

Food and Supplies Department

3.3 Implementation of Acts and Rules relating to Consumer Protection

Highlights

- In State Commission and five District Forums, three posts of Presidents and seven posts of Members were lying vacant as on 31 March 2005. Similarly, 69 *per cent* of the posts of supporting staff were lying vacant since long.

(Paragraph 3.3.14)

- The State Consumer Protection Council and District Consumer Protection Councils though formed under the Chairmanship of the Minister of Food and Supplies and District Collectors respectively remained non-functional as no meetings of these councils were held during 2000-05.

(Paragraph 3.3.13)

- Schemes relating to setting up of District Consumer Information Centres and Consumer Clubs in schools and involvement of Research Institutions; Universities and Colleges for the information and education of consumers were not implemented.

(Paragraphs 3.3.16, 3.3.17 and 3.3.18)

- In State Commission and five test checked District Forums, against 4,389 cases filed for execution of orders, only 2,387 (54 *per cent*) cases were disposed of during 2000-05.

(Paragraph 3.3.10)

- Monitoring regarding implementation of the Act was inadequate as out of the 76,783 complaint cases filed with State Commission and five District Forums test checked, 26,140 (34 *per cent*) cases were disposed of during 2000-05. There was also rising trend in pendency of cases.

(Paragraph 3.3.20)

Introduction

3.3.1 The Consumer Protection Act, 1986 (Act) was enacted by the Parliament in 1986 to provide simple, speedy and inexpensive redressal for consumers' grievances. The provisions of this Act give the consumer an additional remedy besides those that may be available under other existing laws. The Act came into effect from 1987 after the Government of India (GOI) had framed the Consumer Protection Rules, 1987. The Act, applicable to all goods and services, covers all sectors whether private, public and cooperative and provides for establishment of three-tier quasi-judicial consumer dispute redressal machinery at the national, state and district levels. These forums are also referred to as Consumer Courts. The Courts are empowered to give relief of specific nature and award compensation to consumers. The Act was amended in 2002 to discourage adjournments, making provision for seniormost members to preside over the forum in case of absence or vacancy of President and empowering Courts to punish those not obeying orders of the Courts in order to facilitate quicker disposal of complaints.

Scope of audit

3.3.2 Records relating to implementation of the provisions of the Act for the period 2000-05 were test checked in the offices of Director, Food and supplies Department, Haryana, the State Consumer Disputes Redressal Commission and five¹ District Forums during June – July 2005. Out of 19 District Forums, 5 were selected by applying the Simple Random Sampling Without Replacement (SRSWOR) method.

The services of ORG Centre for Social Research, a division of AC Nielsen ORG-MARG Private Limited (ORG-MARG), were commissioned to survey and assess consumer awareness and the impact of the Act on the consumers, manufacturers/service providers, non-government organizations (NGOs) and appropriate laboratories. ORG-MARG carried out the survey in five² districts covering 1,551 consumers, 199 complainants, 5 manufacturers/service providers, 2 NGOs and 2 laboratories during July–August 2005. An executive summary of their findings has been given in *Annexure at page 82*. The results of the audit review are contained in the succeeding paragraphs.

Audit objectives

3.3.3 Main objectives of the review were to assess:

- The extent to which the adjudication mechanism has been created as prescribed in the Act;

¹ Faridabad, Gurgaon, Rewari, Rohtak and Yamunanagar.

² Gurgaon, Rewari, Rohtak, Sirsa and Sonipat.

- Whether any documented policy for achieving the intended objectives and strengthening of infrastructure exists;
- Whether rules governing implementation of the Act have been formulated and notified and adequate mechanism for administering various Acts for consumer protection exists;
- Whether the infrastructure created for disposal of the complaints met the requirement of the consumers; whether adequate system of monitoring of grievances of consumers had been created by the State Commission and Director Food and Supplies Department with a view to ensuring their timely disposal;
- Whether Consumer Protection Councils have been notified and were functioning;
- Whether a uniform plan for staffing and operation had been prescribed and was being followed in staffing and operation of district forums and the State Commission; and
- Whether various steps and initiatives of the Government of India and the State Government had succeeded in creating awareness amongst the populace.

