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Empowering Consumers  
with Access to Forums  
for Redressal

## RESEARCH FEATURE

Can We Redefine the Efficacy  
of Consumer Commissions?

# Consumer Grievance Redressal in India: Needs Urgent Attention

## INTERVIEW



Dr. Justice ARIJIT PASAYAT  
Former Judge  
Supreme Court of India

PLUS

ROUND UP • MY MARKET • THE PRESCRIPTION



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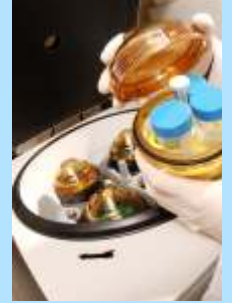
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# VIEWPOINT

MESSAGE FROM PUBLISHER & EDITOR



## Big Question Mark on Redressal of Consumer Complaints!

**THE MAXIM 'CONSUMER** is the King' is exhorted time and again to stress the importance of consumers and prioritise their delight, which is more than satisfaction. Every manufacturer, seller, trader and service provider loves to quote this adage and displays it on their premises in some form or the other, which remains only on paper but never gets translated in action!

However, the gargantuan number of consumer complaints pending in various consumer commissions across the country establishes the harsh fact that consumers are always victims of misleading assurances and not tangible resolutions. Neither do consumers set any great store by this promise as they seem to have resigned themselves to a fate where they know their complaints will fall on deaf ears.

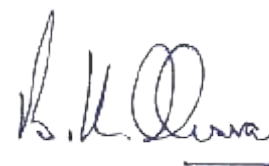
The sheer lack of accountability is clear as we have a backlog of over 550,000 (5.5 lakh) complaints in the consumer commissions, many of them pending since decades! The picture will get even more dismal if we consider the unaccounted number of consumer complaints pending with the service providers, manufacturers and regulators.

The inordinate delays in disposal of consumer complaints can be attributed to procedural intricacies and looming inefficiencies across the system. Not to mention the large number of vacancies existing in the Quasi-Judicial bodies (like the consumer commissions) coupled with the unfathomable high rates and long periods of adjournment. There is still, till date, no institutionalised mechanism to monitor the functioning and efficiency of these 'Commissions' nor any interest by the states to make them an effective tool to delight the consumers.

In an instant writ petition, the perturbed Supreme Court expressed its anguish and disapproval over the lulls in appointments in the district and state consumer commissions by exclaiming that, "If the government does not want the tribunals or forums, then it should abolish the Consumer Protection Act itself!"

Appreciate the strong words that the Hon'ble Apex Court expressed, but what could have been a remedy was their directing a stringent action on delays and a mandatory law for Easy Exchange or Refund Policy for sub-standard or defective products/services sold to the consumers in India. After all, the consumer only seeks **VALUE FOR MONEY!**

The key problem here is that the right hand is refusing to talk to the left hand while the voiceless consumers are left to talk to the wall! Nobody in the concerned ministry is bothered enough to analyse the root cause and there is zero accountability towards the consumers. It is high time we made the systems accountable and transparent to protect the consumer interests!



Prof. Bejon Kumar Misra  
Publisher & Editor  
bejonmisra@theawareconsumer.in



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PRAFULL D. SHETH

Editorial Board Member

# CLARION CALL FOR REDUCING PENDENCY OF CONSUMER COMPLAINTS



**OUR COUNTRY RECENTLY** celebrated the National Consumer Day 2022 on 24th December with the theme of 'Effective Disposal of Cases in Consumer Commissions'. This is a landmark day that marks the passing of the Consumer Protection Act for the first time in 1986.

Since then, we have recently upgraded the regulation with a brand new Consumer Protection Act, 2019. The preamble of the new law reads, "An Act to provide for protection of the interests of consumers and for the said purpose, to establish authorities for timely and effective administration and settlement of consumers' disputes". Accordingly, it outlines an updated grievance redressal framework with facilities for e-filing of complaints and the use of mediation as an alternate dispute redressal mechanism.

The government is focused on protecting the rights of consumers with provisions for coming down heavily on those who violate the same. It has instituted the requisite machinery with predetermined periods to ensure prompt redressal of consumer complaints. However, the time limits seem to be just words on paper!

Alas, while there is recourse for filing grievances, we are still staring at an inordinately mammoth

backlog of complaints in consumer commissions across the country. This Act mandates settling complaints within 90 to 150 days, but not a single one has been resolved within the stipulated period. Meanwhile, complaints keep piling up with scores of them awaiting disposal, many for as long as eight to ten years!

While the government is fully aware about the colossal pendency, they tend to look the other way for reasons best known to them!

Simply organising seminars and competitions on the theme of the year does not provide sustainable solutions to the long-pending issue. Instead, launch of a technology-enabling platform to name and shame the brands which generate maximum number of unresolved complaints leading to the clogging of the functioning of the

commissions could have been a great breaking news on the occasion of National Consumer Day! This will impact the society at multiple levels and restore the consumer confidence that they are actually empowered to make an informed choice based on credible data and seek speedy justice as their right! 'Justice Delayed is Justice Denied!'

In sum, ensure that the law is implemented in both letter and spirit! ▶

**JUSTICE DELAYED IS JUSTICE DENIED**





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### RESEARCH FEATURE

#### CAN WE REDEFINE THE EFFICACY OF CONSUMER COMMISSIONS?



A Supreme Court appointed committee carried out a detailed scrutiny of the functioning of the consumer commissions across the country and reported on their dysfunctional status while suggesting remedial measures.



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### HORIZON

#### WHEN WILL CONSUMER COMMISSIONS ACTUALLY SERVE THE CONSUMERS?



The government is trying its best to provide speedy and affordable justice to the consumers with timely disposal of complaints.



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### INTERVIEW



**Dr. Justice ARIJIT PASAYAT**  
Former Judge  
Supreme Court of India

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### MY MARKET

#### CONSUMER RIGHTS TAKE A BACKSEAT WITH RISING BACKLOG OF COMPLAINTS - WHO IS TO BLAME?



The excessively slow and delayed dispensation of justice in consumer commissions can be attributed to several technical and non-technical reasons.



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### IN FOCUS

#### THE MEDIATION ALTERNATIVE TO DISPUTE RESOLUTION



The age-old process of mediation has been internalised in a formal manner by the Consumer Protection Act, 2019 as an alternate dispute resolution ...



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### OUT OF THE BOX

#### BRINGING ACCOUNTABILITY IN DIRECT SELLING



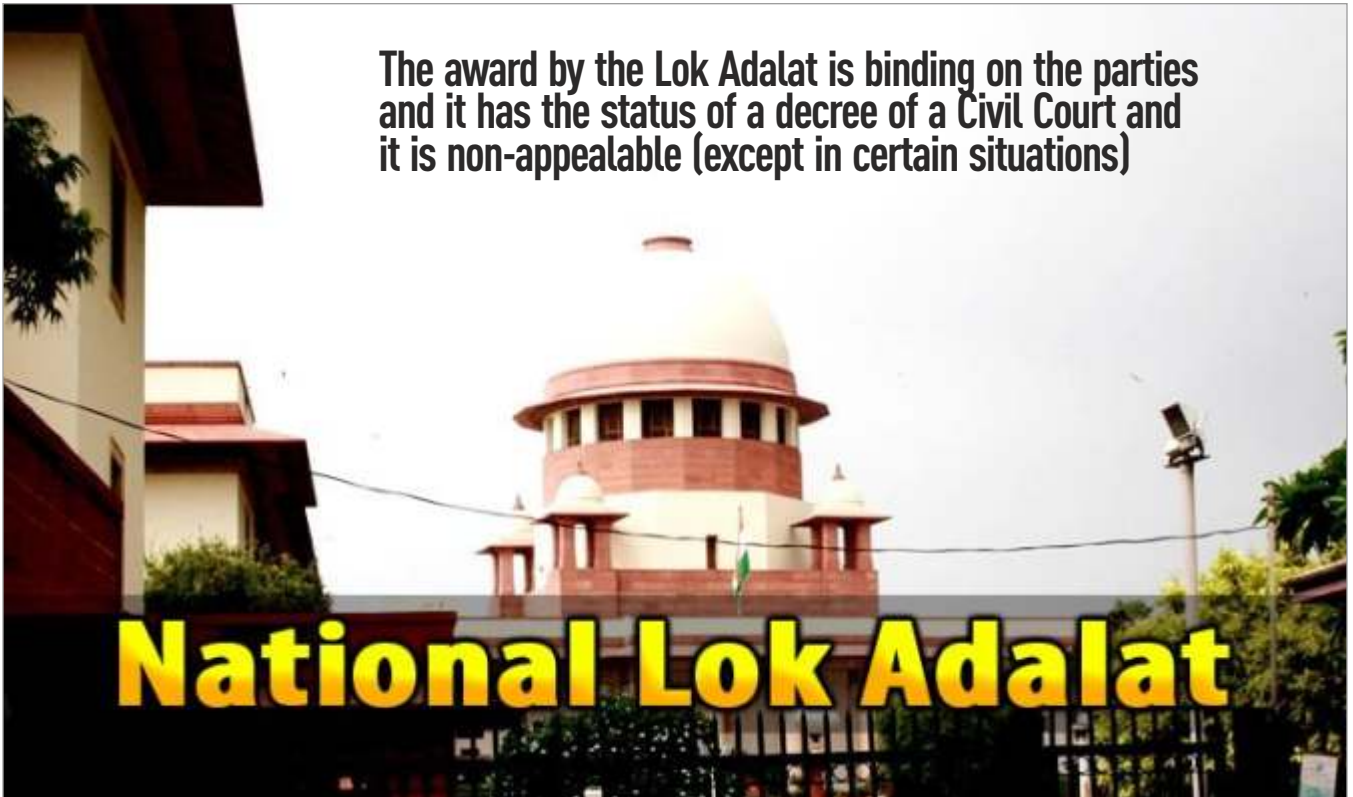
SHRI ROHIT KUMAR SINGH  
UNION CONSUMER AFFAIRS SECRETARY

Four years back, the number of complaints pertaining to e-commerce transactions was 8 per cent of the total complaints and last month, it was 48 per cent. "Consumer is getting weaker and weaker, that's where the role of this ministry becomes important."

