lapses in enforcement of the Act.

3.1.14 Survey of food establishments

Food establishments running, without surveillance

Survey of food establishments was not conducted by the Controller. Consequently number of food establishments in the State was not known and

¹⁷ Bilaspur, Durg, Raigarh and Raipur

large numbers were running without any checking / surveillance. In the absence of this information, it was difficult to frame any plan to ensure coverage of all establishments in a phased manner.

3.1.15 Inadequate collection of food samples

Acute shortage of Inspectors

The State Government sanctioned 38 posts of Food Inspectors (September 2004) against 62 sanctioned posts in erstwhile Madhya Pradesh. There were 22 inspectors at the time of State formation, which had decreased through retirements to only four at the end of April 2005.

As per targets fixed (1999-2000) each food inspector was to lift 10 samples per month. This translated to about 220 samples per month (by 22 inspectors) at the time of formation of State (2000), which had dwindled to a meager 40 samples per month due to shortage of Food Inspectors. No effort was made to increase the total coverage by an up ward revision of targets.

The statistics of lifting of food samples in four test checked districts during January 2001 to April 2005 are tabulated below:

Sl. No.	Name of district	No. of inspectors	Targeted number of samples	Sample taken	Shortfall (%)	Loose food item samples (%)	Samples from rural areas (%)
1.	Bilaspur	3 to 1	1000	332	668 (67)	44 (13)	92(28)
2.	Durg	4 to 1	1420	702	718 (51)	235(33)	39(6)
3.	Raigarh	1	520	91	429 (82)	12(13)	37(41)
4.	Raipur	7 to 1	1730	768	962 (56)	232(30)	322 (45)

Non-achievement of targets and inadequate sampling of loose items and from rural areas

It is evident that even the target of 10 samples per month per inspector could not be achieved in any of test-checked districts. The shortfall was more than 50 per cent in all districts and as high as 82 per cent in Raigarh. Samples from rural areas were less as compared to urban areas and was as low as six per cent (Durg). Samples of loose food items were also very few and was as low as 13 per cent in two districts. The combination of dwindling number of inspectors and low achievement of targets resulted in very low level of sample collection and testing.

The samples were thus highly skewed and high risk items like loose food and those from rural areas were collected and tested in very small numbers. It was seen that of 12 samples found adulterated in Raigarh district, eight samples were of loose food commodities.

Few samples of highly adulterated items were tested

Similarly, the food items which showed higher incidence of adulteration on testing should have been sampled in larger numbers as they represented items with high vulnerability to adulteration. The following tabulation shows some such items, which were found adulterated to a larger extent than average level of adulteration for all items in the State.

Category of food articles	2000		2001		2002		2003	
	N	P	N	P	N	P	N	P
Total samples of all categories	860	10	862	09	797	09	634	16
Milk	49	29	56	34	12	33	20	30
Beverages	29	--	33	06	30	17	93	22
Butter, ghee and milk products	76	13	72	13	69	06	66	23
Cereals, cereal product and pulses	97	24	58	07	100	13	47	34

N - Number of samples taken and analysed P - Percentage of adulteration.

It is evident that while items of mass consumption such as milk, beverages, butter, ghee and milk products and cereals and pulses were found to be highly adulterated, very few samples of these commodities were tested in subsequent cycles. Thus the process of sample selection was ineffective.

The Department has not taken any steps to rationalise the selection of samples, fill up posts and increase enforcement activity thus adversely affecting enforcement of the Act in the State.

3.1.16 State Food Testing Laboratory

State Food Testing Laboratory was established in March 2003 at Raipur but the same was not fully equipped and was functioning in a rented building. Scrutiny of the record revealed that only 1440 samples were received and analysed during March 2003 to August 2005 against its capacity of 1500 samples per year. This led to the under utilisation of Food Testing Laboratory.

3.1.17 Low rate of conviction

The number of cases decided by courts and cases acquitted and convicted during the years 2000 to 2003 for the whole State was as follows:

Average conviction rate was 20 per cent

Year	Number of cases registered at courts	Number of cases decided by courts	Number of cases acquitted	Number of cases convicted	Percentage of convictions	
					Registered cases	Decided cases
2000	109	54	51	03	03	06
2001	77	54	48	06	08	11
2002	68	23	10	13	19	57
2003	98	16	08	08	08	50
Total	352	147	117	30	09	20

It is evident that the rate of conviction was very low. The Controller stated that the primary reason for low conviction was that most of the food inspectors, who had started the prosecutions, had retired and were generally not available to attend the proceedings. Periodic reports were prescribed and were being received in the Controller office from Districts but there was no monitoring or follow up. There was a report of adulterated samples taken (September 2003)

from bakeries of Bhilai area on the instructions of Collector, Durg after death of two children since it was suspected that the deaths were due to consumption of poisonous cream rolls. No follow up was done on the case by the Controller. The Department was required to develop some institutional mechanism to tackle this problem.

