Critical Evaluation of the Effectiveness of Consumer Complaint Redressal Agencies under The Consumer Protection Act, 1986

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ABSTRACT:

In this paper, the authors have bird’s eye view of the provisions of the Consumer Protection Act, 1986 dealing with jurisdictional overlapping, summary proceeding, power to grant interim relief, review powers, appeal, lack of the status of ‘Court of Record’ etc. The authors found some defects in the functioning of the existing framework of the Consumer Complaint Redressal Agencies and have suggested in which way the procedural reform shall go further for better protection of substantive rights of consumer. The scope of this paper is limited to the procedural rights of consumer and does not explore substantive rights of consumer.

Keywords: Consumer, Consumer Protection, Consumer Complaint Redressal Agencies.

[1] INTRODUCTION:

In India the ‘Consumer Movement’ is still in its infancy stage and hence it has had very minimal impact either on the manufacturer, traders, seller/wholesaler or other agencies connected with the manufacture and sale of goods or supply of services. Today, due to advanced communication technology, consumers are very much vulnerable as never before. Newly evolving trends in e-marketing, FDI in marketing, online sale and purchase followed by online money transactions has added to it. In India, the awareness, among urban as well as rural consumers, of consumer rights is not satisfactory. Few are aware about their rights as a consumer, fewer are aware about the procedure, how and where to enforce them; and fewest dare to actually invoke the proper machinery. Most of the time, due to unawareness of the exact procedure or unable to spend time in fighting with business giants, consumer tends to capitulation.

Therefore, original and path breaking research in this regard is necessary for recognition and protection of substantive as well as procedural rights of the consumers. This paper, the scope of which is limited to procedural rights, is an attempt in such direction. Here the procedural right means ‘right of the consumers that the composition, powers, functions, etc. of the Consumer Complaint Redressal Agencies should be such that substantive rights of the consumers can be recognized and protected effectively and efficiently.’ Hence the main focus
of the paper revolves around critical evaluation of the effectiveness of Consumer Complaint Redressal Agencies provided under the Consumer Protection Act, 1986 (hereinafter referred as the Act).

[2] RESEARCH OBJECTIVES:
Following are the objectives of this research:

1. To throw light on the working of existing legal framework of Consumer Complaint Redressal Agencies under the Consumer Protection Act, 1986,
2. To study the legislative intent as well as judicial approaches and trends evolved by Judiciary while dealing with existing legal framework and policies for the protection of consumers,
3. To explore the procedural rights of consumer which they needs for better protection of their substantive rights and efficient administration of Consumer Justice System in India,
4. To suggest some strategies implementable at institutional level to redress the consumers’ grievance effectively and efficiently and to provide a cheap, expeditious, quick and swift remedy to the satisfaction of consumers,
5. To find out inherent defects in the functioning of Consumer Complaint Redressal Agencies and for removing such defects to emphasize on how consumer protection laws can be improved by having an insight into day to day functioning of such agencies.

[3] RESEARCH METHODOLOGY:
Throughout this research, the authors have used those methodologies which are generally used for explicative, exploratory, descriptive and doctrinal research.

According to Myneni S. R. (2010) explicative method helps to ascertain nature and scope of research area. The authors used this model to study nature and scope of working of Consumer Complaint Redressal Agencies under the Act. Exploratory methodology is very helpful to study newly evolving ideas or theories and principles. According to Agrawal Shipra and Myneni S. R. (2003) with the help of exploratory method one can generate many ideas that could be further explored in more controlled conditions during further research. The authors used this methodology to study recent amendments to the Act and new trends evolved by Judiciary and recent policies adopted by the Legislature. Descriptive model attempts to describe existing state of affairs on subject matter of research. The authors used this
methodology for describing existing state of affairs about powers, functions and working of Consumer Complaint Redressal Agencies. According to Chitnis Vijay and Chitnis Jitendra (2009) doctrinal research means and includes ‘….the exposition and analysis of legislation and case laws, integration of statutory provisions and judicial pronouncements into a coherent and workable body of doctrine’. The authors used it for the same with respect to administration of Consumer Justice System in India. For that purpose the authors have collected data from various textbooks, reference books, case law reporters, periodicals, previous researches, web-resources etc tools as used in doctrinal research. It is non-empirical research and hence carried out by way of analyzing the existing available literature collected from above mentioned sources.

