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CONTENTS

Research Papers

PROBLEMS OF WOMEN LEADERSHIP IN PANCHAYATHRAJ INSTITUTIONS	1 - 4
Shreedevi B. D.	
INDIAN PUBLIC BANKING SECTOR: PERFORMANCE & POLICIES	5 - 8
Priyanka U. Naik	
ELECTRONIC BANKING A BLESSING IN DISGUISE OR CURSE	9 - 13
Rajvi Dodhia	
KYOTO PROTOCOL: A SHORT INDIA-CENTRIC VIEW	14 - 17
Monica Sharma	
BUSINESS ETHICS	18 - 21
Atul Pandey	
CLOUD COMPUTING	22 - 24
Dileep Singh	
HUMAN RIGHTS AND CONSUMER PROTECTION-A RELATIVE STUDY	25 - 28
Dr. Mahendra L. Pachadkar	
INTERACTION EFFECT OF SOCIO-ECONOMIC STATUS, SOCIAL MATURITY AND FAMILY CLIMATE ON VOCATIONAL ASPIRATION OF AIDED SECONDARY SCHOOL STUDENTS	29 - 34
Smt. Mallamma Shantappa	
MANUAL SCAVENGING - A BLOT ON INDIA'S CULTURAL VALUES	35 - 38
Dinesh B. Kolte	
HR TRAINING IN AGRICULTURAL SECTORS IN INDIA: A NEW MANTRA FOR ORGANIZATIONAL SUSTAINABILITY	39 - 43
Kapil Kumar Chand	
IMPACT OF GST ON TRADING COMMUNITY IN PUNE	44 - 47
Jyoti Suraj Harchekar	
A STUDY ON TRENDS IN ADVERTISING AND ITS EFFECTS ON CONSUMER BUYING BEHAVIOUR	48 - 51
Naziya Patvegar and Archana Jadhav	

HUMAN RIGHTS AND CONSUMER PROTECTION-A RELATIVE STUDY

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ABSTRACT

Consumer Rights and Human Rights are two sides of the same coin. In the advent of British rules in India the rights become more powerful. Consumers are always treated as God in Japan, always respected in USA but he is nowhere in India. As various treaties and conventions are working on it for protection of consumers rights as protection of their human rights too.

It is assumed that everyone by birth of his or her humanity is to have or eligible or entitled to have particular human rights it near about new concept. But the origin of human rights is in olden traditions. It took the initiation from World War II to push human rights on to the universal stage and in to Universal Principles.

Keywords: Consumer, Human Rights, Humanity

INTRODUCTION

The Industrial revolution and development in the international trade and commerce has led to the expansion of business and trade, as a result of which a variety of consumer goods have been appeared in the market place to cater or to identify the needs of the consumers and services have been made available to the consumer likes, transport, electricity, entertainment, finance and banking, banking and insurance, medical facility etc.

The advertisement of goods and services on newspapers, televisions, and other advance media etc influence the demand for the same by the masses though there may be manufacturing defects on imperfection or short comings in the quality , quantity and purity of goods or there may be deficiency in services provided. In addition to this the production of the same product to make a duration, to think before they can purchase the best. For the welfare of the people and society at large substandard and adulterated product in the market have to be checked.

Even though number of various provisions providing protections to the consumer through various consumer welfare legislation, it become essential to protect the consumers from the exploitation and to save them from various malpractices and to safeguard the consumers interest.

OBJECTIVE OF THE PRESENT WORK

- To examine the recent judicial decisions and trends in respect of consumer protection issues.
- To examine, investigate and suggest reforms to the laws relating to Consumer Protection interlinked with Human Rights.
- To evaluate "Services" under the purview of human rights.
- To take review of unawareness or ignorance of rights of consumer is the main area of consumer protection. Secondly the legal measures for consumer safety must be uniform in the terms of Justice.
- To identify the difficulties in bringing an educational institutions under the banner of Consumer Protection Act.
- To analyze the judicial system for granting the reliefs and verdicts by the three tire mechanism.
- To prepare a working paper and critical evaluation of consumer protection laws with special emphasis on medical services.
- To find out the loopholes in the present act to suggest an appropriate recommendations.

HYPOTHESIS

1. There is no uniformity in the administration of judicial process in the three tire dispute redressal system.
2. There is a violation of human rights of consumers.
3. Consumers Rights falls under the purview of human rights.

PROTECTION OF CONSUMER RIGHTS IS PROTECTION OF HUMAN RIGHTS

Human Rights mean the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by court.

