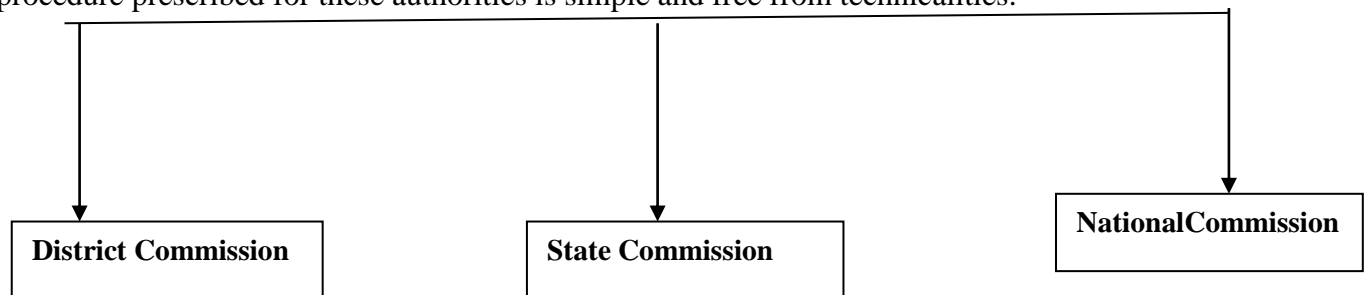


**CLASS- B.A.LL.B. IX SEMESTER**  
**SUBJECT- CONSUMER PROTECTION LAWS AND COMPETITION**  
**LAWS**  
**PAPER CODE- (BL-904)**  
**CONSUMER DISPUTES REDRESSAL COMMISSION**

The consumer Protection Act, 2019 was a landmark in the history of consumer protection in India which provides a system for the protection of consumer rights and redressal of consumer disputes<sup>1</sup>. This three- tier special quasi- judicial institution was envisaged by the Act as an institution to provide speedy and inexpensive justice outside their doors to the consumers. The procedure prescribed for these authorities is simple and free from technicalities.



In **J.J. Merchant (DR) v. Shrinath Chaturvedi**<sup>2</sup>, the Apex Court has held that the Consumer Forum is an alternative Forum established to discharge the functions of a Civil Court and it has similar power as vested in Civil Court to exercise for the purpose of speedy remedy<sup>3</sup>.

### **1. District Consumer Disputes Redressal Commission**

This is the lowest body that consumers can approach. The State Government, under section 28(1) establishes at least one district consumer dispute redressal commission in every district of the state. If the government deems fit, it can even establish more than one district commission in a district<sup>4</sup>.

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<sup>1</sup> Nabi Mohd. Kamalun & Nabi Mohd. Irshadun, Consumer :Rights and Protection in India, New Century Publictaion, First Edition (2015) P.165

<sup>2</sup> AIR 2002 SC 293

<sup>3</sup> Tripathi Dr. S.C., the Consumer Protection Act, Central Law Publication, Sixth edition (2007), P.173

<sup>4</sup> <https://blog.ipleaders.in/consumer-protection-act-2019/> visit on 7/10/2020, time: 1:44 pm.

**Establishment:** District Commission shall consist of—

(a) a President; and

(b) not less than two and not more than such number of members as may be prescribed, in consultation with the Central Government<sup>5</sup>.

**Jurisdiction:** District commission has two kind of jurisdiction-

A. **Pecuniary Jurisdiction:** Value of goods and services does not exceed one crore rupees<sup>6</sup>.

B. **Territorial Jurisdiction :** A complaint can be filed at the District Court under within whose local limits:

- The opposite party or each of the opposition parties, in case there are more than one, normally reside, or carry on business, or have a branch or personally work for gain.
- Any of the opposite parties ordinarily reside, or carry on business, or personally work for gain. Provided, the permission of the district commission is taken.
- Where the cause of action wholly or partly arises.
- Where the complainant resides or personally works for gain<sup>7</sup>.

In **Union of India v. British India Corporation Ltd**<sup>8</sup> the SC held that the term “cause of action” is neither defined in the Act nor in the Code of Civil Procedure, 1908 but is of wide import. It has different meanings in different contexts, that is when used in the context of territorial jurisdiction or limitation or the accrual of right to sue. Generally, it is described as “bundle of facts”, which if proved or admitted entitle the plaintiff to the relief prayed for. Pithily stated, “cause of action” means the cause of action for which the suit is brought. “Cause of action” is cause of action which gives occasion for and forms the foundation of the suit<sup>9</sup>.