[4] NATURE AND SCOPE OF THE RESEARCH:
As explained above in research methodology, the nature of research is explicative, exploratory, descriptive and doctrinal research. It is to be noted that the scope of research paper does not explore substantive rights of consumers which can be protected against manufacturer, trader or service provider. The scope of this paper is limited to the procedural rights of the consumers which need to be protected for better protection of their substantive rights and for efficient functioning of the Complaint Redressal Agencies established under the Act.

[5] MAJOR FINDINGS AND IMPLICATIONS:
It is a matter of great satisfaction that we do have in our country a special Statute which, even with some inherent defects, protects consumers more successfully than any corresponding legislation in force in other countries, which are considered to be much more advanced and industrialized. The main task needs to be undertaken is to make it popular and let aware the actual beneficiaries about it. The growing size and complexity of the system for production and distribution of goods, the high level of sophistication in marketing, newer methods of advertising and mass marketing and emergence of e-commerce has contributed to the increased need of removing such inherent defects and adopting new procedure for the administration of Consumer Justice System in India. The Consumer Complaint Redressal Agencies plays very important role in the protection of consumer rights. Hence day to day procedural working of such agencies, their powers, functions and limitations on it also plays very vital role in the protection of substantive rights of the consumers.
Against this backdrop, in this paper, the authors have analyzed various provisions of the Consumer Protection Act, 1986 as amended from time to time and scrutinized its effect on the functioning of the Consumer Complaint Redressal Agencies. On the whole the principal argument of this paper is – working of Consumer Complaint Redressal Agencies in the existing framework of laws have some inherent defects in its functioning due to which the consumer, remains helpless victim.

This can be explained under following heads:

1) JURISDICTIONAL OVERLAPPING:
A large number of administrative and quasi-judicial bodies have been established under many consumer protection legislations (like The MRTP Act, 1969; Competition Act, 2002; The Electricity Supply Act, 1948; The Insurance Act, 1938; The Indian Post office Act, 1898; The Railway Claims Tribunal Act, 1987, The Negotiable Instrument Act, 1881; The Special Relief Act, etc) to exercise powers near about same as that of the powers available under the Consumer Protection Act, 1986. For example, almost all the aspects regarding sale of goods would also be covered under the Sale of Goods Act, 1930 and, hence it is legitimately falling within the jurisdiction of the Civil Courts. Similarly most of the aspects of consumer protection would also fall within the purview of the Contract Act 1872. It creates jurisdictional problems because of overlapping.

In Chairman T. T. Corporation v. Consumer Protection Council, (AIR 1995 SC 1384) a claim for compensation in respect of fatal accident of a motor vehicle was made before the Consumer Disputes Redressal Forum. When challenged in the Hon’ble Supreme Court it was held that, compensation for injuries sustained in fatal accident arising out of use of motor vehicles shall be claimed only before the Motor accident claim tribunal set up for that purpose by a special statute namely the Motor Vehicles Act, 1988.

There are no specific principles governing selection of jurisdiction when there is overlapping. In most of the cases, the issues about jurisdictions are raised, for the first time, before Hon’ble High Court and then before the Hon’ble Supreme Court. Due to which the proceedings before the said authorities are bound to be delayed and the very purpose of establishing Consumer Forums gets frustrated. It is therefore not wise for Higher Courts to undertake the burden of deciding such disputes.
One attempt to make the position more clear, the Amendment Act, 2002 make express provision that the complaints about unfair trade practices, restrictive trade practices, hazardous goods/services, misleading advertisements can be entertained by consumer Fora. But according to a study undertaken by IIPA as cited in Report of the Working Group on Consumer Protection (2012) in 5 States, the reliefs provided and introduced for above complaints were not utilized. The commissions/forums are helpless in absence of *suo moto* powers.