Indian Constitution deals with the rights of its citizens. Every citizen is as consumer in one way or other and every citizen is also a human being. As such the rights to citizens as enshrined in the Constitution are also the rights of human being.

The Constitution of India in the Preamble speaks of the human rightist secure to all its citizens, Justice, Liberty, Equality and Fraternity. The fundamental rights as enshrined in the constitution Article 12 to 36 and equally supported by the Directive Principles of State Policy Article 37 to 51 A are the Rights conferred on the Citizens who are consumers as well as human beings.

NEED AND IMPORTANCE OF STUDY- PROBLEM ON HAND

Human Rights in third generation are treated as pioneer of the rights. Third generation rights includes and initially proposed in 1979 by the Czech jurist Karl Vasak at the International Institute of Human Rights in Strasbourg. This theory has primarily taken root in European Law. First Generation are often called "Blue Rights" deal with and includes essentially with liberty and participation in civil and fundamental life, which includes right to life, equality before law. Likewise consumer's rights are treated primarily root rights in India and covered all the aspects of human rights given in Magna Carta of 1215 which was remain to be assessed by keeping the consumer in the main focus.

Again Second generation human rights are related to equality and began to be recognized government after World War II. They are fundamentally economic, social and cultural in nature, secondly these rights are includes right to food, right to housing, right to food, right to health care as well as social security.

Third generation human rights are those rights that goes beyond the civil and social rights are known as "Green Rights" and includes, group and collective rights, right to healthy environment, right to communicate and communication rights, and right to intergenerational equality and sustainability. These rights are really connected collectively with consumer's rights and need to be interlinked with Consumer's Rights.

Lastly it is required to study whether the student's community comes under the purview of consumer protection or not. If we consider students as a consumer then entire education system can bring within the purview of consumer protection but it is not so. In some important case laws like **Mumbai Grahak Panchayat V/s Registrar University of Mumbai** considered as conducting examinations and declaration of results is the part and parcel of

University duties and University doesn't provide any services to the students as far as examination is concerned. Hence students should not be covered under consumer protection act.

In the view of researcher in despite the students cannot be a consumer but his human rights is violated as it provides in second generation of human rights i.e right to life includes right to education and right to equality before law.

CONSUMER AND CONSTITUTION OF INDIA & DIRECTIVE PRINCIPALS OF STATE POLICY

India is a welfare state, it icons certain obligations towards its citizen. This throws up the question of rights of the consumer. Does a consumer enjoy any rights? Every citizen is a consumer as such as a consumer; he enjoys certain rights including fundamental rights. The constitution and consumers can not be separated they are knitted together. The Constitution as described in preamble states to secure to all its citizens justice, liberty, equality and fraternity.

The state is thus guided by the Constitution to promote such beneficial legislation which held consumers which provide them consumer justice with the adoption of constitution the aspiration of consumers of people of India, have found explicit expression in the preamble, fundamental rights and directive principles of the state policy.

There are distinct part of the constitution which have direct or indirect influence on the interest of consumers. They can be regarded into three categories.

1. Rights which safe guard consumer interest.
2. Rights which promote consumer interest.
3. Rights which further the cause of consumer justice.

The preamble, fundamental rights and directive principles are the main components of the Indian Constitution to look after the interest of the consumer.

JUDICIAL PRECEDENTS

Charan Singh V/s Healing Touch Hospital and others (2000) 7 SCC 688. In the case of Charan Singh's judgment it was observed by the Supreme Court that the Consumer Forum while settling the issues of compensation are need to make endeavor to serve the final verdict of the case so that the damages can be awarded appropriately, in the given case, which not only suffice aim of compensating the individual consumer but which also at the same time, has the objective to bring about subjective reforms in the approach of the service provider. It is further stated that the number of complaints are coming before the consumer forum for redressal in respect of quality, quantity of goods and manner of performance in respect of services dealing with defect in the goods. In view of the above and changing scenario as far as economic and social things are concerned, the number of grievances in respect of deficiencies in services has increased day by day and it will increase in near future. Therefore, the forum and commissions established under the Consumer Protection Act required to be given added consideration for its smooth functioning and to assure its effective, efficient, fair and inexpensive judgement.

Parmanand Kataria V/s Union of India. AIR 1989 SC 2039 In the words of the Hon'ble Supreme Court "every, doctor at the government hospital or elsewhere, has a professional obligation to extend his services with due expertise for protecting life" Such cases are clearly stick to the situations where there is danger to the life of the person.