**Who can file a complaint at the district commission<sup>10</sup>?**

The following people can file a complaint at the commission under section 35(1) of the Act:

- **The consumer:** i) To whom such goods are delivered, or sold or agreed to be sold or such service which has been provided or has been agreed to be provided.

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<sup>5</sup> Section 28 (2), Consumer Protection Act, 2019

<sup>6</sup> Section 34 (1), Consumer Protection Act, 2019

<sup>7</sup> Section 34 (2), Consumer Protection Act, 2019

<sup>8</sup> (2003) 9 SCC 505

<sup>9</sup> Chakraborty Anirban, Law of Consumer Protection ,Advocacy and Practice, Lexis Nexis , 2014, P.-141

<sup>10</sup> Section 35, Consumer Protection Act, 2019

ii) Who alleges unfair trade practises in respect of such goods.

- **Consumer Association:** Any voluntary consumer association registered under the law. It doesn't matter if the consumer is part of such association or not.
- **One or more consumers:** One or more consumers appearing on behalf of all consumers with a common interest. These consumers would first need to get permission from the District Commission to proceed with the complaint in such a manner.
- **Central and State Government, Central Authority.**

Complainant may file a complaint in electronic mode. Every complaint shall be accompanied with prescribed fee<sup>11</sup>.

**Pratibha Pratisthan & Ors. v. Manager, Canara Bank & Ors**<sup>12</sup>. The Supreme Court while arriving at its conclusion made reference to definition of complaint and complainant and consumer under the Consumer Protection Act said that on a plain and simple reading of all the above provisions of the Act it is clear that a Trust is not a person and therefore not a consumer. Consequently, it cannot be a complainant and cannot file a consumer dispute under the provisions of the Act<sup>13</sup>.

The Madras High Court in **Manimalan v. K. Subrayan**<sup>14</sup>, has held that though there is no specific provision for amendment of the complaint under the Consumer Protection Act, 1986 but there is also no bar in allowing amendment. Hence, application for amendment of the complaint can be entertained. It was further held that the person aggrieved by the orders of District Forum has an alternate remedy of filing appeal before the State Commission, without exhausting the remedy of filing under Article 227 of the Constitution of India, 1950.<sup>15</sup>

**Procedure on admission of complaint:** On failure of settlement through mediation, district commission shall proceed with such complaint.

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<sup>11</sup> Section 35(2), Consumer Protection Act, 2019

<sup>12</sup> (2017) 3 SCC 712

<sup>13</sup> <https://www.vakilno1.com/legal-news/landmark-judgments-consumer-protection.html> visit on 12/10/2020 time: 2:54 pm

<sup>14</sup> AIR 2004 Mad 446

<sup>15</sup> Tripathi Dr. S.C., the Consumer Protection Act, Central Law Publication, Sixth edition (2007), P.172

Once the complaint is admitted, the commission must:

- a) Refer a copy of the complaint, within 21 days of the complaint being admitted, to the opposite party and direct it to give its version of the story within 30 days or the extended period granted by the commission.
- b) If the opposite party disputes the allegation or fails and omits to take any action regarding the complaint, then district commission must deal with it in the following ways.
- c) Must seal the allegedly defective goods, and send them to the appropriate laboratory after authenticating it in the manner required. It must direct the laboratory to find if there is any genuine fault with the goods and report its findings to the commission within 45 days or how much ever time granted by the commission.
- d) Before the goods go to the library, the complainant must be directed to deposit the fee required for testing in the credit of the commission.
- e) District commission can also remit the fee for testing.
- f) If any of the parties dispute the correctness of the finding of the laboratory, then the parties must be directed to submit their objections in writing to the commission.
- g) Give a reasonable opportunity to the opposite party or the initiating party to be heard regarding their objections.

If the above-mentioned procedure can't be followed due to the lack of goods to take a sample from or if the defect alleged is in the service of the opposite party. Then the commission shall settle the dispute:

- a) On the basis of evidence provided by the complainant or the opposite party if the opposite party disputes the allegation.
- b) Take an ex parte decision if the opposite party omits to do anything regarding the allegations.
- c) Decide the case on its merits if the complainant fails to show up for the hearing.

If it's inconvenient for the party to show up to the commission in person, you can submit an application for hearing or examination of parties through video conferencing and if the district commission agrees with the reasons then it may allow so after recording the reason.

The commission must deal with the case as expeditiously as possible and endeavour must be done to dispose of the case within three months if no analysis or testing is required and five months if analysis and testing are required.