Audit methodology

3.3.4 All documents available at the Government level as well as the State Commission and its lower formations relating to the implementation of the Act and the Rules were examined. The budget and the expenditure incurred were scrutinised. Physical targets and achievements were also studied at the level of State Commission and the selected five district forums. The survey conducted by the consultant was based on structured questionnaire and interviews with consumers at large, complainants and other stakeholders.

Organisational set up

3.3.5 The Financial Commissioner and Principal Secretary to the Government of Haryana, Food and Supplies Department is the administrative head in the Government and is responsible for formulation of policies and programmes relating to consumer protection affairs. The Director, Food and Supplies Department is the head of the Department and is responsible for implementation of the provisions of the Act.

For speedy resolution of consumer disputes, the State Consumer Disputes Redressal Commission (State Commission) was constituted at the State level. This is headed by the President and assisted by two Members, a Secretary and supporting staff. At the district level, 19 District Consumer Disputes

Redressal Forums (District Forum) comprising the President and two Members each and assisted by supporting staff were also constituted. The administrative control over the State Commission is with the National Commission and that of the District Forums with the State Commission.

Creation of adjudication mechanism in the State

Additional Benches not constituted

Additional benches of State Commission were not constituted though recommended by the National Commission

3.3.6 With a view to implementing the recommendations of the Parliamentary Standing Committee, as suggested by the National Commission, the Government of India proposed (May 2004) to the State Government setting up of four additional benches alongwith additional supporting staff, additional accommodation and other infrastructural facilities for clearance of heavy pendency of cases which had risen to 7,384 by May 2004. But no additional bench was constituted (July 2005) though the pendency of cases had increased to 10,894 by March 2005.

The Director, Food and Supplies Department, Haryana stated (July 2005) that the matter had been kept pending till appointment of the President of the State Commission. Though the President of the State Commission had been appointed on 29 June 2005 (after a gap of 22 months), no action had been taken in this regard so far (July 2005).

Non-constitution of Circuit Benches

Absence of infrastructure for constitution of Circuit Benches of State Commission

3.3.7 Section 17B of the Act provides that the State Commission may perform its functions at such other place as the State Government may, in consultation with State Commission, notify in the official Gazette from time to time. A resolution (April 2003) was passed by the Bar Association, Gurgaon for constitution of Circuit Benches of the State Commission for Faridabad, Rewari, Mahendergarh, Rohtak and Jhajjar for convenience of the complainants and the respondents. But the Secretary of the State Commission while forwarding the resolution of the Bar Association, intimated (April 2003) the Commissioner and Secretary to Government of Haryana, Food and Supplies Department that since basic infrastructural facilities and sufficient staff for smooth functioning of the State Commission were not available, it might not be possible to constitute Circuit Benches. No action had been taken by the State Government to address this issue and it was observed that in July 2005, this was referred back by the State Government to the State Commission for its comments.

The legislative intent of providing speedy redressal of consumer grievances was frustrated as neither the additional benches nor circuit benches were constituted, notwithstanding the growing pendency.

How the consumers perceive Government's action of not increasing the capacity of the State Commission and the district forums to deal with more cases came out in the survey conducted by the ORG-MARG. They reported

that almost 86 per cent of the consumers responded either that the Government was not doing enough to safeguard consumer rights or that they were not aware of such efforts by the Government.

The State Government needs to provide sufficient funds for creation of additional benches for the State Commission and the district forums to provide timely and expeditious redressal for the consumers' grievances.

Formulation of policies and notification of rules

3.3.8 Rules governing the implementation of the Act were notified by the State Government in April 1988. These rules contained various provisions governing service conditions of the President and the members but rules for the staff and their recruitment were not framed. As was resolved in the meeting convened by the President of the National Commission with the President of the State Commissions and the Secretaries of the State Governments and Union Territory Administrations incharge of consumer affairs at New Delhi on 11 October 1999, a uniform procedure for processing of complaints from the date of receipt till their final disposal was to be drawn up by the State Commissions/National Commission. It was observed that such uniform procedure was not developed. As a result, divergent practices were followed in filing of the complaints and their processing. Audit took up the matter with the Government (September 2005) but the reply was awaited.