**2) PROCEDURAL UNFAIRNESS IN STANDARD FORM CONTRACT:**

Arbitration is one of the alternative dispute resolution systems. It is the only ADR which once agreed by the parties, shuts down the door of the traditional judicial system and courts. Now a days arbitration clause is inevitable part of any commercial agreement. For example, whether it is a Bank or non-banking financial company, their loan agreement is of a standard form wholly drafted by such companies, but consumer i.e. loan borrower does not have any say in this regard. Such loan agreements are in the form of a booklet which has several pages, complex to understand by a layman. Somewhere in that agreement very vague and one-sided arbitration clause is laid down. Consumer signs the agreement unknowingly and his peril starts with it.

Section 8 of Arbitration and Conciliation Act, 1996 empowers the court to refer the parties to arbitration. Even though such arbitration clause does not prevent the consumer Fora to entertain the matter, the consumer is pressurized by commencing arbitration proceedings by such financial companies which indirectly affects the proceeding in consumer Fora.

According to 199th Law Commission Report (2006),

> … a contract or a term thereof is procedurally unfair if it has resulted in an unjust advantage or unjust disadvantage to one party on account of the conduct of the other party or the manner in which or the circumstances under which the contract has been entered into or the term thereof has been arrived at by the parties.

To deflect this, authors suggests empowering consumer Fora at all levels to stay arbitration proceedings if they found to be unfair. It would be more beneficial to have a separate legislation against such unfair terms in contract as proposed by above mentioned Law Commission Report.
3) ROLE OF PRESIDENT AND OTHER MEMBERS:
The Act provides for the establishment of complaint Redressal Agencies at District, State and National levels. At present there are 629 District Fora at district level, 35 State Commissions at State level and one National Commission functioning in the country to render inexpensive and quick redressal to consumer grievances.

Till 13th June 2011, out of over 36,03,281 cases filed before the Consumer Disputes Redressal Agencies, 89.77% already stand disposed of.

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Name of Agency</th>
<th>Cases Filed till June, 2011</th>
<th>Disposed Cases</th>
<th>Pending Cases</th>
<th>% of Total Disposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>National Commission</td>
<td>69,465</td>
<td>60,504</td>
<td>8,961</td>
<td>87.10%</td>
</tr>
<tr>
<td>2</td>
<td>State Commission</td>
<td>5,41,478</td>
<td>4,40,613</td>
<td>1,00,865</td>
<td>81.37%</td>
</tr>
<tr>
<td>3</td>
<td>District Forums</td>
<td>29,92,338</td>
<td>27,36,379</td>
<td>2,55,959</td>
<td>91.45%</td>
</tr>
</tbody>
</table>


Recently there are few welcomed changes in the Act. Before the consumer protection (Amendment) Act, 2002 (62 of 2002), which came into force on 15th March, 2003 the Justice gets delayed when, under section 14 (2), every proceeding needed to be conducted by the President sitting with at least one member and under section 14 (2A) the order passed accordingly must be signed by the President and the member or members who conducted the proceedings. By the Amendment Act, 2002, the senior most member is allowed to preside over the bench in the case of absence of President. It is well settled that the orders passed only by the President of District Forum (See Export Credit Guarantee Corporation of India Ltd., Varanasi v. Mohd. Aslam, Partner Mohd. Ibrahim and Sons & Another, 1999 (2) CPR 106 (UP)) or State Commission (See Baroda Municipal Corporation v. Akhil Bharatiya Grahak Panchayat Ltd. 1992 CPC 768 (NC)) or National Commission amounts to illegal order.