**Findings of District Commission<sup>16</sup>:**

District Commission shall issue an order to the opposite party directing him to do one or more of the following, namely:—

- (a) to remove the defect pointed out by the appropriate laboratory from the goods in question;
- (b) to replace the goods with new goods of similar description which shall be free from any defect;
- (c) to return to the complainant the price, or, as the case may be, the charges paid by the complainant along with such interest on such price or charges as may be decided;
- (d) to pay such amount as may be awarded by it as compensation to the consumer for any loss or injury suffered by the consumer due to the negligence of the opposite party:  
Provided that the District Commission shall have the power to grant punitive damages in such circumstances as it deems fit;
- (e) to pay such amount as may be awarded by it as compensation in a product liability action under Chapter VI;
- (f) to remove the defects in goods or deficiencies in the services in question;
- (g) to discontinue the unfair trade practice or restrictive trade practice and not to repeat them;
- (h) not to offer the hazardous or unsafe goods for sale;
- (i) to withdraw the hazardous goods from being offered for sale;
- (j) to cease manufacture of hazardous goods and to desist from offering services which are hazardous in nature;
- (k) to pay such sum as may be determined by it, if it is of the opinion that loss or injury has been suffered by a large number of consumers who are not identifiable conveniently:

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<sup>16</sup> Section 39, Consumer Protection Act, 2019

Provided that the minimum amount of sum so payable shall not be less than twenty-five per cent. of the value of such defective goods sold or service provided, as the case may be, to such consumers;

(l) to issue corrective advertisement to neutralise the effect of misleading advertisement at the cost of the opposite party responsible for issuing such misleading advertisement;

(m) to provide for adequate costs to parties; and

(n) to cease and desist from issuing any misleading advertisement.

Every order made by the district commission u/a 1 shall be signed by the President and member. The District Commission shall have the power to review any of the order passed by it if there is an error apparent on the face of the record, either of its own motion or on an application made by any of the parties within thirty days of such order<sup>17</sup>.

**Appeal:** Any person aggrieved by an order made by the District Commission may prefer an appeal against such order to the State Commission on the grounds of facts or law within a period of forty-five days from the date of the order, in such form and manner, as may be prescribed.

Provided that no appeal by a person, who is required to pay any amount in terms of an order of the District Commission, shall be entertained by the State Commission unless the appellant has deposited fifty per cent. of that amount in the manner as may be prescribed.

## **2. State Consumer Disputes Redressal Commission**

State commission shall establish a State Consumer dispute redressal commission to be known as state commission. It will function at the state capital and perform its function . State commission can also establish the regional benches.

**Establishment:** State Commission shall consist of—

(a) a President<sup>18</sup>; and

(b) not less than Four and not more than such number of members as may be prescribed, in consultation with the Central Government<sup>19</sup>.

**Jurisdiction:** State commission can entertain the complaints where:

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<sup>17</sup> Section 40, Consumer Protection Act, 2019

<sup>18</sup> Presently Hon'able Justice A. H. Khan is the President of Uttar Pradesh Consumer Dispute Redressal Commission. Visit on <http://ncdrc.nic.in/> date: 8/10/2020, time: 1:30 pm

<sup>19</sup> Section 42 (3), Consumer Protection Act, 2019

- A. Value of goods and services exceeds one crore rupees but does not exceed rupees ten Crore.
- B. complaints against unfair contracts, where the value of goods or services paid as consideration does not exceed ten crore rupees;
- C. appeals against the orders of any District Commission within the State; and

Complaint shall be instituted in a State Commission within the limits of whose jurisdiction,—

- (a) the opposite party or each of the opposite parties, where there are more than one, at the time of the institution of the complaint, ordinarily resides or carries on business or has a branch office or personally works for gain; or
- (b) any of the opposite parties, where there are more than one, at the time of the institution of the complaint, actually and voluntarily resides, or carries on business or has [a branch office or personally works for gain, provided in such case, the permission of the State Commission is given; or
- (c) the cause of action, wholly or in part, arises; or
- (d) the complainant resides or personally works for gain<sup>20</sup>.

On the application of the complainant or of its own motion, the State Commission may, at any stage of the proceeding, transfer any complaint pending before a District Commission to another District Commission within the State if the interest of justice so requires<sup>21</sup>.

In **Kanshi Ram v. Maruti Udyog Ltd**<sup>22</sup>. wherein the complainant had booked a vehicle through the Chandigarh office of the respondent. The bank draft was made and car was delivered at Bilaspur. It was held that Forum at Bilaspur also had jurisdiction to try the matter. It is necessary that the question of jurisdiction to be determined on the date of filling complaint before the District Forum. Wherein is has been held that the jurisdiction of a Courts/Tribunal/authority is to be considered on the date on which the jurisdiction in invoked.