Results of survey revealed that 60 *per cent* of the complainants had filed their cases using stamp papers, although the Act provides for simple registration process wherein applications can be filed on plain paper. Further, 91 *per cent* of the consumers that were surveyed reported that lawyers were engaged, which was not necessary as per the provision of the Act.

State Government needs to frame a policy declaring the objectives to be achieved through the consumer welfare programmes with a uniform procedure for processing of complaints till the date of final decision by the consumer forums.

Adequacy of infrastructure

Inadequate infrastructure

3.3.9 For smooth functioning of the State Commission and the District Forums, availability of suitable and adequate office accommodation and space for storage of records and library, office equipment like fax machines, photocopiers, computers etc are necessary.

The State Commission was functioning in a hired building, which was insufficient for maintaining Court records, library and which had inadequate

sitting arrangement for the supporting staff. In the District Forums also space was insufficient for accommodating library and record rooms.

Consumer conveniences, such as sitting space, chairs, water coolers, toilets, etc. were not provided in any of the District Forums test checked or at the State Commission.

One time grant amounting to Rs 2.10 crore was sanctioned between July 1995 and March 1997 by Government of India to the State Government for strengthening the infrastructure of the State Commission and the District Forums. Of Rs 2.10 crore, Rs 50 lakh were for strengthening the infrastructure of the State Commission and Rs 1.60 crore for the District Forums. Out of these funds, Rs 58.23 lakh were spent on purchase of computers, photostat machines, library books, furniture, etc., Rs 30.52 lakh for purchase of plot for the State Commission's office building at Panchkula and Rs 97.20 lakh (Rs 50 lakh in November 2003 and Rs 47.20 lakh March 2004) were deposited with Haryana Urban Development Authority (HUDA) for construction of the State Commission's building. The balance of Rs 24.06 lakh was lying unspent with the State Government for the last eight years and five months upto August 2005. The Director Food and Supplies Department stated (July 2005) that the grant of Rs 24.06 lakh could not be utilised as the title of the land for construction of office building of District Forum, Rewari had not been transferred in the name of the Department.

Though the amount was deposited with HUDA during November 2003 and March 2004, the office building of the State Commission was not complete as of June 2005.

It was observed that despite passage of more than eight years since the sanction of funds for creation of infrastructure of the State Commission and the District Forums, the funds remained unutilised and the construction work also remained incomplete.

Non-utilisation of computers/photostat machines worth Rs 8.29 lakh

- Computers and Photostat machines (Koros Mita-DC-1755) were purchased centrally by the State Commission during 1996-98. Audit observed in four³ District Forums, that the photocopiers were non-functional due to non-availability of trained mechanics for maintenance and upkeep of machines of this make. Further, in three District Forums, (Gurgaon, Rewari and Rohtak), computers were not in use for want of trained personnel. As a result, four photostat machines and three computers purchased at a cost of Rs 8.29 lakh were lying idle depriving the users of the services linked to these facilities.

Absence of infrastructure like proper buildings makes it more difficult for consumers in general to become aware of the existence and the location of the redressal agency.

The results of survey revealed that only 13 *per cent* consumers were aware of the existence of any redressal agency and even out of those aware of CPA,

³ Faridabad, Gurgaon, Rewari and Rohtak.

only 31 per cent were aware of the location of the Consumer Forum in their respective districts.

Enforcement mechanism of consumer disputes redressal

Delay in execution of orders

3.3.10 Under Section 27 of the Act, where a trader or a person against whom a complaint is made or the complainant, fails or omits to comply with any order made by the District Forum, the State Commission or the National Commission, such trader or person or complainant would be punishable with imprisonment for a term of one month to three years, or with fine of Rs 2,000 to Rs 10,000 or with both.