Similarly the Presidents of the National Commission and State Commission have been empowered to constitute Benches with one or more Members for their effective functioning. At present there are five Benches functioning in the National Commission.
One more notable initiative is –Online Dispute Redressal Forums. It is an initiative taken by the GOI, Ministry of Consumer Affairs, Food & Public Distribution for web based consumer awareness and protection programs. The main object behind it is identification of consumer problems and their redressal using Information Technology Tools.

But still there is a long way to go ahead with aim of facilitating quicker disposal of complaints, enhancing the capability of redressal agencies, strengthening them with more powers, streamlining the procedures and widening the scope of the Act to make it more functional and effective and also to strengthen Consumer Movement at the grass root level. For example, as on 13 June, 2011 the vacancy position in Fora was as follows –

<table>
<thead>
<tr>
<th>National Commission</th>
<th>State Commission</th>
<th>District Forum</th>
<th>Total Vacancies</th>
</tr>
</thead>
<tbody>
<tr>
<td>President 00</td>
<td>Members 02</td>
<td>President 03</td>
<td>Members 15</td>
</tr>
</tbody>
</table>


If we consider total number of Fora, (629 at District level, 35 at State level, one at National level) the number of vacancies seems to be substantial. And with increased number of cases, it will start showing its effect on the working of these Agencies. Similarly, before Amendment Act 62 of 2002, except the President, all other members were non-legal persons. It created many hindrances in the working of forums. To change the scenario, proviso has been added to section 16 (1) (b) and section 20(1) (b) of the Act which requires that not more than fifty per cent of the members at the State Commission and National Commission respectively shall have judicial background. Here the Person having Judicial Background means ‘persons having knowledge and experience for at least a period of ten years as a presiding officer at the district level court or any tribunal at equivalent level’.

But in the present scenario of multiple technicalities of law it became necessary to have all the members from legal background. In view of the applicability of various provisions of the Code of Civil Procedure, 1908 and the increasing technicalities of the consumer protection matters, even a single member lacking legal background may sometime create ridiculous situation, specially when under section 13 (3B) the forums are now entrusted with powers of granting interim reliefs. Section 13 (3B) is inserted by Amendment Act of 2003 which empowers the District Forum (and mutatis mutandis to the State and National Commission) to pass interim orders as and when just and proper in the facts and circumstances. Hence it may result in intra-structural injustice.
4) POWERS AND FUNCTIONS OF ADJUDICATING AUTHORITIES:

It is well settled that ‘Procedural Laws’ applicable to general Judiciary are not applicable to and need not to be followed by Adjudicating Authorities under the Act. Hence there was lack of uniformity in the day to day procedure followed by different Authorities. To avoid contradictions and for uniformity, the National Commission, after approval of Central Government, notified regulations of 2005 (known as Consumer Protection Regulation, 2005). The Redressal Agencies under the Act has to observe the principles of natural justice and are empowered to give reliefs of a specific nature as provided under the Act. Now it is well settled since Tarsem Lal Goyal v. Union of India, ((1993) 2 CPR 191 (Punj.)) that ‘no relief beyond the reliefs provided under sub section (1) of section 14 of the Act can be granted’. Under section 13 (4) of the Act all consumer forums have same powers as are vested in a civil court. And under section 13 (5) every proceeding before the forums is deemed to be judicial proceedings.

i) PECUNIARY JURISDICTION:

After Amendment Act 62 of 2002 the District Forum, under section 11(2) has original jurisdiction to entertain complaints where the value of goods or services and compensation, if any, does not exceed rupees twenty lakhs. And under section 17 (i) the State Commission has original jurisdiction to entertain complaints where such value exceeds rupees twenty lakhs but does not exceed rupees one crore. Under section 21 (a) (i) the original jurisdiction of National Commission is in respect of complaints where such value exceeds rupees one crore.

ii) POWERS TO DECIDE MATTER SUMMARILY:

It is well settled by judicial approaches and trends that the Redressal Forum under the Act has power to decide matter which are ‘the matters of summarily nature’ only. In Procalor Photographics Pvt. Ltd v. OCL Photo Industries Pvt. Ltd (1992 CPC 201 (Chandigarh)) the Chandigarh State Commission set aside order of District Forum on the ground that, ‘…. a huge amount of evidence will be required to be laid by the parties … …invoking the summary procedure is not appropriate….’