Tacitly therefore, in other cases the doctors does not owe a duty who works in the Private Capacity and who are making lots and lots of money from the public. The doctors who is serving in the Private Nursing Homes whether they do not have any responsibility towards the public and contrary to that Patient taking medication in private hospitals are treated as consumer in the Consumer Protection Act. Such leads to the confusion whether Hon'ble Supreme Court is in favour or in oppose to the act by awarding contradictory verdicts as per the circumstances changes whether is it not infringement of human rights?

In the case of Parvat Kumar Mukahrjee V/s Ruby General Hospital and other 2005 CPJ 35 (NC). In this case National Commission of India delivered a landmark judgment for treatment of accident victim. The complaint was filed by parents of deceased student named Mukharjee Samante who was pursuing his B.Tech from Netaji Subhash Chandra Bose Engineering College, the complaint was filed before National Commission of India that a boy was hit by a Culculla Transport bus and taken him to the hospital which was far of 1 km from the place of accident place. The boy was conscious or attentive when he was taken into the hospital and presented his medical insurance card which was clearly stated in it that the boy would get Rs.65000/- by the Insurance Company in the case of accident takes place, relying on it hospital started treating boy but after giving some primary treatment hospital demands Rs. 15000/- on the spot. Nonpayment of the said money hospital had stopped the treatment of the boy and the boy had to shifted to another hospital during transit the boy was died.

Held that the Management of Ruby Hospital was liable and National Commission made the Hospital Administration to make the payment of Rs. 10, 00,000/- as compensation to the parents.

In the above case we could conclude that even though the compensation has been awarded to the parents on humanitarian ground, what about the values of the society, whether hospital was not negligent of their duties? What about human values which cannot be counted in terms of the compensation awarded later. It's simply a deprivation of human life and human rights simultaneously.

CONCLUSION AND RECOMMENDATIONS

Human rights should be related to the whole human body community and not to any particular group human rights are depiction of the individual as a primary concern, aim to enunciate the property of Individual. While going through the verdict given by hon'ble Court from time to time and the judicial precedents we can conclude that the it is an urgent need that the consumer rights should be treated as human rights. Following recommendation can be implemented in the present study

1. To recommend the Consumer Movement Positively and to strengthening the same in the State of Maharashtra as well as Country like India the consumer movement in the should established Directorate of Consumer's Affairs separately and with appropriate budget and man power to start with. Long term full-fledged Directorate should be set up on permanent basis.
2. As per the Consumer Protection Act respondent need to file the replies /written statement within 30 days after getting the complaint copy.
3. Litigation Cost need to be reviewed.

4. There is indeed need to build up Consumer Protection Councils to ensure that these constituted and worked permanently and continually particularly at district level.
5. It was identified that there is need to boost up the provisions of CONFONET project.
6. There must be a Consumer Complaint Redressal Cell working actively and impartially in each Public and Private sector and in all Government Departments so as to enable redressal of consumer grievances at the earliest.
7. Researcher has observed that in rural area District Forum has not maintained the proper updation of case status uploaded on 'confonet' (online data transfer).
8. For aggrieved consumers the District Forums are the first point where the consumer has the say.
9. It has been observed that while passing of a particular order or judgement if the matter is closed for order than also forum that is District and State takes unreasonable time to handover the copy of judgement to the concerned.
10. There is unnecessary delay in filling up the is vacant posts in the forum and hence the functioning of the three tire redressal agencies leads to pendency of grievances. However, the State Government keeps the suggestion may by the Selection Committee for recruitment of Members and President delaying for very long period of time which leads to pendency of grievances. The formalities of filling up of the posts should being at least 7 to 9 months before the vacancy takes place and the process of selections should be completed at the earliest.
11. If there is vacancy which may temporarily falls vacant should be fill up by clubbing with the neighboring District Forum, so that consumer does not suffer for unnecessary delay in the future action as far as the grievances pertains to that district. .
12. To improve the powers of the President and Members of District as well as State Commission and to improve their administrative duties financial powers of President should be enhanced to empower them to improve their functioning in a proper way and to it is the high time now to declare the President as the "Head of Department" of Head of the Office".
13. There is an urgent need to constitute sufficient number of additional Benches taking into consideration that there is pendency in the District and State Commission.
14. There is no effective supervisory control of State Commission over District Forums. It leads to lack of accountability and discipline and the same considered as a major problem
15. There is need to have an appropriate manpower with the increasing workload of the District and State Commission. There is no uniform pattern of staffing policy in the agencies.
16. Lok Adalats must be encouraged by the District Forums to dispose of the pending grievances. Taluka Legal Services and District Legal Services should share the responsibility of such adalats. As per record available only few pending cases are disposed of by the Lok Adalats.