# ROUNDUP



The award by the Lok Adalat is binding on the parties and it has the status of a decree of a Civil Court and it is non-appealable (except in certain situations)



## National Lok Adalat

# Settlement of Pending Consumer Complaints Through National Lok Adalat

### DATA BRIEFING

Over **22%** of consumer complaints in India in last 4 years are linked to e-commerce sector



**CONCERNED OVER THE** lakhs of complaints pending in consumer commissions across the country, the Ministry of Consumer Affairs, Government of India initiated a special drive of Lok Adalats for quick disposal of old complaints. It announced that National Lok Adalats will be held periodically in the future. This involves Lok Adalats being organised throughout the country on a single day in all the commissions right from the Supreme Court to the District level wherein complaints are disposed of in huge numbers.

**The government aims to institutionalise Lok Adalats in the state and district consumer commissions and assign a day in a week for early settlement of consumer complaints. This will bring the benefit of speedy disposal of matters through settlement.**

A National Lok Adalat was organised on 12th November, 2022. It was decided that complaints involving very small amounts would be taken up first and endeavours will be made to resolve them. Efforts will also be made to settle disputes related to banking, insurance, railways, electricity and e-commerce on a priority basis.

In the lead up, all the consumer commissions were asked to identify complaints that have an element of settlement and prepare a list of pending complaints that can be referred to Lok Adalat. The Department of Consumer Affairs, Government of India has the phone numbers and emails of 300,000 parties whose complaints are pending before the commissions and was reaching out through email or SMS to get their consent for settlement in the Lok Adalat.

The litigants themselves can refer their matter to Lok Adalat by entering

**Only complaints pending in the court of law or at the pre-litigation stage can be referred to Lok Adalats for settlement that do not include cognizable, non-compoundable offences.**

**“ We are taking multi-pronged approach for faster disposal of consumer complaints. We have identified pending complaints across 34 sectors such as insurance, banking and housing. Now we have a targeted approach. Since insurance and banking sectors are mostly government companies, so we are planning Lok Adalats and camps to try resolving complaints quickly. ”**

**– Rohit Kumar Singh,  
Union Consumer Affairs  
Secretary**



Lok Adalat is one of the alternate dispute redressal mechanisms wherein complaints are settled by mutual coordination and agreement. It been given statutory status under the Legal Services Authorities Act, 1987.

The decision of a Lok Adalat is deemed to be a decree of a civil court – it will be final, executable and binding on all parties. It cannot be challenged and no appeal against such an award lies before any court of law. In case a party is not satisfied with the order, it can invoke the right to litigate by approaching the court of appropriate jurisdiction by filing a case for adjudication.

The Members of the Lok Adalats play the role of statutory conciliators and not a judicial one - they can only persuade the parties to come to a conclusion for settling the dispute without any pressure or coercion to compromise or settle the complaint either directly or indirectly. The Lok Adalat does not decide the matter; the parties reach a compromise or settlement on their own with the assistance of the members in an independent and impartial manner.

The National Legal Service Authority (NALSA) has been constituted under the Legal Services Authorities Act, 1987, to provide free legal services to the weaker sections of the society and to organise Lok Adalats for amicable settlement of disputes.

the pending case number and commission where the complaint was filed on the link <http://cms.nic.in/ncdrcusersWeb/lad.do?method=ialp> or by calling on the National Consumer Helpline number 1915.

The Department of Consumer Affairs, Government of India along with the National Legal Service Authority participated in the first National Lok Adalat on 12th

November wherein 5930 complaints out of the 19,497 listed for settlement were settled on a single day.

P.S.: Court fees is not payable when a matter is filed in a Lok Adalat. In fact, if a matter pending in the court of law is referred to the Lok Adalat and is settled subsequently, the court fee originally paid for the complaint/petition is also refunded back to the parties. ▶

**The Department of Consumer Affairs, Government of India also announced that it is working on finalising plans to host mega Lok Adalats to resolve about one lakh complaints in one day!**



# Performance of Consumer Commissions Ranked on Disposal Speed of Long Pending Complaints

**IT IS NOT** just the number; even the age of the complaint spending in consumer commissions across the country is running into hundreds of thousands!

The Centre launched a campaign in July 2022 to reduce the huge pendency of old complaints. It was announced that the performance of state and district commissions will be ranked in terms of the speed at which they will dispose-off complaints filed before 2000 (during a five month period from July to November).

It was decided that these consumer commissions will be rated at the end of the campaign in three categories - aspiring, performer and achiever - based on a pre-defined process of weightage. Furthermore, the performance ranking of commissions in union territories (barring Delhi) and the north-eastern states was to be made separately, as the number of consumer complaints

filed in these states is low when compared to other parts of the country. The results were to be published on the occasion of the National Consumer Day commemorated on 24th December. ▶

In this regard, the Department of Consumer Affairs, Government of India held a virtual meeting with the consumer commissions which had pending complaints that were filed before 2000. A ministry official said that the number of complaints which were pending since more than 20 years as on July, 2022 has come down to 751 as on 11th October. Even the total number of pending complaints has come down from over 600,000 to around 550,000 now.



The Aware Consumer tried reaching out to the Department of Consumer Affairs, Government of India over phone and email to find out the status of the rankings of the consumer commissions which were to be released on the National Consumer Day, but did not get any response neither on email nor on phone nor in the public domain.



**GOVERNMENT MAY MAKE  
ONLINE FILING MANDATORY  
FOR CONSUMER COMPLAINTS**

**THE DEPARTMENT OF** Consumer Affairs, Government of India may make online filing the only method for lodging consumer complaints in consumer redressal commissions from 1st April, 2023 to allow for faster resolution of complaints.

There will be provisions for those who do not have access to the internet and smartphones to file from consumer support centres established across the country. Currently, people can file complaints before consumer

commissions both in physical and online mode.

“Looking at the success of e-filing, we are going to make it mandatory from April 1, 2023 for all consumer commissions in the country. This will help people file consumer complaints directly without the help of a lawyer at his or her choice. Once the complaints are in the form of e-filings, it will facilitate speedier disposal of the cases,” said an official from the Union Ministry of Consumer Affairs in December 2022. ▶