Similarly in Synco Industries v. State Bank of Bikaner and Jaipur & others (2002 (46) ALR 54 (SC)) Hon’ble Supreme Court dealt with similar matter saying that ‘…the matter cannot be disposed of in summary manner hence not within the jurisdiction of Consumer Forums.’ Recently Hon’ble Supreme Court reiterated the same view in Trai Foods Ltd. v. National
iii) **POWER TO GRANT INTERIM RELIEF:**

There were many contradictory opinions on this issue. In *Chita Rajan Dey v. Mrinal Kant Chakraborty*, (III (1996) CPJ 155 (West Bengal S.C.D.R.C.)) the State Commission of West Bengal opined that a Consumer Disputes Redressal Forum can pass interim order in aid and assistance to the principal relief, if there is a strong *prima facie* case, looking to the balance of convenience and inconvenience and possibility or irreparable loss to one party by the act of the other. On other hand in *Bombay Dyeing & Manufacturing Co. Ltd. v. Union Bank of India*, (I (2001) CPJ 1 (N.C.); see also *Calcutta Telephone v. Bharat Biscuit Co., Pvt. Ltd.*, I (1998) CPJ 81) the National Commission held that the consumer Fora have not been empowered by the Act to pass interim order on the original complaint. In *Morgan Stanley Mutual Fund v. Kartick Das*, (II (1994) CPJ 7 (S. C.)) the Supreme Court observed:-

“A careful reading of the above discloses that there is no power under the Act to grant any interim relief of (*sic*) even an ad interim relief. Only a final relief could be granted.”

To make the position clear section 13 (3B) is inserted by Amendment Act of 2003 which empowers the District Forum (and *mutatis mutandis* to the State and National Commission) to pass interim orders as and when just and proper in the facts and circumstances. But still it is not clear whether the Adjudicatory Authorities can grant relief of specific performance of contract.

In *Andhra Pradesh State Electricity Board v. Andhra Pradesh State Electricity Consumer Association*, (I (1992) CPJ 148 (151) (NC)) while discussing powers of Consumer Complaint Redressal Agencies established under the Act, the National Commission held that–

The consumer dispute redressal Fora have been set up under the Consumer Protection Act, 1986 and the jurisdiction and powers of these Fora have to be gathered only from the provisions of the said Act and *since these Fora are not court* there cannot be any concept of inherent powers (emphasis added)

On similar footing in *Union of India v. Dr. Sudha Pareek*, (II (1993) CPJ 240 (241) (NC) see also, *Union of India v. N. Vasudevan*, I (1993) CPJ 84 (86) (NC)) when the issue was –
whether the Consumer Dispute Redressal Fora can order the allotment of telephone? - the National Commission answered this question in negative and held that ‘the State Commission acted beyond its jurisdiction in directing the allotment of telephone to the complainant as this is not a relief it can be granted under section 14 of the Act.’

Does it negate, indirectly; if not directly, specific performance of contract?