Details of cases filed for execution with the State Commission and the District Forums test checked, cases disposed of during 2000-05 and cases pending as on 31 March 2005, revealed the pendency position as below:

| Sr. No. | Name of Office | Number of cases filed for execution (2000-05) | Number of cases disposed of (2000-05) | Number of cases pending execution as of 31 March 2005 |
|--------------|-----------------------------|---|---------------------------------------|---|
| 1. | State Commission | 61 | 23 | 38 |
| 2. | District Forum, Rohtak | 233 | 199 | 34 |
| 3. | District Forum, Rewari | 547 | 267 | 280 |
| 4. | District Forum, Gurgaon | 1,541 | 673 | 868 |
| 5. | District Forum, Yamunanagar | 1,322 | 717 | 605 |
| 6. | District Forum, Faridabad | 685 | 508 | 177 |
| Total | | 4,389 | 2,387 | 2,002 |

As evident from the above table, 4,389 cases were filed for execution by the complainants during 2000-05 out of which, only 2,387 cases were disposed of and 2,002 cases (46 per cent) were pending for execution as on 31 March 2005.

Further test-check of 66 pending cases (including those prior to 2000-01) brought out that the cases for execution were pending for 3 months to 11 years.

The results of ORG-MARG survey also pointed out that out of 199 complainants surveyed, 25 responded that the compensation was yet to be received by them although the decree in favour had been passed and in these cases the average period for which the compensation was due was 16 months.

Deficiencies in enforcement of other consumer protection Acts

Apart from the Consumer Protection Act, there are other laws in force that, properly implemented, result in protecting and furthering the interests of consumers and fair trade. While reviewing the implementation of the Consumer Protection Act in Haryana a test check was also conducted in the selected districts to see if the Standards of Weights & Measures (Enforcement) Act, 1985 and the Standards of Weights and Measures (Packaged Commodities) Rules, 1977 were carried out efficiently and effectively.

Targets of inspections not fixed

3.3.11 Test-check of records of Deputy Controller, Weights and Measures, Ambala, revealed that no physical targets for inspection/checking of units were ever fixed by the State Government during 2000-05. Only targets with reference to collection of revenue were fixed for each year in respect of weights and measures and packaged commodities.

Consumer complaint register not maintained

3.3.12 During audit it was seen that no register to enter the complaints of consumers was maintained by Deputy Controller, Weights and Measures, Ambala during 2000-05 (upto February 2005). In the absence of any complaint register, Audit could not verify whether any action was taken on complaints received, if any, from consumers.

The Deputy Controller stated (August 2005) that on receipt of complaints orally/telephonically from consumers, the Inspector of concerned area carried out an inspection of that unit and booked the offences against the defaulters. However, the complaint register was opened only from 16 March 2005 and no complaints were found registered as of August 2005.

Functioning of State Consumer Protection Councils

State/District Consumer Protection Councils not functional

3.3.13 As per Section 7 and 8A of the Act, the State Government was to establish by notification, the State Consumer Protection Council (State Council) and District Consumer Protection Councils (District Council) to promote and protect the rights of the consumers by disseminating information and through consumer education as laid down in clauses (a) to (f) of section 6 of the Act. The councils were also to ensure that the consumers' interests would receive due consideration at the appropriate forums. The State Council was to be headed by the Minister incharge of Consumer Affairs and District Councils were to be headed by Collectors of the districts as Chairmen. These councils were to meet atleast twice a year.

State Council and District Councils remained non-functional

Scrutiny of the records of the Director, Food and Supplies Department, Haryana revealed that though the State Council was constituted, no meeting was held since April 1999. The State Council was reconstituted on 27 February 2004 by the State Government, but again, no meeting was held. Eight District Councils were formed on 13 August 2004 and nine more on 27 August 2004 but these were dissolved on 16 May 2005 and no meetings of these councils were held.

Thus, though the councils were formed from time to time, yet these remained completely non-functional as they failed to conduct any business, which had direct linkage with lack of awareness of the consumers about their rights. This also had direct linkage to the skewed profile of complainants with majority belonging to urban area and well earning groups. Result of the ORG-MARG survey revealed that 61 per cent of complainants resided in urban areas and 99 per cent were belonged to the educated class. They had an average monthly household income of Rs 10,258. This implied that facilities provided by redressal agencies were availed of mostly by residents of urban areas and that too by the middle and upper middle strata of the community.