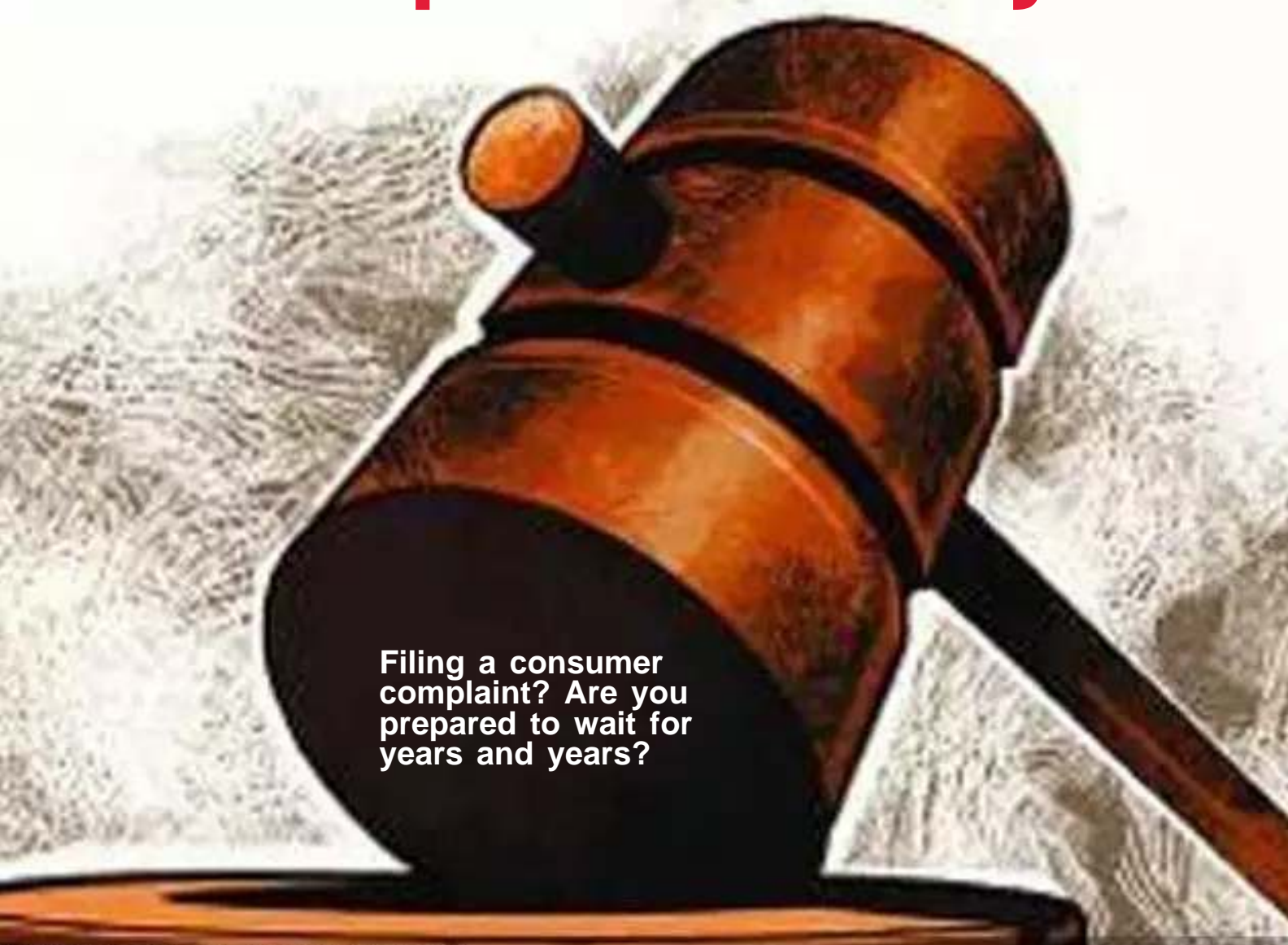
**Chandigarh State Commission Reprimands District Forums for Long Adjournments**

**IN DECEMBER 2022**, the Chandigarh State Consumer Disputes Redressal Commission directed the district commissions not to extend the duration of filing response and evidence beyond 45 days. A district forum was reprimanded in a particular appeal, “We do not appreciate this practice and direct the district commission, to discontinue this practice forthwith.”

Further, the state commission asked all the fora to follow the provisions of the Consumer Protection Act, 2019 in the future and refrain from adjourning the filing of reply and evidence beyond a 30-day period and a maximum period of 45 days, so that the purpose of disposal of the complaints, within three months was not defeated. ▶

**Consumers, Beware**

# **The Ongoing Case of Consumer Complaint Pendency**



**Filing a consumer  
complaint? Are you  
prepared to wait for  
years and years?**

*The number of pending complaints in consumer commissions reflects the inability of the system to deliver justice!*

**WHAT DO YOU** do if, say, a mattress you bought turns out to be defective or the warranty on a laptop is not being fulfilled as promised? What if a genuine insurance claim is not honoured or a landlord refuses to refund the deposit?

The first recourse opted by most consumers is to approach a consumer commission to resolve the dispute and ensure that their rights are preserved. They will expect that the faulty item will be replaced or they will be awarded compensation for the trouble they faced.

However, reality is that once you file the complaint, you are in for a long, long wait without any end in sight. A successful outcome is out there, but you don't know when you will get it.....

Alas, complaints tend to remain pending in consumer commissions for months with some dragging out for years on end. There seems to be an inherent lack of urgency to hear and resolve the complaints. Consumers are used to spending years waiting for a matter to be decided. And finally, when they get an order in their favour, the execution can also take a year or even more!

This kind of delay in justice is not only abhorrent but also defeats the



**A complaint of medical negligence was disposed of after 5 long years. Meanwhile the patient who had filed the complaint passed away before the verdict was decreed! Sadly, this is not an exception, but happens to be the norm!**

very purpose of enacting the consumer protection regulations. The prolonged delays in handling the situation cause irreparable losses to the society, the economy and the country at large. In contrast, delivering speedy justice can play a great role in the development of our country.

**The Right to Fair and Speedy Trial is guaranteed as a fundamental right under Article 21 (Right to Life and Personal Liberty) of the Constitution of India. This extends to consumer complaints as well. Therefore, delay in delivery of justice infringes our fundamental rights!**

## The Injustice Piles On

Unnecessary delays in the disposal of complaints are unjust to the consumers on all counts.

While a consumer can represent himself in the case, most people prefer to hire an advocate. Therefore, where the claim is of a small value, the amount spent on filing and contesting the case often exceeds the amount they expect to get awarded as compensation. It does not seem worth the while and the erring traders/service providers get away scot-free.

When a consumer complaint, revision petition or appeal continues to drag on, there is no alternative but to wait for the case to be heard. And if the counsel fee becomes unaffordable, the only way out is to let go of the case. This again

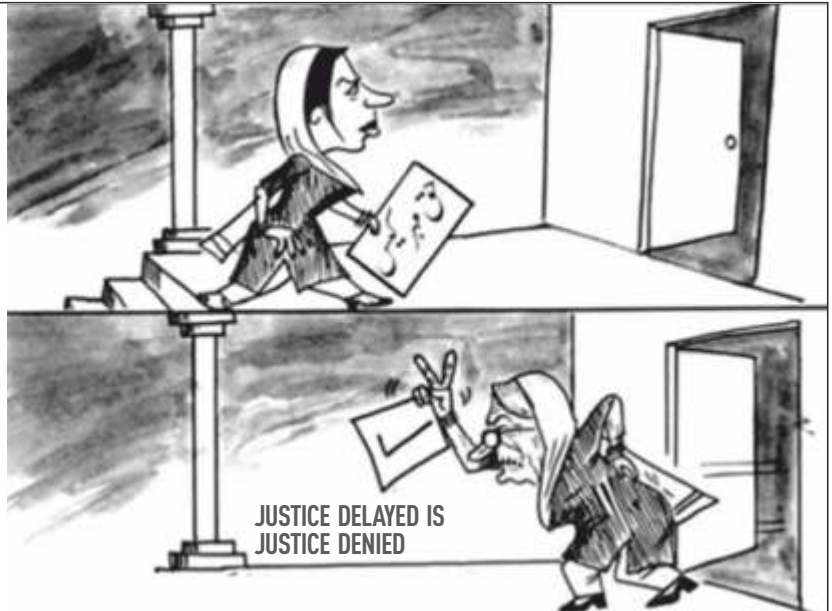
According to the Union Department of Consumer Affairs, 5,57,750 consumer complaints remain pending across the country as of December 2022. Of this, about 4.2 lakh complaints are pending in various District Commissions, 1.1 lakh complaints remain unresolved in State Commissions while the National Commission seems to be sitting on almost 22,000 complaints. This is in spite of having a disposal rate of 89%.

Banking, insurance, housing and electricity are the sectors with a large number of pending consumer disputes - 1.7 lakh pending complaints pertain to insurance, 72,000 complaints to banking and over 60,000 complaints are in the housing sector.





**When the government pushes the consumer commissions to reduce the high pendency rate, most complaints are handled in a hasty manner. This impinges on the quality of decisions as while Justice Delayed is Justice Denied, Justice Hurried is Justice Buried!**



negates the very purpose of filing a consumer complaint!

Therefore, the prevailing mindset of most consumers is to accept things as they are; the recourse available will not work out anyway!

**The manufacturers and service providers, on their part, seem to intentionally push the consumers to 'go to court' by overlooking their complaints. It is as if they don't care about spending money on the litigation and are even prepared to pay the huge compensation that the consumer commission may direct in its verdict. Not that this will pinch them much either, as the additional cost gets absorbed by the price of the product/service! So, be prepared for a hike in the price following a spate of consumer complaints!!!**

organised by the union Consumer Affairs Ministry on the same subject. The Minister of Consumer Affairs, Mr. Piyush Goyal even pushed for ending all pendency by the National Consumer Day in December.

However, all this talk turns out to be mere lip service without any concrete action failing to emerge as usual.

The number of complaints stockpiling in consumer commissions is truly alarming. And the consumer complaints pending with public and private service providers is anyone's

guess. Why don't we decree time-bound proceedings to ensure that the complaints are disposed within the prescribed time? Why can't we make it mandatory to reveal the data on pending complaints by private companies and public regulatory agencies?

### Conclusion

Immediate action is needed as the high rates of pendency of consumer complaints can completely wipe out the trust and reliance of consumers in the justice system! ▶

### Is This Called Action?

The country recently celebrated the momentous National Consumer Day under the theme of 'Effective Disposal of Cases in Consumer Commissions'. Prior to this, workshops have been

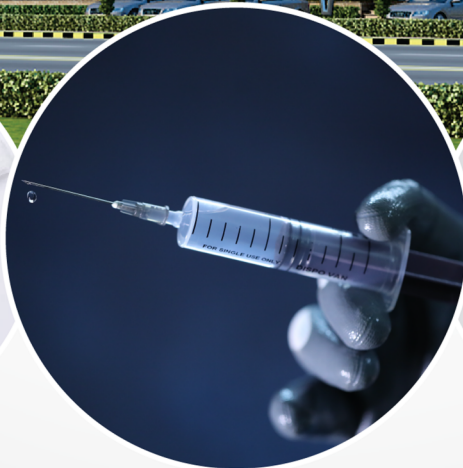




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## Can We Redefine the Efficacy of **Consumer Commissions?**

A Supreme Court appointed committee carried out a detailed scrutiny of the functioning of the consumer commissions across the country and reported on their dysfunctional status while suggesting remedial measures.