In **Pal Peergeot Ltd. And another v. M/s. Abdul Majid & Brothers & others**<sup>23</sup>, In case car was purchased at Delhi, payment was made at Delhi, delivery of car was given at Delhi. However, some defects found in car at Saharanpur. Complaint was filed before the District

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<sup>20</sup> Section 47, Consumer Protection Act, 2019

<sup>21</sup> Section 48, Consumer Protection Act, 2019

<sup>22</sup> (1997) 1 CPJ 144.

<sup>23</sup> (1997) 1 CPJ 97 (NC).

Forum at Saharanpur. The District Forum at Saharanpur passed order for replacement of new car in place of one purchased by complainant as it had defects or to refund its price with interest. In appeal the State Consumer Dispute Redressal Commission has held that detection of defects in Saharanpur where the car was used would not make the cause of action arisen there. Appellant had no office or branch in Saharanpur. Therefore, District Forum at Saharanpur had no jurisdiction to adjudicate and its order without jurisdiction was liable to be set aside.

The Commission Further held that evidence on records shows that car was purchased for commercial purpose and used for business of partnership. Complainant was not a consumer within the meaning of Section 2(1)(d)(i) of the consumer Protection Act,1986.

**Procedure applicable to State Commission:** The provisions relating to complaints under sections 35, 36, 37, 38 and 39 shall, with such modifications as may be necessary, be applicable to the disposal of complaints by the State Commission<sup>24</sup>.

The State Commission shall have the power to review any of the order passed by it if there is an error apparent on the face of the record, either of its own motion or on an application made by any of the parties within thirty days of such order<sup>25</sup>.

**In Eureka Estates Pvt. Ltd.v.A.P. State Consumer Dispute Redressal Commission**<sup>26</sup> There was failure on part of Builder to hand-over flat to complainants. Order was passed by State Commission giving option to builder either to hand-over flat or refund amount with compensation. On so called application was filled by complainants “ for being mentioned”, State Commission had completely changed its judgment by introducing new concept of choice to complainants about delivery of flats as against alternative relief of refund. Held that as Order of Commission could not be treated as one of the correction or rectification of clerical mistakes in review proceedings.Hence. Order of Commission was liable to be set aside by writ Court<sup>27</sup>.

**Appeal:** Any person aggrieved by an order made by the State Commission in exercise of its powers conferred by sub-clause (i) or (ii) of clause (a) of sub-section (1) of section 47 may prefer an appeal against such order to the National Commission within a period of thirty days from the date of the order in such form and manner as may be prescribed.

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<sup>24</sup> Section 49, Consumer Protection Act, 2019

<sup>25</sup> Section 50, Consumer Protection Act, 2019

<sup>26</sup> AIR 2005 A.P. 118

<sup>27</sup> Bangia Dr. R. K., Consumer Protection Laws and Procedure , Allahabad Law Agency, Sixth Edition (2007) P. 37



No appeal by a person, who is required to pay any amount in terms of an order of the State Commission, shall be entertained by the National Commission unless the appellant has deposited fifty percent. of that amount in the manner as may be prescribed.

An appeal shall lie to the National Commission from any order passed in appeal by any State Commission, if the National Commission is satisfied that the case involves a substantial question of law.

An appeal filed before the State Commission or the National Commission, as the case may be, shall be heard as expeditiously as possible and every endeavour shall be made to dispose of the appeal within a period of ninety days from the date of its admission<sup>28</sup>.

### **3. National Consumer Disputes Redressal Commission**

The Central Government shall establish a National Consumer Disputes Redressal Commission, to be known as the National Commission. National Commission is the highest body<sup>29</sup>.

**Headquarter:** the National Capital Region

**Establishment:** National Commission shall consist of—

- (a) a President<sup>30</sup>; and
  - (b) not less than four and not more than such number of members as may be prescribed.
- (1) Subject to the other provisions of this Act, the National Commission shall have

**Jurisdiction: National Commission has a very wide jurisdiction** to entertain—

(i) complaints where the value of the goods or services paid as consideration exceeds rupees ten crore:

Provided that where the Central Government deems it necessary so to do, it may prescribe such other value, as it deems fit;

(ii) complaints against unfair contracts, where the value of goods or services paid as consideration exceeds ten crore rupees;

(iii) appeals against the orders of any State Commission;

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<sup>28</sup> Section 52, Consumer Protection Act, 2019

<sup>29</sup> Section 53, Consumer Protection Act, 2019

<sup>30</sup> Presently Justice R.K. Aggarwal is the President of national Commission.

(iv) appeals against the orders of the Central Authority;

(b) to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any State Commission where it appears to the National Commission that such State Commission has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity.