Drugs and Cosmetics Act, 1940

The Controller Food and Drugs Administration (Controller) was implementing the Drugs and Cosmetics Act, 1940 and Drugs and Cosmetics Rules 1945 (Rules) made there under. The main aim of the Act was to prevent the sale and manufacture of misbranded, spurious and adulterated Drugs and Cosmetics. For the implementation of the Act, the activities were inspection and licensing of drug establishments and collection of drug samples by Drug Inspectors (D.I.) from drug establishments involved in manufacturing, sale, stocking and distribution. The samples were sent for analysis to Central Drug Testing Laboratory, Kolkata. For adulterated, spurious or misbranded samples the department had to take action against the manufacturer and seller, in accordance with the provisions laid down in the Act and Rules made there under.

Audit scrutiny revealed the following:

3.1.18 Inadequacy of regulatory staff

The State Government had not prescribed any norms for creation of post of Drug Inspectors. There were only five D.I. in position against 21 sanctioned posts, of which one was posted at head quarters and four in Districts¹⁸. Remaining 12 districts were in additional charge of these five D.Is.

3.1.19 Licensing

State wide survey /inspection to identify drug establishments running without valid licenses was not conducted by the Controller since formation of State.

Test checks of records of Civil Surgeon cum Hospital Superintendent, Ambikapur and Raigarh revealed that blood banks in both the district hospitals were being operated without valid license since January 1999. This was in contravention of Rules under the Act and compliance to prescribed safety and quality standards had not been ensured.

3.1.20 Inspection by Drug Inspectors

Rules under the Act provided that each D.I. was to inspect, not less than twice a year, all establishments licensed for the sale of drugs within the area assigned to him.

The year wise details of the number of establishments in the jurisdiction of the inspectors and inspections carried out by them are given below :

Blood Banks in District Hospitals running without licence

¹⁸ Bilaspur, Durg, Raigarh and Raipur

Name of the Districts	2000-01		2001-02		2002-03		2003-04		2004-05	
	No. of Establishments.	No. of Inspections	No. of Establishments	No. of Inspections	No. of Establishments.	No. of Inspections	No. of Establishments.	No. of Inspections	No. of Establishments.	No. of Inspections
Raipur	1099	705	1326	780	1076	507	815	428	725	528
Bilaspur	706	475	789	1103	939	921	1001	348	1070	368
Raigarh	149	167	119	130	184	199	198	209	219	227

Inadequate inspection of Drug establishments

It is evident that the most of the drug establishments were not inspected twice in any year and several establishments escaped from inspection every year in Raipur and Bilaspur district. Information regarding inspections carried out by D.I. posted at Durg were not made available to audit.

No records pertaining to inspections were maintained by any of the D.I.s posted in the test checked districts though provided for in the Rules. In absence of any records, the results of inspections and follow up could not be ascertained.

Faulty selection of drug samples

Each Drug Inspector was required to draw five samples per month for analysis as per target. It was observed that in most of the months, the D.I.s lifted all the five samples on a single day in the month and from a single drug establishment. This minimised the representative nature of the samples. Samples were also not drawn at all in several months (four months by D.I. Raipur, five months by D.I. Bilaspur and Durg and 22 months by D.I., Raigarh). No samples were drawn from Mahasamund and Korba Districts since January 2003 and no samples were drawn from the stores of District Hospitals, Korba, Bilaspur, Mahasamund, Dhamtari and Raipur and Chief Medical and Health Officer, Raipur. Sampling was mostly done in urban areas i.e. district headquarters.

Non-receipt of analysis reports of drug samples

Scrutiny further revealed that of the 1084 samples sent for analysis to Central Drug Testing Laboratory, Kolkata during April 2000 to March 2005, reports for 323 samples¹⁹ were not received as of June 2005. No follow up was done by any of the D.I.s to obtain the pending reports. Thus the Controller had also failed to monitor and take any corrective action on the non receipt of analysis reports for large numbers samples sent to Central Drug Testing Laboratory, non-maintenance of records of inspections by the Drug Inspectors and faulty/short lifting of the samples by the inspectors.

Standards of Weights and Measures (Enforcement) Act, 1985

3.1.21 The Act was enacted by GOI with a view to ensure the accuracy of weights and measures used in trade and commerce through periodic calibration and checking. The act was being implemented by Weights and Measures Department of the State.

Shortage of regularity staff

Audit of the Directorate revealed that 11 posts of Inspector out of 28 sanctioned, two posts of Assistant Controller (sanctioned three) and one

¹⁹ Bilaspur-93, Durg-111, Raigarh-61 and Raipur -58

sanctioned post of Deputy Controller were lying vacant since formation of State. Due to these shortages the regulatory staff was unable to cover remote areas of the State. Public awareness activities had also suffered due to shortage of staff as stated by the department.

Apart from the shortage of regulatory staff, 33 other posts out of 97 sanctioned posts were also lying vacant as of August 2005 which had adversely affected the functioning.

The Department had two laboratories at Bilaspur and Raipur for annual calibration of working weights used as standards at field level but they did not have electronic testing facility.