It is to be noted that in Bhupender Kumar v. Angrej Singh ((2009) 8 SCC 766 at para 19) the Hon’ble S. C. held that the decree for specific performance of contract is in the nature of preliminary decree and hence one can expect that the proceeding would continue under the control of the Fora till either party move for passing the final decree. Hence it is expected that such power should be given expressly in the Act.

iv) POWER OF REVIEW OR RECALL OF ORDER:
It is well settled that the power of review is not an inherent power. For exercising such power, it must be conferred by law either specifically or by necessary implication. In Ghaziabad Development Authority v. Nishi Agarwal (II (1998) CPJ 138) the District Forum decided the complaint and subsequently modified its order. When challenged in Uttar Pradesh State Commission the order was set aside. The Commission opined that the subsequent order of District Forum amounts to ‘review of its earlier order’ There being no provision for Review under the Act, the subsequent order needs to be set aside. Similarly as held in Smt. Manju Nag v. CESC Ltd, (I (2001) CPJ 174) according to West Bengal State Commission the Commission has not been vested with any power to review its own order. On the contrary in a distinguished case of Indian Bank v. M/s. Satyam Fibres (India) Pvt. Ltd. (AIR 1996 SC 2592: (1996) 5 SCC 550) the Hon’ble Supreme Court held that-

…the Authorities be they Constitutional, Administrative or Statutory (and particularly those who have to decide a lis, i.e. litigation) possess the power to recall their judgments or orders if they are obtained by fraud as fraud and justice never dwell together. (emphasis added)

It is to be noted that Hon’ble Supreme Court directed review only for specific purpose. And it is well settled, as expressly provided under section 22 (2) and 22A of the Act, that only the National Commission is vested with power of Review or Recall of its own order. As settled in a plethora of cases (See Bastar Jila Upabhokta Sanrakshan Samiti and Anr v. District Trade and Industries Center, III (2012) CPJ 494 at para 14, see also Rajeev Hitendra Pathak

It is to be noted that, under section 17(iii), the Act confers power on State Commission to correct jurisdictional errors committed by district forum, viz., failure to exercise jurisdiction, exercising jurisdiction not vested in it or acting illegally or with material irregularity in exercise of its jurisdiction. Similar powers are vested in National Commission by way of section 21 (b) of the Act. This power is, strictly speaking, a power of judicial review conferred on the High Courts under article 226 of the Constitution to issue a writ of certiorari to correct errors of law and jurisdiction committed by lower courts and tribunals.

v) PROVISIONS AS TO APPEAL:
Under section 15, 17(ii) and 27A of the Act the order of the District Forum, in exercise of its original jurisdiction, is appealable to the State Commission. Similarly, under section 21(a) (ii) & Section 19 of the Act the order of State Commission is appealable to the National Commission and under section 23 the order of the National Commission is appealable to the Supreme Court. The limit of filing every type of appeal is 30 days from the date of the order.

In this regard one objectionable provision is - the Act is silent about appeal against the interlocutory and interim orders.

There are contradicting opinions of High Courts. In Kashatriya Kalyan Sanstha v. Shantilal Amritlal Kapadia (1996 (1) CPR 129) the appeal was filed against order on the point of limitation. It was held that no appeal can be filed against interlocutory orders. On the other hand in A. v. B. (I (1996) CPJ 264 (Cal H.C.)) the Calcutta High Court held that the State Commission under section 17 and the National Commission under section 21 of the Act have the jurisdiction to entertain appeal against interlocutory and interim orders … … and such appeal can be made even against interim or interlocutory orders.

Unfortunately, the grounds on which appeal could be filed to the State and National Commissions or the Supreme Court have not been mentioned. It is, therefore, possible that an
appeal would be a routine one on all possible available grounds under the sky. This sort of liberty does not seem justified. (Singh S. N, 1987) The grounds provided under section 100 of Code of Civil Procedure, 1908 (5 of 1908) could and should have been mentioned expressly as it is provided under section 55 of MRTP Act, 1969.

5) STATUS OF ‘COURT OF RECORD’:
A ‘Court of Record’ is a court the records of which are admitted to be of evidentiary value and they are not to be questioned when they are produced before any court (Whartons Law Lexicon, 2009). However, for use of a decision of any Court, as a ‘precedent’ it is essential that there should be an explicit provision of law to that effect. Under Arts. 215 & 129 of the Constitution of India, High Courts and the Supreme Court are specifically declared as ‘Court of Record’.