**WHO IS THE** most important person in the market? As buyers and users, it is the consumer's pocket that creates demand. Indeed, because of the purchasing power, the consumers are the backbone of the economy and drive the engine of the market.

It follows that, ideally, the products and services sold to them should be of the highest order. Alas, manufacturers, traders, retailers, service providers, et al try to get by with delivering a flawed customer experience on different levels. The consumer is considered a passive recipient in the big game and expected to quietly consume the products and services offered to him/her.

The Consumer Protection Act is in the consumers' corner - it established consumer dispute grievance redressal forums to institute a direct connect with the consumer while delivering speedy redressal. Colloquially called consumer court, this was established as a quasi-judicial body in 1988 to provide access to justice to consumers against malpractices, and to reduce the burden on the traditional court systems.

Consumers can use these platforms to file complaints against any defect in goods purchased or deficiency in any services including any unfair/restrictive trade practices. But, alas, the entire machinery has turned out to be a mammoth failure riding on its sheer incapability to deliver justice on time! Even after years of litigation and fighting for a favourable order, justice remains elusive for consumers. To add salt to injury, applications filed by them to speed up the execution of orders lie undisposed for days, months and even years.

Of the total **25,28,986** complaints received in Consumer Commissions in the country, **19,71,236** had been disposed of as of **24th December, 2022**

(Source: Ministry of Consumer Affairs, Government of India)

Indeed, consumers do have recourse to redressal mechanisms through various governance initiatives taken by the centre. However, whether they prove to be really effective is another question altogether. There is delay in disposing of matters on the one hand and rising pendency of complaints on the other!

Everyone from the union Minister of Consumer Affairs, Food and Public Distribution in 2003, Mr. Sharad Yadav to Mr. Piyush Goyal today have been calling upon the consumer commissions to dispose of complaints by strictly adhering to the prescribed time limits. Even the Supreme Court has time and again urged the national, state and district commissions to ensure timely disposal of complaints.

But all to no avail! Meanwhile, the complaints keep piling up. And consumer complaints related to online transactions are also making their way into the mix. Of the total complaints registered on the National Consumer Helpline in May 2022, 38% to 40% pertained to e-commerce trade.

**...it is important for us to stand firm beside consumers and through commissions ensure that consumers are not cheated and their rights are not violated.**

**– Rohit Singh,**  
*Secretary,*  
*Department of Consumer Affairs,*  
*Government of India*



Meanwhile, the inordinate delay in disposing consumer complaints results in the miscarriage of justice even as it increases the cost of litigation. The only way out is to make the process of dispute adjudication simpler and quicker with a thrust on alternate dispute redressal methods like mediation, arbitration, etc.

### Attempting to Empower Ordinary Consumers

In January 2016, the Supreme Court appointed a high-level committee to look into the functioning of consumer commissions and suggest remedial measures. This was on the heels of a PIL highlighting the appalling pendency of grievances in consumer forums for 14 years. The bench of Chief Justice T S Thakur and Justices A K Sikri and R Banumathi took the views of additional solicitor general Maninder Singh who informed that the Centre recognised the importance of removing deficiencies in the commissions to make them effective and efficient for speedy disposal of consumer disputes.

The three member panel comprises of former Supreme Court judge Arijit Pasayat, former Delhi High Court judge Rekha Sharma and the Union Secretary for Consumer Affairs or his nominee on board. They were asked to visit the states to carry out a nine-point scrutiny and give a factual ground report on the state of consumer forums in the country. This includes:

- (i) The infrastructural requirements of the State Commissions, deficiencies in infrastructure and remedial measures
- (ii) The position of vacancies of members at the national, state and district level
- (iii) The need for additional benches at the national, state and district level
- (iv) Conditions of eligibility for appointment of non-judicial members
- (v) Administrative powers which have been or should be conferred on the presiding officers of the state and district forums
- (vi) Service conditions including pay scales governing the presiding officers and members



**No Government is serious about consumer fora and close to 10,000 complaints have been pending in different states for the last 20 years while 40,000 complaints have been pending for more than 10 years!**

**– Committee report**

- (vii) Requirements of staff
- (viii) Creation of a separate cadre of staff at the national, state and district level
- (ix) Other relevant issues

Therefore, the Committee was called on to not just evaluate the need for, say, more office space, but also the difficulties faced by litigants before submitting its recommendations.

Commencing work in February 2016, the Committee inquired extensively into the matters referred to it and made an assessment of the prevailing conditions in the states of Orissa, Maharashtra, Punjab, Haryana, Andhra Pradesh, Telangana, Jammu and Kashmir, Tamil Nadu, Bihar and Jharkhand. The prevailing position at the National Consumer Disputes Redressal Commission as well as the State Commission in New Delhi was also analysed.

### **A Sobering Reflection Emerges**

An interim report was submitted in October 2016 which showed the mirror on a reality that was far removed from the goals and objectives of the Consumer Protection Act, 1986. The findings revealed that:

- The consumer forums do not function as effectively as expected due to a poor organisational set up.
- The available infrastructure is grossly inadequate. The report states that the Committee, during its visits to the states, found that there are no proper courtrooms with lights, fans, chairs and tables. The record rooms are also either too small and have no almirah, shelves or compactors to keep the files.

**The files are kept in the open and often get misplaced or eaten by termites.**

- There is a serious absence of adequate and trained manpower. The Committee highlighted that, “The condition of Chambers of the Presiding Members is pathetic. They do not have adequate or trained staff. They do not have stenographers for taking dictations. At some consumer fora, there are no peons to retrieve the files from the record room.”
- The adjudicating bodies face a shortage of qualified members. The Committee listed various reasons for this, like:
  - ▶ absence of proper remuneration
  - ▶ appointment of former judicial officers who lack motivation and zeal
  - ▶ appointment of practicing lawyers as presiding officers of district forums

- ▶ political and bureaucratic interference in appointments
- Benches of the state and district forums lack punctuality. In many cases, they sit for barely two or three hours every day, and remain non-functional for months due to lack of quorum.
- Orders are not enforced like other orders passed by the civil courts

**The Central Government provides funds for construction of the new buildings, carrying out additions/alterations/renovations of existing buildings and grants for acquiring non-building assets such as furniture, office equipment, etc. The state governments have to provide the land for construction of new buildings for the consumer fora. The Committee noted that the state governments have not been quick enough to allot land for construction of consumer fora in their respective states.**

### **Appointments to the Commissions**

The Committee revealed that the selection for the posts of presiding officers and members of the forums lacks transparency without a fixed criteria. It was found that the bureaucrats, politicians and judicial fraternity show undue favour to their people and appoint them on vacant positions of non-judicial members in consumer commissions. This prevents eligible candidates from joining the forums. Issues of conflict of interest also arise when persons from the local area are appointed to a district forum for that region.

Furthermore, at certain places, the non-judicial members gang up against the judicial members. The Committee observed that, “The former often act in unison against the presiding officer, while passing orders contrary to law, damaging the reputation of the adjudicating body. Presidents, as a result, prefer a situation where such non-judicial members absent themselves from work if only so that judicial work can be carried out by the presiding judge impartially and objectively.”

The quality of non-judicial members at the state and district levels remains poor even on account of the low remuneration which is paid to them. Not only does this vary from state to state, but often becomes too meagre to attract qualified talent. Most of the non-judicial members are not even capable of writing or dictating small orders. Many of them attend work only to sign orders which have been drafted by the presiding officer.

The Committee proposed that a written test should be conducted to assess the knowledge of candidates applying for posts in the district forums. It also opined that it is necessary to confer upon the President of the National Commission the power to recruit and transfer staff to obviate delay in appointments.

Furthermore, it was noted that the state governments - responsible for timely filling up the vacancies of the Presidents and members in the State and District Commissions - fail to keep the time limit. The Committee came across instances where the state governments took 7 to 10 months to approve the recommendations of the Selection Committee. In order to maintain speedy disposal of complaints, the state governments should have a panel of candidates in place for filling vacancies to prevent delay in appointments.

**The state governments have failed to respond to the suggestions of the Committee for streamlining the state of affairs!**

The Committee concluded, "That these bodies which are vested with important functions of a judicial nature continue to work despite the prevalence of such adverse conditions and in the face of the apathy of the governments, both at the national and state level, is a matter which requires immediate intervention by this Court!"

The revelations that the consumer commissions are not functioning effectively as expected shocked the Supreme Court bench headed by the Chief Justice. It took note of the disclosures and called for action. Notices were sent to the Chief Secretaries of several states while the centre was directed to make policy changes.