**C. Venkatachalam v. Ajit Kumar C. Shah**<sup>31</sup> held that in order to ensure smooth. Consistent uniform and unvarying Functioning of the National Commission the State Commission and the District Forums, we deem it appropriate to direct the National Commission to frame comprehensive rules regarding appearances of the agents, representatives, registered organizations and/or non-advocates appearing before the National Commission, the State Commissions and the District Forums governing their qualifications, conduct and ethical behavior of agents/non-advocates/ representatives, registered organizations and/or agents appearing before the consumer forums<sup>32</sup>.

### **Procedure applicable to National Commission**

(1) The provisions relating to complaints under sections 35, 36, 37, 38 and 39 shall, with such modifications as may be considered necessary, be applicable to the disposal of complaints by the National Commission.

(2) Without prejudice to sub-section (1), the National Commission may also declare any terms of contract, which is unfair to any consumer to be null and void<sup>33</sup>.

The National Commission shall have the power to review any of the order passed by it if there is an error apparent on the face of the record, either of its own motion or on an application made by any of the parties within thirty days of such order<sup>34</sup>.

The National Commission may, at any stage of the proceeding, in the interest of justice, transfer any complaint pending before the District Commission of one State to a District Commission of

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<sup>31</sup> (2011) 12 SCC 497

<sup>32</sup> Chakraborty Anirban, Law of Consumer Protection ,Advocacy and Practice, Lexis Nexis , 2014, P.-132

<sup>33</sup> Section 59, Consumer Protection Act, 2019

<sup>34</sup> Section 60, Consumer Protection Act, 2019

another State or before one State Commission to another State Commission on the application of the complainant or of its own motion,<sup>35</sup>.

**Appeal:** Any person, aggrieved by an order made by the National Commission in exercise of its powers conferred by sub-clause (i) or (ii) of clause (a) of sub-section (1) of section 58, may prefer an appeal against such order to the Supreme Court within a period of thirty days from the date of the order.

Provided further that no appeal by a person who is required to pay any amount in terms of an order of the National Commission shall be entertained by the Supreme Court unless that person has deposited fifty per cent. of that amount in the manner as may be prescribed<sup>36</sup>.

The plea of territorial jurisdiction cannot be raised at the appellate stage of matter. It has been held that if a party voluntarily submits to the jurisdiction of a Forum and suffers a consent order, it cannot at the appellate stage raise the plea of territorial jurisdiction.

**Finality of order:** Every order of a District Commission or the State Commission or the National Commission, as the case may be, shall, if no appeal has been preferred against such order under the provisions of this Act, be final<sup>37</sup>.

**Administrative control:** The National Commission shall have the authority to lay down such adequate standards in consultation with the Central Government from time to time, for better protection of the interests of consumers and for that purpose, shall have administrative control over all the State Commissions in the following matters, namely:—

- (a) monitoring performance of the State Commissions in terms of their disposal by calling for periodical returns regarding the institution, disposal and pendency of cases;
- (b) investigating into any allegations against the President and members of a State Commission and submitting inquiry report to the State Government concerned along with copy endorsed to the Central Government for necessary action;
- (c) issuance of instructions regarding adoption of uniform procedure in the hearing of matters, prior service of copies of documents produced by one party to the opposite parties, furnishing of english translation of judgments written in any language, speedy grant of copies of documents;

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<sup>35</sup> Section 60, Consumer Protection Act, 2019

<sup>36</sup> Section 67, Consumer Protection Act, 2019

<sup>37</sup> Section 68, Consumer Protection Act, 2019

(d) overseeing the functioning of the State Commission or the District Commission either by way of inspection or by any other means, as the National Commission may like to order from time to time, to ensure that the objects and purposes of the Act are best served and the standards set by the National Commission are implemented without interfering with their quasi-judicial freedom<sup>38</sup>.

**Monitoring Cell:** There shall be a monitoring cell constituted by the President of the National Commission to oversee the functioning of the State Commissions from the administrative point of view and State Commission shall have administrative control over all the District Commissions within its jurisdiction<sup>39</sup>.

**Penalty for noncompliance of order:** If any person fails to comply with any order made by the District Commission or the State Commission or the National Commission, as the case may be, shall be punishable with imprisonment for a term which shall not be less than one month, but which may extend to three years, or with fine, which shall not be less than twenty-five thousand rupees, but which may extend to one lakh rupees, or with both<sup>40</sup>.

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<sup>38</sup> Section 70, Consumer Protection Act, 2019

<sup>39</sup> Section 70 (1) and (2), Consumer Protection Act, 2019

<sup>40</sup> Section 72 , Consumer Protection Act, 2019