The results of survey further revealed that formal source of awareness of the consumers was electronic and print media (79⁴ and 55 per cent). Nearly 53 per cent of the aware consumers had come to know about the Act only in the last 4 years whereas the Act has been in existence for the past 19 years. So far as the redressal agencies are concerned, the survey revealed that majority of the complainants came to know about their existence through electronic media (46 per cent), print media (56 per cent) and others i.e., friends and relatives (83 per cent). NGOs were not a popular source of awareness (3 per cent).

Adequacy of staffing and funding operations

Shortage of members and president and supporting staff

In test checked units three posts of Presidents and seven of Members were lying vacant

3.3.14 The vacancy position of President and Members of the State Commission and five test-checked District Forums as on 31 March 2005 was as under:

| Sr. No. | Name of Office | Name of Post | Since when lying vacant |
|---------|-----------------------------|--------------|-----------------------------|
| 1. | State Commission, | President | September 2003 to June 2005 |
| 2. | District Forum, Faridabad | Two members | July 2004 |
| 3. | District Forum, Gurgaon | President | July 2004 |
| | | Member | July 2004 |
| 4. | District Forum, Rewari | Member | October 2004 |
| 5. | District Forum, Rohtak | President | December 2003 |
| | | Member | October 2004 |
| | | Member | July 2004 |
| 6. | District Forum, Yamunanagar | Member | July 2004 |

⁴ Some consumers came to know about their rights from more than one source and are included in more than one source. Hence more than 100 per cent.

Three posts of Presidents and seven of Members which were lying vacant since long affected the functioning of the State Commission and the District Forums.

The vacancy position regarding supporting staff against sanctioned posts as on 31 March 2005 was as under:

Against the sanctioned posts of 29 supporting staff only 9 persons were in position

| Sr. No. | Name of Office | Name of post | Number of sanctioned posts | Men in position | Since when lying vacant. |
|--------------|-----------------------------|----------------|----------------------------|-----------------|--------------------------|
| 1. | State Commission | Steno | 1 | - | August 2003 |
| | | Clerk | 2 | - | August 2003 |
| | | Process Server | 1 | - | August 2003 |
| | | Peon | 5 | 3 | August 2003 |
| 2. | District Forum, Faridabad | Clerk | 1 | - | August 2003 |
| | | Peon | 3 | 2 | August 2003 |
| | | Process Server | 1 | - | August 2003 |
| 3. | District Forum, Gurgaon | Assistant | 1 | - | August 2004 |
| | | Clerk | 1 | - | August 2003 |
| | | Process Server | 1 | - | August 2003 |
| | | Peon | 3 | 2 | August 2003 |
| 4. | District Forum, Rewari | Clerk | 1 | - | August 2003 |
| | | Peon | 3 | 1 | August 2003 |
| 5. | District Forum, Rohtak | Assistant | 1 | - | July 1999 |
| 6. | District Forum, Yamunanagar | Clerk | 1 | - | August 2003 |
| | | Peon | 3 | 1 | August 2003 |
| Total | | | 29 | 9 | |

About 69 per cent of the posts of supporting staff were vacant.

Due to acute shortages against posts of Presidents/Members/supporting staff, the pendency of consumer dispute cases was increasing. Thus, the purpose of setting up of consumer forums to provide quicker justice to consumers within a stipulated time could not be met to a large extent.

It was also observed in audit that no separate wing or branch was established to deal with consumer affairs. Only one official (Assistant) was dealing with the whole affairs of consumer related matters.

The Director, Food and Supplies Department stated (July 2005) that the posts in question could not be filled because of the vacancy of the post of the President of the State Commission who was the Chairman of the Selection Committee. The contention of the Department was not tenable as Section 16 (1A) of the Act (inserted in March 2003) envisages that where the President of the State Commission is, by reason of absence or otherwise, unable to act as Chairman of Selection Committee, the State Government may refer the matter to the Chief Justice of High Court for nominating a sitting Judge of that High Court to act as Chairman. But no reference in this regard was made to the Hon'ble Chief Justice of the High Court by the Government.