The bench again issued directions asking the Centre to frame, within four months, Model Rules for adoption by



**A systemic overhaul of the entire infrastructure is necessary if the Consumer Protection Act, 1986 is not to become a dead letter!**

the state governments and submit it before the apex court for approval. The states were required to implement the recommendations of the committee within a period of three months. This was followed by several more directions for a 'systemic overhaul'.

**Consumer sovereignty is the primary and stated objective of government policy. But looking at the actual state of affairs of the consumer fora, which are in dire straits, consumers have bleak prospects in the near future. The consumer fora in almost all states, with a few exceptions, have not been provided even with minimum level of facilities required for their effective functioning.**

### Conclusion

It is only the presiding legislation which has changed since the six odd years of the release of the interim report. Everything else seems to have remained much the same. What is most unfortunate is that till date there has never been any public discussion on the report, even though it had recommended a prudent way forward that should have been implemented with utmost seriousness. ▶



Department of Consumer Affairs,  
Ministry of Consumer Affairs,  
Food and Public Distribution  
Government of India



मेरी सरकार





**Consumer awareness in rural and semi-urban areas is still very low and the role of consumer forums are rarely known to people at large. The government's initiative of consumer awareness campaign 'JagoGrahakJago' had a very limited impact and people are hardly aware of them.**

*- Observations of Justice Pasayat Committee*

## Delay in Disposing Complaints – Belling the Cat!



An independent think tank doing legal research evaluated the functioning of the Consumer Dispute Redressal Commissions in Karnataka and recommended measures to improve their cost-effectiveness, efficiency and access. While this is a state-specific analysis, both the findings and the suggestions relate to the consumer commissions across all parts of the country!



**VIDHI CENTER FOR** Legal Policy – an independent think tank doing legal research to help make better laws – released a report by their JALDI (Justice, Access and Lowering Delays in India) initiative in November 2020. Titled 'Enforcing Caveat Venditor: An Evaluation of Consumer Dispute Redressal Commissions in Karnataka', it was co-authored by Deepika Kinhal, Lead and Senior Resident Fellow and Aditya Ranjan, Research Fellow.

The researchers analysed the functioning of the state and district consumer commissions in Karnataka and evaluated their performance against the spirit and objectives of the Consumer Protection Act, 1986 (prior to the new Act of 2019 coming into force). They also examined the structure of these consumer commissions to understand their functioning. The corresponding report evaluates the efficiency of these commissions in handling consumer complaints and identifies issues that compromise access to justice for litigants. It also suggests measures to improve the case management practices at these commissions.

The study focused on the Karnataka State Consumer Dispute Redressal Commission along with six District Consumer Dispute Redressal Commissions situated in Bengaluru:

- Bangalore Urban District Commission
- Bangalore Urban I Additional District Commission
- Bangalore Urban II Additional District Commission
- Bangalore Urban III Additional District Commission
- Bangalore Urban IV Additional District Commission
- Bangalore Rural District Commission

## Methodology

The researchers adopted both qualitative and quantitative methods to analyse the functioning of these consumer commissions. They thoroughly studied the entire gamut of applicable laws and rules as well as parliamentary debates and committee reports to gain an in depth understanding of the consumer protection framework along with its changing facets.

A thorough analysis of case data was undertaken to study the flow of complaints covering:

- Filing of cases
- Disposal of cases
- Pendency of cases
- Adjournments in Consumer Commissions
- Subject matter of disputes
- Execution of orders

The complaint details were accessed for a period of five years – from 2013 to 2017 – from ConfoNet as recorded as on 31st July, 2018. Additionally, quarterly and monthly statistics reports were studied to gauge the

broader trends (as received from the State Commission for July 2019).

Extensive interviews were conducted with various stakeholders – from the administrative staff, registry officials, members and President of the commissions to lawyers and litigants to incorporate their concerns and experiences. 14 administrative staff, 5 members of Registry, the Judicial Member of the Karnataka State Consumer Dispute Redressal Commission and the officer at District Collectorate handling Consumer Commission matters were interviewed through customised questionnaires in December 2019.

## Key Findings

### High Vacancies in Consumer Commissions Across Bengaluru

Three out of the six commissions analysed were operating with only one member with only Bangalore Urban IV Additional District Commission having a full quorum. Further, the 66% vacancy in the position for lady members across the Commissions in Bengaluru raises further concerns over the implementation of the provisions of the Act. (see Table 1)

Analysis of District Commissions across Karnataka indicated 43% overall vacancy in adjudicatory positions and 53% vacancy in positions for lady members which compromise the effective functioning of these commissions.



**The number of members in District Commissions was restricted to three (including the President) under the 1986 Act. The new Act increased the minimum number of members in a State Commission from three (including President) to five while allowing the Central Government to prescribe an upper limit for the members for District Commissions.**

### Uneven Distribution of Workload Leading to Inefficient Use of Resources

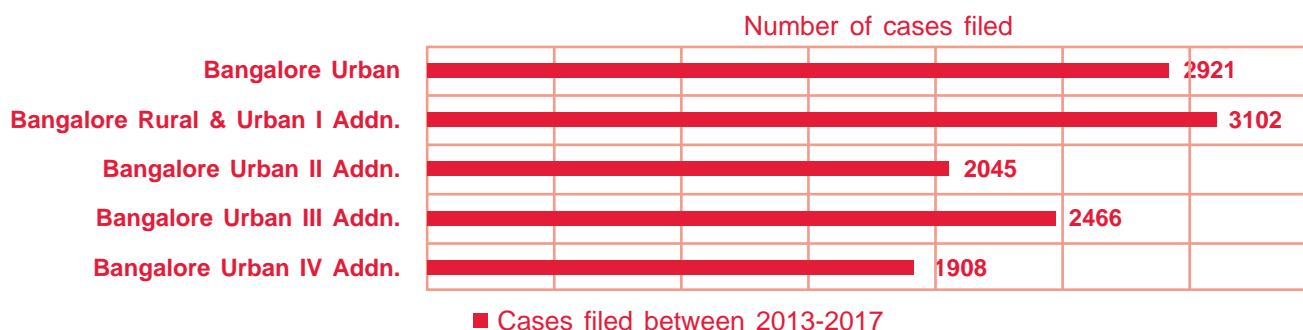
The Karnataka Government has established four additional District Commissions in the Bangalore Urban district to share the caseload and provide efficient dispute redressal. However, due to uneven distribution of caseload, some of them handle significantly more complaints than others, resulting in inefficient use of the available resources.

Although the Bangalore Urban and four additional District Commissions have the same bench strength, the Bangalore Urban District Commission and Bangalore Rural and Urban I Additional District Commission dealt with 1.5 times the number of complaints filed in Bangalore Urban II and Urban IV Additional District Commissions. (see Table 2)

**Table 1: Composition of Karnataka State Consumer Dispute Redressal Commission and District Commissions (located in Bengaluru as on 31 August 2019)**

Filled Position		Total Sanctioned Strength: <b>18</b>
Vacant Position		Total Vacancies: <b>08</b>
		Percentage of vacancy: <b>44.44%</b>
		Number of Lady Members: <b>02 out of 06 (66.67% vacancy)</b>

**Table 2: Number of complaints filed in Bangalore Urban district between 2013 and 2017**



**Table 3: Number of complaints with party in-person appearance between 2013 and 2017**

Year	Bengaluru Urban	Bengaluru Rural & Urban I Addn.	Bengaluru Urban II Addn.	Bengaluru Urban III Addn.	Bengaluru Urban IV Addn.	State Commission- Appeals	State Commission- Complaints
2013	93	2	36	0	124	14	6
2014	123	23	63	7	76	78	15
2015	188	113	117	7	54	44	19
2016	136	7	73	0	3	55	20
2017	69	18	70	26	48	81	22

### Low Party In-Person Appearance Rates Leading to Cost Ineffectiveness

The Consumer Commissions were established with an aim to offer an accessible and cost-effective justice where consumers can file complaints in-person, doing away with the need for representation through advocates. However, the study indicates that not many consumers utilise this option.

In the Consumer Commissions located in Bengaluru,

only 7.2% of disputes filed between 2013 and 2017 were represented by party in-person (see Table 3). The dependence on advocates intensifies in the Karnataka State Commission when compared to the District Commissions indicating that consumers tend to prefer advocates and agents in high value disputes. The involvement of lawyers in the process increases the cost of the dispute resolution and creates barriers for consumers to approach the Consumer Commission.

### Filing of Appeals Uneven, Disadvantaging the Geographically Dispersed

The Consumer Protection Act empowers the disputing parties to challenge the orders of the District Commissions by filing an appeal in the State Commission. The study tries to determine the extent of access to the State Commission from different districts across Karnataka which revealed that proximity to the State Commission is a factor in exercising the right of appeal.

Analysis of appeals filed between 2013 and 2017 in Karnataka State Commission located in Bengaluru shows that parties in Bengaluru and nearby districts such as Mandya, Hassan, Tumkur and Mysore stand to benefit as the number of appeals are substantially higher than districts in the north like Bijapur and Gulbarga (see Chart 1).