But State Commissions and the National Commission are nowhere declared as the ‘Courts of Record’, nor is there any provision, which invests these higher consumer forums with precedent creating power. On such account, it may give rise to a situation that lower consumer forums do not follow the ratio of a decision delivered by its higher consumer forum in a similar case. It may also affect administrative control, as provided by section 24 (b) inserted by the Consumer Protection (Amendment) Act 1993 (which came into force on 18 June 1993), over their subordinate forums.

In Mahabubnagar Citizens Council (Regd. Society) v. District Consumer Disputes Redressal Forum, Mahabubnag (1996-LAWS(APH)-8-13 : 1997-ALT-1-60 : 1997-ALD-1-40) the circular issued by District Forum, Mahabubnag was challenged in the Hon’ble High Court of A. P. The Circular declared that a complaint can be filed by the consumer activists’ organisation on behalf of its members alone, but for none else. This circular was based on the decision of State Consumer Disputes Redressal Forum reported in Telephone Services Society v. Calcutta Telephone (1995 (2) CPR).

While dealing with the applicability of the said decision the Hon’ble High Court held that a decision of the West Bengal Forum, though may be available for reference by the respondent, yet it has no precedent value as the West Bengal forum is not a Court of Record. Hence the Court has taken help of statutory provision and the circular is declared as void ab initio.

It seems to be one of the biggest drawbacks of the framework of Consumer Disputes Redressal Agencies established under the Act. Hence it needs immediate attention of the concerned Legislative and Judicial authorities to fill gap in the law immediately.
[6] CONCLUSION:
Because of all above defects in the existing framework, not only the consumers but also the manufacturers, traders/sellers of goods and suppliers of service became helpless victims of existing framework.

In today’s dynamic world, the adaptation of traditional or formal methods for protecting interest of consumer may bring desired results lately or at lesser effectiveness. Hence the author has suggested some novel promotional measures for faster and better results. It can be explained as follows-

If one study the development of the Act, it is very much clear that initially the Act established quasi-judicial bodies with minimum Judicialness. The minimum judicialness injected includes very low pecuniary jurisdiction, power to decide matter summarily, majority of members with non-legal background, no provision of appointment on the recommendations of Selection Committee, no power to grant interim relief, finality to the orders, no powers of review and call back of record, no status of ‘Court of Record’ no provision of circuit Benches etc.

By this way a parallel system of adjudicating bodies (which are not in derogation but in addition to existing Judicial System) are working since 1986. But as the experience proved successful more judicialness is injected. It was injected in the forms of increased pecuniary jurisdiction, awarded with power to grant interim relief, increase in the number of members of State and National Commission, appointment on the recommendations of independent Selection Committee reservation of 50% membership for the person having judicial Background provision for Circuit Benches etc. Now after near about 25 years these bodies became mature enough to award them status of ‘Judicial Bodies’ like ordinary Courts.

Indian Judicial System is working at two pedals namely Civil Law Justice System and Criminal Law Justice System. But now a day there is needed to introduce Stratified Judicial System instead of Parallel Judicial System. Every ‘strata’ shall be independent and full flagged ‘Judicial Body’ which can administer all laws with respect to one and only one aspect like consumer protection, environment protection, matrimonial reliefs, narcotic drugs, taxation, recovery of debt, intellectual property rights etc. It shall work under the final administrative control of High Courts and Supreme Court. It can solve all the problems including pendency of huge amount of cases which is affecting the very root of the existence of judicial and quasi-judicial framework in India. After extensive research Asia Pacific
Judicial Reform Forum (2009) came to the conclusion that, “there is unanimity in the belief that unless the court actively controls the progress of its cases the caseload will control the Court.”

KEY REFERENCES


CASE LAWS REFERRED:

25. Telephone Services Society v. Calcutta Telephone. 1995 (2) CPR.