Savings in budget

3.3.15 The year-wise position of budget estimates, revised estimates and actual expenditure thereagainst for the period 2000-05 was as under:

| Year | Budget estimates | Revised estimates | Actual Expenditure | Savings with reference to Budget estimates |
|-------------------|------------------|-------------------|--------------------|--|
| (Rupees in crore) | | | | |
| 2000-01 | 3.92 | 2.73 | 2.43 | 1.49 |
| 2001-02 | 4.35 | 3.09 | 2.82 | 1.53 |
| 2002-03 | 4.33 | 2.93 | 2.69 | 1.65 |
| 2003-04 | 4.38 | 4.37 | 4.10 | 0.28 |
| 2004-05 | 4.52 | 3.75 | 3.31 | 1.20 |
| Total | 21.50 | 16.87 | 15.35 | 6.15 |

It was observed in audit that savings of Rs 6.15 crore were mainly due to vacant posts of Presidents, Members and supporting staff in the State Commission and the District Forums.

Consumer awareness and education

Consumer awareness and education is of crucial importance for effective implementation of the Act. Results of the ORG-MARG survey revealed that 83 per cent of the consumers were not aware of their rights as consumers and 85 per cent were still unaware of the Consumer Protection Act. Only 11 per cent of the rural population had heard about it. Further, analysis of the survey results showed that among those who were aware of the Act, the self-employed constituted 45 per cent, retired persons 40 per cent, students 39 per cent and Government servants 32 per cent. As many as 68 per cent of the consumers at large believed that it is important for every consumer to know about his rights. They felt that knowledge of consumer rights would help consumers in getting good quality products and services (64 per cent) and consumers could not be cheated for price (85 per cent). The opinion was similar across urban and rural respondents.

District Consumer Information Centres not set up

District Consumer Information Centres were not set up for the benefit of consumers

3.3.16 District Consumer Information Centres (DCICs) were to be set up in each district in order to disseminate information on all aspects of consumer protection. DCICs were to liaise with the District Weights and Measures Authority and the laboratories in handling issues relating to quality, weight, adulteration, etc. The Government of India, Ministry of Consumer Affairs asked (October 2000) the State Government to set up at least one DCIC in each district with the help of the Zila Parishads and voluntary consumer organisations of repute. Under the scheme each DCIC was to be given financial assistance of Rs five lakh.

Scrutiny of records of the Director, Food and Supplies revealed that a proposal for sanctioning of grant to an NGO, namely the New Gram Vikas Samiti, Village Tanda Heri, Tehsil Bahadurgarh, District Jhajjar was forwarded to the Ministry of Consumer Affairs during 2000-01 for setting up DCIC. Though Financial assistance of Rs five lakh was sanctioned in July 2001, Government of India released Rs 2.50 lakh to the *Samiti* during 2001-02 but that neither the DCIC was set up by the *Samiti* nor the grant of Rs 2.50 lakh was refunded (July 2005).

The Director, Food and Supplies Department stated (July 2005) that the President of the *Samiti* had expired and efforts were being made to recover the amount. No efforts were made to set up more DCICs in the remaining districts of the State to derive the benefits of this important scheme.

Consumer clubs in schools scheme not implemented

Scheme for opening of consumer clubs not implemented

3.3.17 With a view to imparting consumer education to school children in a non-formal, proactive-manner and to mobilise youngsters by instilling in them the spirit of protection of consumer rights, as provided in the Act, the Department of Consumer Affairs introduced a scheme of opening of consumer clubs in the schools and approached (July 2003) the State Government to advise the educational institutions, voluntary organizations and professional bodies in the State to avail of the benefits of this scheme and to send proposals for sanction of grants.

Scrutiny of records of Director, Food and Supplies Haryana, revealed that no such clubs had been opened (July 2005). The Director stated (July 2005) that the matter was under correspondence with the Ministry of Consumer Affairs for sanction of grants for the purpose.