3.1.22 Conclusion

The Government has not framed a policy for implementing the provisions of the Consumer Protection Act. The sole activity under the Act was the grievance redressal mechanism which was inherited from erstwhile Madhya Pradesh and continued without any significant change except for declaration of three part time District Forums as full time. No other initiatives were taken after formation of the State and Consumer Protection Councils were not established, consumer awareness was not enhanced through interventions by the State and disposal of cases remained slow. Enforcement of other Acts relating to Consumer Protection were also functioning inadequately with severe shortages in the number of regulatory staff. There was little monitoring by the Government of the various activities relating to all the Acts for Consumer Protection.

3.1.23 Recommendations

- The Government should enunciate the long and short term policy initiatives for giving effect to various provisions of the Acts relating to Consumer Protection.
- The Government should assess periodically the justification for conversion of part time to full time Forums.
- State and District Consumer Protection Councils and District Consumer information centres should be established immediately by the State Government for creating awareness among the consumers.
- The Government should initiate adequate measures to generate consumer awareness and involve the district administration, NGOs and use electronic/print media. It should set up the State Consumer Welfare Fund and obtain funds from GOI for consumer awareness activities.
- Government should ensure full functionality of the State Commission and District Forums through adequate support in terms of personnel and infrastructure to ensure speedy and regular disposal of cases.
- Regulatory staff for implementation of other Acts relating to consumer protection like Food Adulteration, Drugs and Weights and Measures should be augmented to strengthen the enforcement mechanism.

The matter was reported to the Government (October 2005); however no reply had been received (November 2005).

Annexure

Executive Summary of survey conducted by ORG - MARG

In order to gain an understanding of the functional status of the Consumer Protection Act, Consumers at large, Complainants, manufacturers/ service providers, NGOs and appropriate laboratories were covered under the survey. In State of Chhattisgarh a total of 1472 consumers spread across urban and rural areas were contacted. Besides 236 complainants, 9 manufactures/ service providers and one laboratory were interviewed. The survey was conducted during 2nd week of July to 4th August 2005.

FINDINGS OF THE SURVEY

- Overall 48 *per cent* of the Consumers at large gave importance to knowing the Consumer Protection Act (CPA). Seventy six *per cent* not aware of consumer rights and 81 *per cent* still unaware of Consumer Protection Act. Thirty nine *per cent* on convinced of the benefits of knowing consumer rights.
- The act is envisaged to benefit all the consumers in urban and rural areas but only 12 *per cent* of the rural population has heard about it.
- In response to, whether the Government is making any effort in safe guarding the consumer rights, only 20 *per cent* replied positively remaining either carrying negative opinion or have no idea of the same.
- Formal source of awareness - electronic and print media stand at 75 and 51 *per cent* respectively and only 0.8 *per cent* of the aware consumers came to know about CPA from the NGOs.
- Nearly 44 *per cent* of the aware Consumers at Large have come to know about the Act only in the last 4 years where as the act has been in existence for past 19 years.
- Overall, only 7 *per cent* reported to be aware of the existence of any redressal agency. Awareness on this among these aware of rights and CPA was higher.
- Around 50 *per cent* aware of redressal agency did not know the location of the district forum in their respective districts.
- All complainants were literate. Their average monthly household income was Rs.13868. This implied that facilities provided by redressal agencies were availed by educated residents of urban areas and that too by the middle/ upper middle strata of the community.
- Majority of complaints (68 *per cent*) were against services such as other financial services, communication, transportation and insurance.
- Majority of the complainants came to know about the redressal agencies through electronic media (31 *per cent*), print media (63 *per cent*) and others i.e., friends/ relatives (37 *per cent*). NGOs were not a popular source of awareness (1.6 *per cent*).

- Nearly 18 *per cent* of the complaints used stamp paper to file the case and in majority of cases (88 *per cent*) the lawyers/ agents advised them to do so.
- Nearly 10 *per cent* of complainants who registered their complaint prior to March 2003 reported to have deposited court fee notwithstanding the fact that the court fee was introduced only in March 2003.
- An analysis of time taken at various stages of the cases show that on an average 3 days were spent for registering a case and 29 days were taken for serving the notice, first hearing was held after 16 days of serving the notice.
- On an average 7.1 hearings were required to resolve the case. Around 44 *per cent* of cases were still unresolved even after about 7.6 hearings and most of these cases were against other financial services (34 *per cent*).
- To resolve a case on an average 11 months were spent. In case of unresolved cases the same were pending for past 32 average months.
- There were 43 cases where the decree was passed and compensation was yet to be received. On an average the compensation was due for about 23 months. For those received compensation the same was received within an average period of 5.6 months.
- On an average the complainant had to spend Rs.1445 to resolve the case of which a large proportion (average amount of Rs.1431) comprised of the advocates fee.
- The manufacturers and service providers were well aware of CPA on the contrary not many Consumers at large were aware of Act or the redressal system.

The complaints found the redressal system to be simple but not speedy. However, the manufacturers and service providers opined the process to be simple, speedy and inexpensive.