### Age of Pending Complaints and High Pendency Clearance Time Points to Need for Additional Resources

As of 31st July, 2019, 64.3% of pending complaints in the Karnataka State Commission were filed before 2018. A total of 5,463 appeals and 1,263 complaints were pending for more than one and a half years (see Table 4). The pendency in District Commissions in Bengaluru is lower, but the age of pending complaints is still concerning. Out of the 2,754 pending complaints, 38.2% were filed before 2018 (see Table 5).

Considering the pendency and disposal numbers as on 2018, it will take seven long years for the Karnataka State Commission to dispose of all pending appeals and complaints, even when no other appeals or complaints are filed. The Pendency Clearance Time has increased from less than 0.2 to around 7 in a period of 10 years (see Table 6), which indicates the lack of capacity in the State Commission to handle the already existing backlog, while adding additional complaints to the backlog year after year. There is an urgent need for additional resources - both in terms of infrastructure and personnel - to address the pending caseload.

### Adjournment Key Reason for Delay in Dispute Resolution

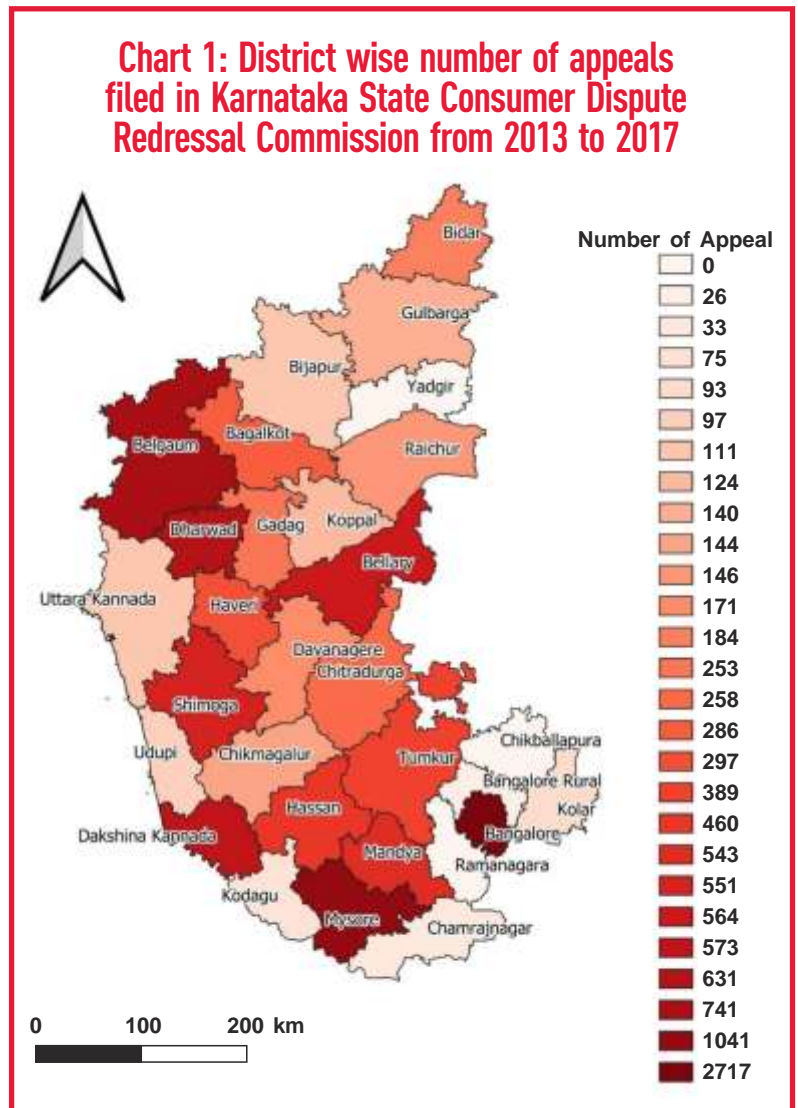
Adjournments are one of the major causes of delay in the dispute resolution process. The analysis of proceedings in complaints filed between 2013 and 2017 highlights that adjournments are highest at the arguments stage. On an average, a complaint gets adjourned 15.9 times at the arguments stage in Karnataka State Commission and 7.5 times in the District Commissions situated in Bengaluru.

The Consumer Commissions should limit these adjournments to ensure an efficient dispute resolution process. (see Table 7).

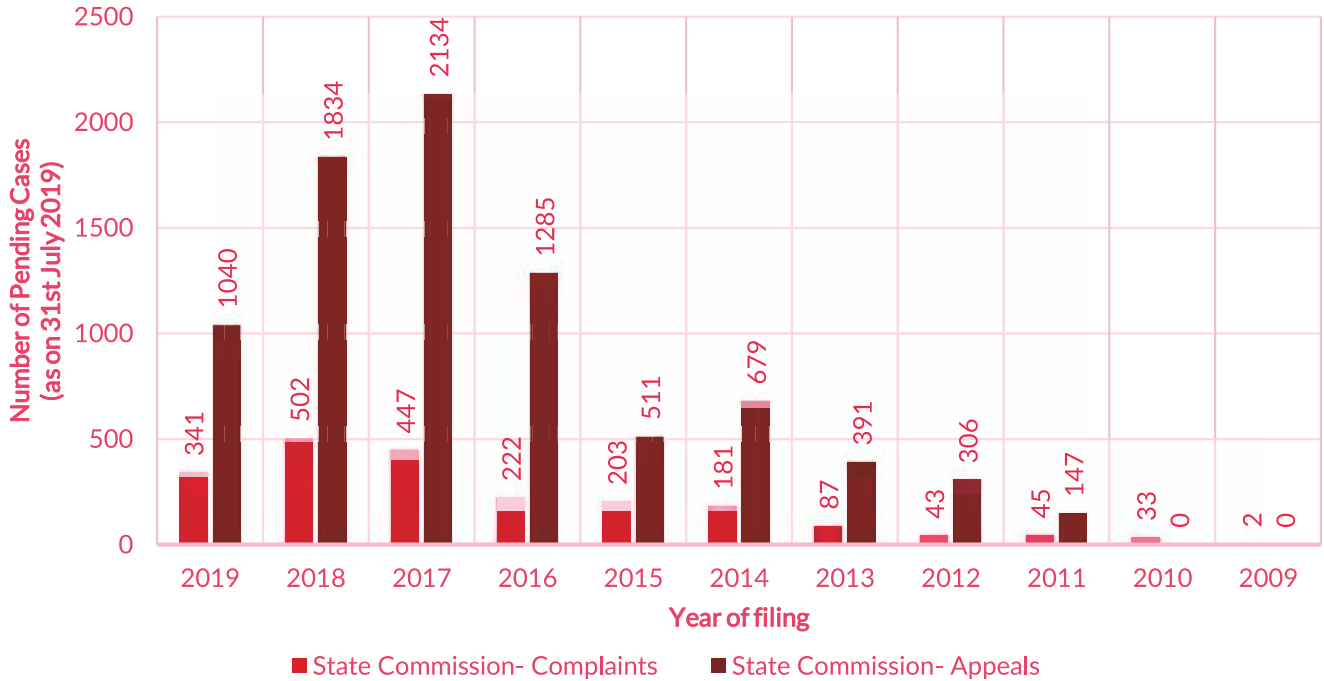
### Execution of Orders Remaining Pending Due to Staff Shortage

Execution Applications (EA) are filed by the parties to enforce the order of the Consumer Commission. There has been a 287% in the number of EAs filed in the District Consumer Commissions in Bengaluru and the State Commission between 2013 and 2017. Further analysis of EAs filed in 2013 in the Consumer Commissions situated in Bengaluru shows that 56.9% of them were pending even after five years of filing (see Table 8). The lack of dedicated staff (bailiffs) for execution of orders and high dependency on already overburdened police and District Collectorate contribute to the delay in execution. This compromises the rights of the consumers who have already contested a long complaint proceeding to attain a favourable order.