Non-involvement of Research Institutions/Universities/Colleges

Scheme for involvement of Research Institutions/Universities/Colleges for consumer welfare not implemented

3.3.18 The Ministry of Consumer Affairs introduced a scheme in October 2003 for promoting involvement of Research Institutions, Universities and Colleges, etc. in consumer Protection and Consumer Welfare. The objectives of the scheme were to sponsor research and evaluation studies in the field of consumer welfare and to provide grants for publication of the results of research and evaluation studies and other related literature and to organise seminars, workshops, etc. on consumer related issues.

Scrutiny of records revealed that no such proposal was sent to the Government of India by the Food and Supplies Department (July 2005). The Director stated (July 2005) that the Scheme was circulated (February 2004 and February 2005) to the Universities, Research Institutes and Voluntary Consumer Organisations but no response was received.

State Consumer Welfare Fund not established

3.3.19 As provided in the Haryana Consumer Welfare Fund Rules 2005, the State Government was to set up a State Consumer Welfare Fund with the main objective of providing financial assistance for promoting the welfare of

consumers and to strengthen the Voluntary Consumers movement in the country particularly in the rural areas.

The State Consumer Welfare Fund had not been created so far (July 2005).

Monitoring

3.3.20 The National Commission and the State Commissions had administrative control over the State Commission and the District Forums respectively. The District Forums send monthly reports indicating position of complaint cases filed, disposed of and balance at the end of month to the State Commission. These monthly reports were being compiled in the office of the State Commission. The State Commission sends monthly and quarterly reports alongwith the data relating to its own office to the National Commission with one copy to the Ministry of Consumer Affairs and one copy to the Director, Food and Supplies Department, Haryana. There was no evidence if the Ministry or the State Government Department initiating any action on such reports.

The position of pending complaint cases at the beginning of 2000-01, cases received, disposed of and pending at the end of 2004-05 in respect of the State Commission and five District Forums test checked was as under:

| Name of Commission/ Forum | Opening balance as on 01 April 2000 | Cases received | Total | Cases disposed of | Cases disposed of within 90 days | Closing balance as on 31 March 2005 |
|----------------------------|-------------------------------------|----------------|---------------|-------------------|----------------------------------|-------------------------------------|
| State Commission | 2,788 | 15,964 | 18,752 | 7,858 | 3,145 | 10,894 |
| District Forum, Faridabad | 8,874 | 4,508 | 13,382 | 4,582 | 770 | 8,800 |
| District Forum, Gurgaon | 17,437 | 7,519 | 24,956 | 4,682 | 1,304 | 20,274 |
| District Forum, Rewari | 2,695 | 2,837 | 5,532 | 2,437 | 466 | 3,095 |
| District Forum, Rohtak | 2,431 | 2,372 | 4,803 | 2,034 | 297 | 2,769 |
| District Forum, Yamunanagr | 5,268 | 4,090 | 9,358 | 4,547 | 847 | 4,811 |
| Total | 39,493 | 37,290 | 76,783 | 26,140 | 6,829 | 50,643 |

As evident from the above table, against total 76,783 complaint cases, only 26,140 (34 per cent) were disposed of. Of the total cases disposed of, only 6,829 (26 per cent) were decided within 90 days.

It was further noticed that 67 cases with State Commission and 873 cases with 19 District Forums were pending for more than five years. Out of these four cases were pending for the periods between seven and nine years.

The Presidents of the State Commission and the concerned District Forums attributed (June–July 2005) the delay in deciding cases to inadequate

infrastructure and staff, non-filling up the posts of President/Members and non-appearance of advocates of both the parties together.

Results of the ORG-MARG survey also brought out that on an average, 12 months were spent to pass a decree since an average of six hearings was required to resolve the cases. The average pendency of the unresolved cases was 27 months. It was also found through the survey that on the whole the stake holders and the complainants received redressal from the adjudication machinery and the process, though simple, was not very speedy or economical.

Conclusions

3.3.21 The legislative intent of Parliament to empower the consumer has only been partially achieved in the State of Haryana. This is mainly attributable to the inability of the State Government to provide adequate infrastructure both proper office buildings and equipment. The role of Weights and Measures Department in ensuring delivery of rights to consumers was ineffective as norms of inspection of units were not fixed. Consumers at large were not aware of the system and procedures of redressal machinery. Consumer Protection Councils was not functional to monitor and promote consumer awareness. Almost no initiative has been taken up by the State Government for generating awareness among people through advertisement and publicity to make consumers conscious of their rights and aware of the procedure to secure the same.