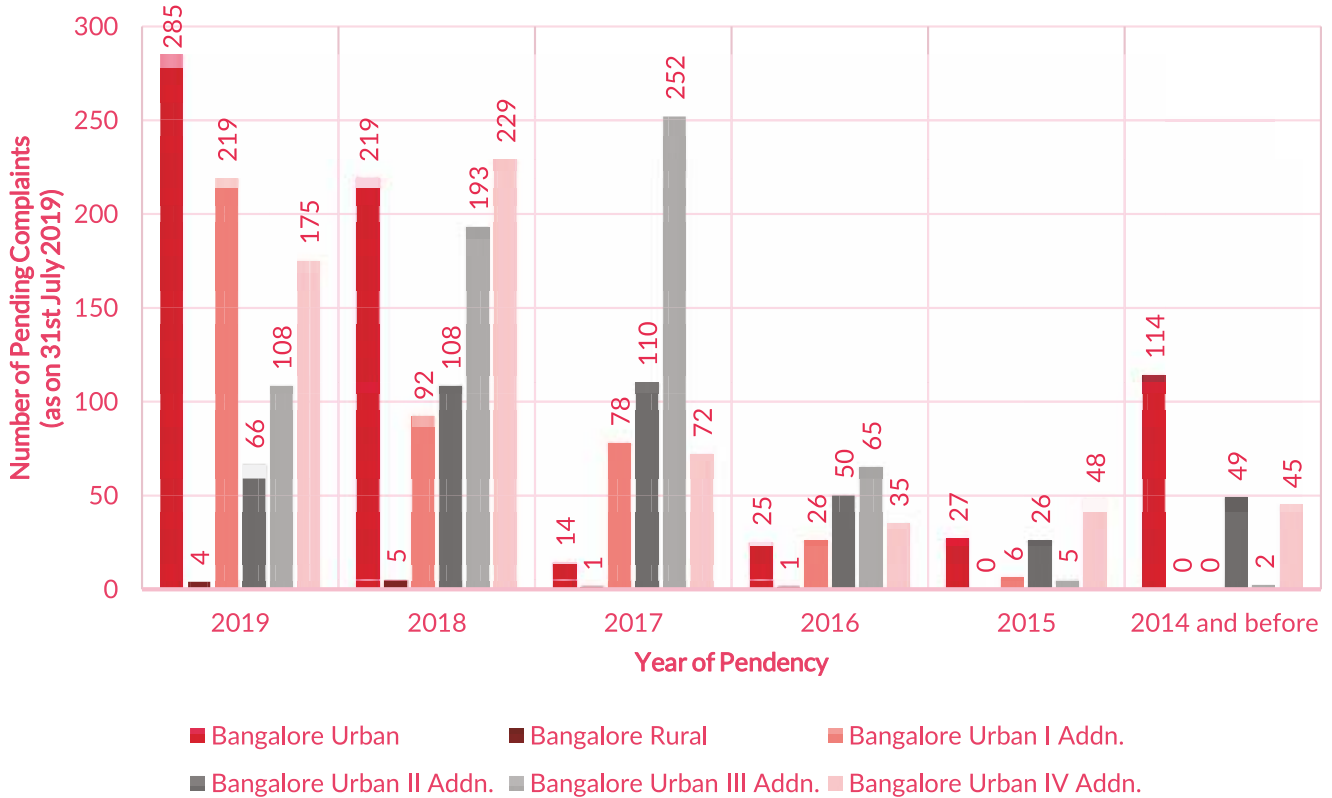
**Chart 1: District wise number of appeals filed in Karnataka State Consumer Dispute Redressal Commission from 2013 to 2017**



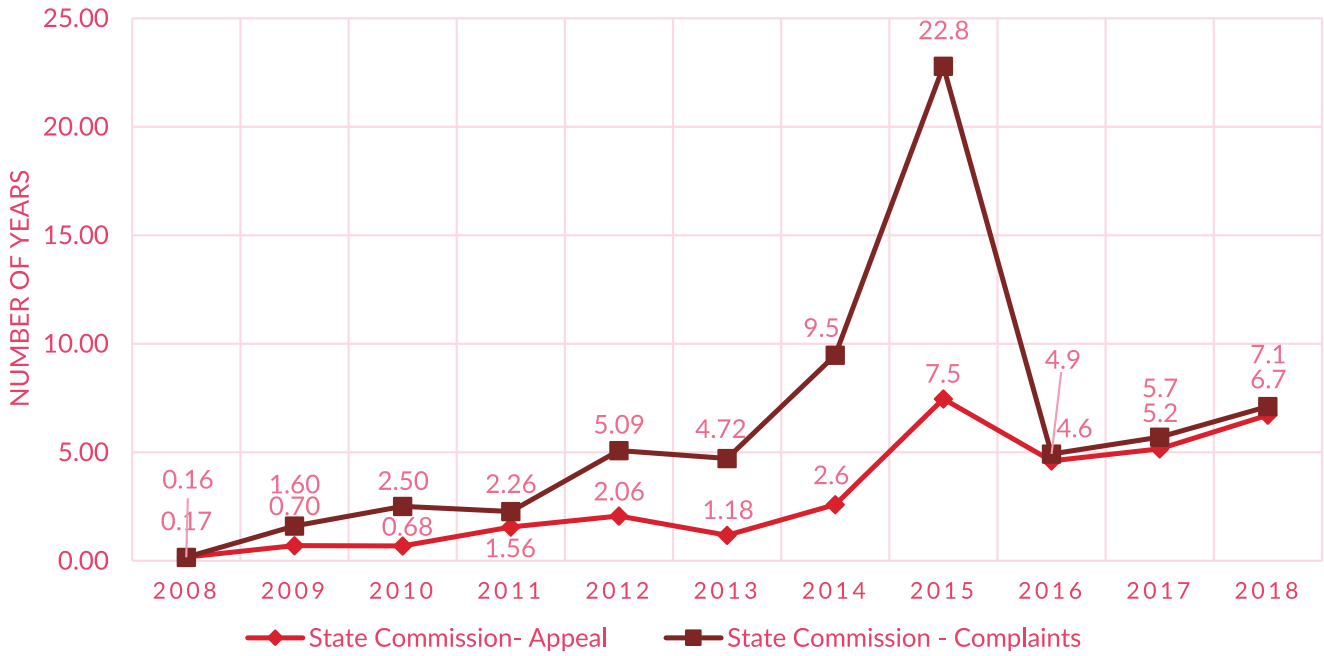
**Table 4: Pending complaints and appeals in Karnataka State Consumer Dispute Redressal Commission categorised based on the year of filing (as on 31 July 2019)**



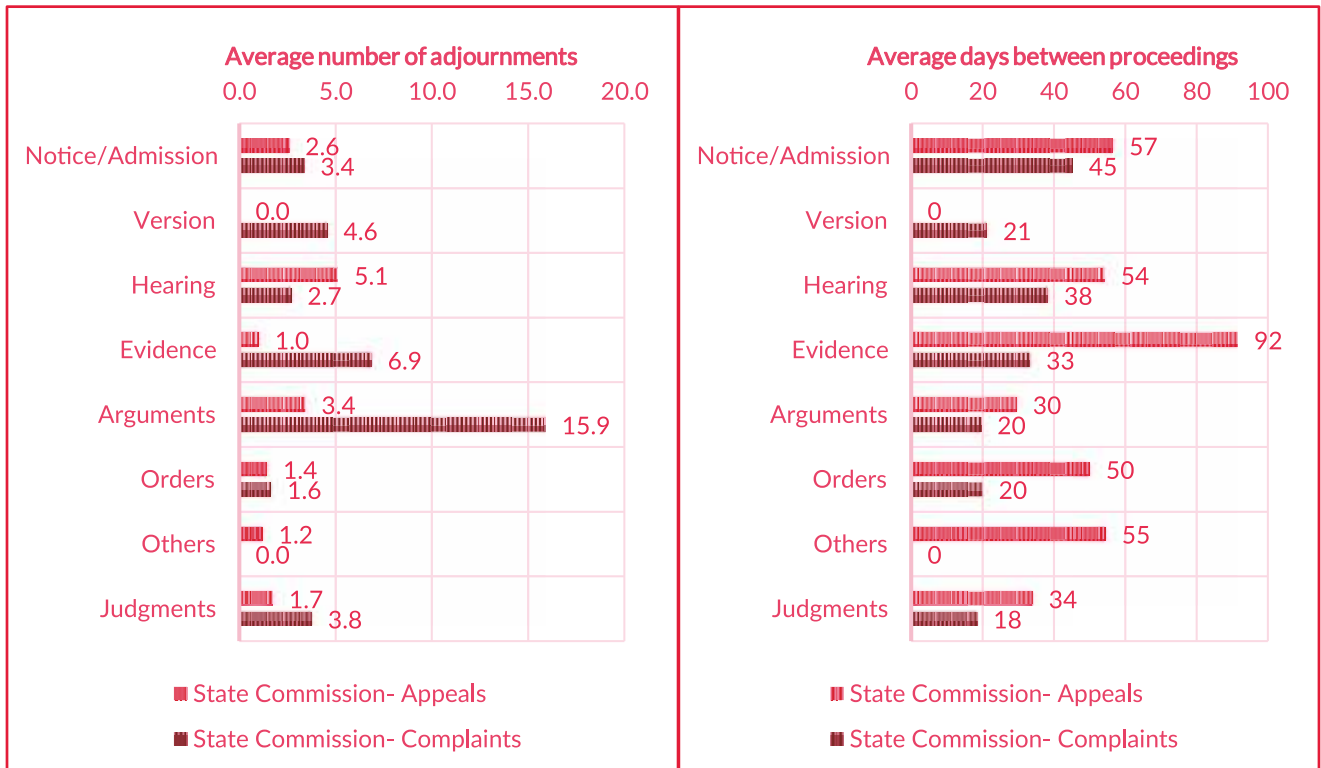
**Table 5: Pending complaints in District Commissions categorised by the year of filing (as on 31 July 2019)**