Recommendations

3.3.22 To ensure visible impact of promotion & empowerment of consumers' rights and awareness, the government as a first step should create adjudication mechanism commensurate with minimum work load and pendency of cases expeditiously.

For smooth and better functioning of the organization, like prompt disposal of cases, effective implementation of forum's decision to recover the decretal amount and evolving proper monitoring and evaluation system, sufficient staff, additional benches, funds for construction of buildings and equipping the Commission and forums, etc. should be provided by the State Government. The working of Weight and Measures Department need improvement and monitoring. For spreading awareness among consumers about (i) their rights and responsibilities; (ii) procedure of filing the complaints and; (iii) the location of the Consumer Courts, adequate budget should be provided for advertisement and publicity at regular intervals. Consumer Councils should be established.

These points were referred to Government (September 2005), reply had not been received (December 2005).

ANNEXURE

Executive summary of ORG-MARG survey

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 Haryana a total of 1,551 consumers spread across urban and rural areas were contacted. Besides 199 complainants, 5 manufactures/ service providers, 2 NGOs and 2 laboratories were interviewed. The survey was conducted during the period from second week of July to fourth week of August 2005.

Findings of the survey

- Overall 68 *per cent* of the Consumers at large gave importance to knowing the Consumer Protection Act (CPA) but 83 *per cent* were not aware of consumer rights while 85 *per cent* were unaware of Consumer Protection Act.
- The act is envisaged to benefit all the consumers in urban and rural areas but only 11 *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 14 *per cent* replied positively remaining either carrying negative or have no idea of the same.
- Formal source of awareness - electronic and print media stand at 79 and 55 *per cent* respectively. None of the aware consumers came to know about CPA from the NGOs.
- Nearly 53 *per cent* of the aware Consumers at Large have come to know about the act only in the last 4 years, whereas the act has been in existence for past 19 years.
- Overall, only 13 *per cent* reported to be aware of the existence of any redressal agency. Awareness on this among those aware of rights and CPA was higher.
- Around 31 *per cent* of the aware of redressal agency did not know the location of the district forum in their respective districts.
- About 61 *per cent* of complainants resided in urban areas and 99 *per cent* were the educated lot and earned a monthly household income of Rs 10,258. This implied that facilities provided by redressal agencies were availed mostly by residents of urban areas and that too by the middle/upper middle strata of the community.

- Nearly 57 per cent of the complaints were against products such as consumer durables (78 per cent), agricultural products (12 per cent) and FMCG products (7 per cent). The balance 43 per cent of the complaints were against services such as electricity (27 per cent), communication (23 per cent) and housing & construction (16 per cent).
- Majority of complainants came to know about the redressal agencies through electronic media (46 per cent), print media (56 per cent) and others i.e., friends/relatives (83 per cent). NGOs were not a popular source of awareness (3 per cent).
- Nearly 60 per cent of the complaints used stamp paper to file the case and in majority of cases (93 per cent) the lawyers/agents advised them to do so.
- Around 63 per cent of complainants who registered their complainant 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 showed that on an average 3 days were spent for registering a case and 17 days were taken for serving the notice, first hearing was held after 18 days of serving the notice.
- On an average 6 hearings were required to resolve the case. Around 47 per cent of cases were still unresolved even after 5 hearings and most of these cases were against consumer durables (33 per cent).
- To resolve a case on an average 12 months were spent. In case of unresolved cases the same were pending for past 27 average months.
- There were 25 cases where the decree was passed and compensation was yet to be received. On an average the compensation was due for 16 months. For those received compensation the same was received within an average period of 2.7 months.
- On an average the complainant had to spent Rs. 1765 to resolve the case, of which a large proportion (average amount of Rs. 1564/-) 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 NGOs are involved in spite of activities such as consumer education, advocacy, solving the grievances and helping complainants in filing of complaints at the consumer forum.
- Overall all the stakeholders and the complainants perceive the redressal as simple but not very speedy and economical.