**Table 6: Pendency clearance time for the Karnataka State Commission (in years)**

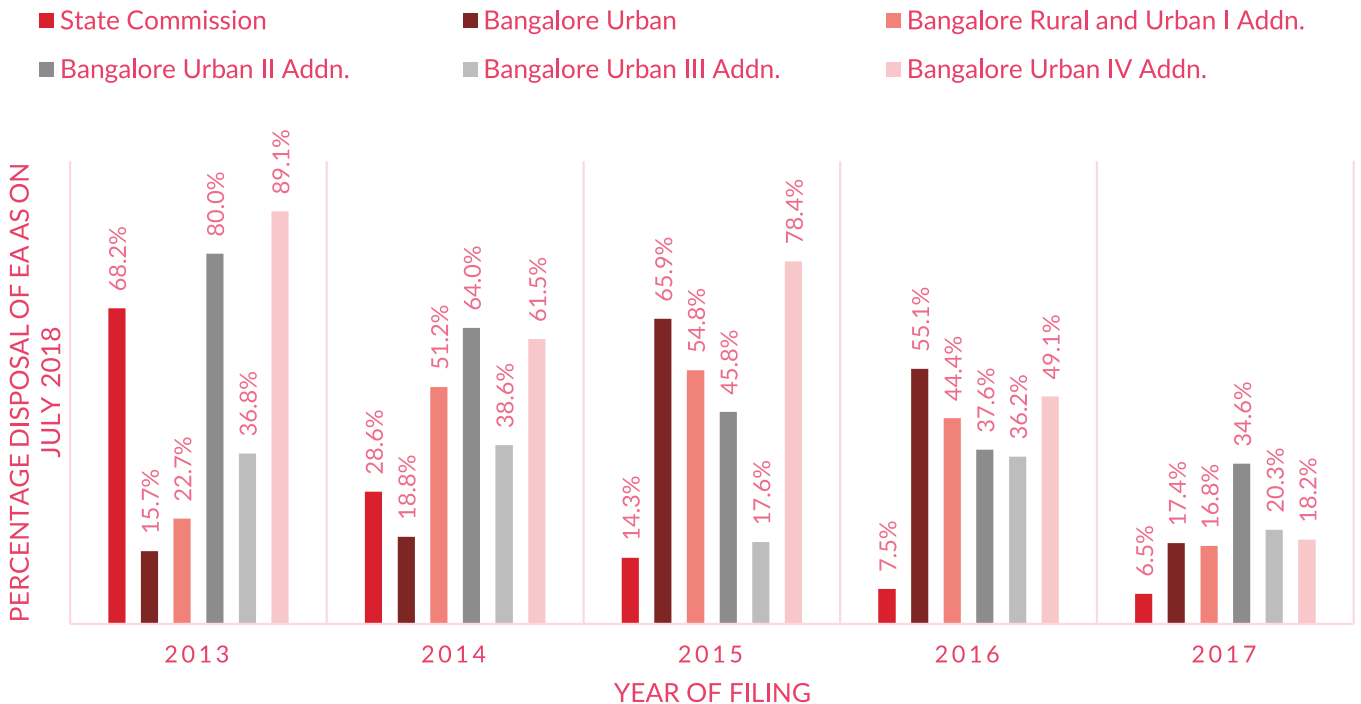


**Table 7: Average number of adjournments per stage (left) and average days between hearings per stage (right) at the Karnataka State Consumer Dispute Redressal Commission**





**Table 8: Percentage disposal of Execution Applications (EA) as on July 2018**



### Need for Dedicated Infrastructure for District Commissions

District Commissions located in Bengaluru are operating from rented spaces that lack proper ventilation, storage space and other necessary facilities. They need dedicated office space which offers an accessible environment to consumers and amenities for the administrative staff.

### Recommendations

Based on the analysis, the report suggests the following measures to improve the effectiveness of Consumer Commissions in Bengaluru:

- Karnataka State Commission should address low disposal rates of complaints filed before it. As an immediate measure, the disposal of complaints should be prioritised to address its high pendency. Moving forward, the available capacity should be balanced to provide efficient redressal to complaints as well as appeals (from District Commissions) filed before the State Commission.
- Prioritisation of disposal of disputes which have been pending before the Consumer Commissions for more than 5 years.
- Limiting adjournments to ensure efficient dispute redressal.

- Conducting training for administrative staff to increase efficiency of the Consumer Commissions.
- Establishing a consumer-friendly procedure to increase accessibility for consumers and reduce dependence on lawyers for dispute resolution.
- Establishing four regional benches of the Karnataka State Commission in Mysuru, Shivamogga, Belgavi and Ballari to increase the capacity of the State Commission and eliminate distance barriers for consumers residing across the state.
- Dedicated days in District Commissions and Karnataka State Commission for specific dispute categories. This will ensure efficient utilisation of available resources while providing special attention to address the high pendency of housing, banking and insurance disputes in Consumer Commissions.
- Integrating Online Dispute Resolution (ODR) into the consumer dispute resolution framework, offering accessible and cost-effective ODR service to the consumers.

### Conclusion

The above research has successfully identified the bottlenecks in the functioning of the consumer commissions and suggested reforms to improve efficiency and access to justice. Successful implementation of the same will not only improve the effectiveness of the commissions, but also make them more consumer friendly! ▶



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## WHEN WILL CONSUMER COMMISSIONS ACTUALLY SERVE THE CONSUMERS?

The government is trying its best to provide speedy and affordable justice to the consumers with timely disposal of complaints. Will the deliberations and recommendations actually turn into proactive actions remains another question altogether.



*Dwelling on the sorry report card of consumer complaints*

**ANURAAG SHARMA IS** at the end of his tether! A Hyundai car he purchased a couple of years back had some handling issues and he expected the manufacturer to replace it. On being refused by the company, he approached the consumer commission for assistance. But to no avail!

He has been making the rounds of the District Dispute Redressal Commission since years without getting any resolution. His lawyer even presented an expert who validated his claim in the commission. But a verdict seems to be nowhere on the horizon.

Meanwhile he is paying the monthly EMI without even using the car he had bought with so much gusto. Now he is tired of waiting now and feels trapped by the bitter experience of unending dates and hearings.

This is just one example of the harrowing experiences faced by innocent consumers in the commissions. The district, state and national commissions – also called consumer commissions – consider consumer right violations as a significant factor in their decision making process. They frown upon victimising consumers with poor service or inferior products and tend to dispose most complaints in favour of the consumers.

However, the final ruling itself is generally late in the coming!

## A Wakeup Call

Everyone from the union Ministry of Consumer Affairs to the consumer commissions are well aware of the alarming issue of pendency of complaints.

In June 2022, the Department of Consumer Affairs, Government of India organised a national workshop on 'Effective and Speedy Consumer Disputes Redressal' with the President and members of the National Commission, State Commissions and selected District Commissions along with Principal Secretaries of the State. The focus was on discussions and deliberations on effective, speedy and hassle-free

redressal of consumer disputes by understanding core issues faced by various consumer commissions across the country.

The Minister of Consumer Affairs, Mr. Piyush Goyal stressed that the consumer dispute redressal process needs to streamline operations, adopt digitisation and shake off unnecessary bureaucracy. He urged the consumer commissions to work at their full potential in the interest of consumers and dispose of the oldest pending complaints on priority.



Consumer commissions are the only hope for consumers who are in need of justice. Therefore, it should be the moral responsibility of everyone working in consumer commissions to consider their work not just as any job but as a service towards citizens!

– Mr. Piyush Goyal  
Minister of Consumer Affairs,  
Food and Public Distribution

Following are some of the recommendations put forth by the Honourable Minister for expediting disposal of complaints:

- Religiously follow the timelines as per the Consumer Protection Act, 2019 and stop citing vague filing rules to stretch the same. They should be able to dispose complaints within 3 to 5 months of filing.
- Reduce pendency by bunching similar complaints and dispose them together.
- Reconsider obsolete bureaucratic requirements such as three physical copies of documents and implement

e-documentation while facilitating all document submission and other processes to be online. Shifting to the digital mode of work like the rest of the central government machinery will simplify the process and lead to more effective and affordable justice system.

- See how digital media such as WhatsApp and email can be generously used to issue notices, replies and other documents.
- Facilitate virtual hearings and e-disposal in all complaints just like e-filing of consumer complaints through e-daakhil portal.
- Use services of BIS and NABL accredited laboratories for timely resolution of consumer grievances which require product testing and analysis.
- Take a suo moto decision to follow the central pattern on vacations as there is a lack of uniform vacation schedule for consumer commissions in the country and the state commissions continue to have long vacations.
- Introspect on how to simplify the process of filing a complaint, else, more and more people will stop filing complaints.

The Secretary of the Department of Consumer Affairs, Government of India also sent a letter to the Chief Secretaries of all States/UTs and all consumer commissions requesting

Mr. Piyush Goyal highlighted the need for developing a sense of sensitivity and sympathy towards the fact that most of the complainants in the country's consumer grievance redressal mechanism are poor, weak consumers.

He also warned that the National Consumer Disputes Redressal Commission (NCDRC) should think about how to quickly become more effective. Otherwise, the entire government mechanism risked becoming obsolete.



**Rohit Kumar Singh,**  
Secretary, Union

Department of Consumer Affairs highlighted that the four steps of information and technology - information, interaction, transaction and transformation - should be inculcated in the process of IT-enabled grievance redressal system such as e-filing, online hearing, e-court, e-mediation and e-disposal. He further emphasised that even with the necessary procedures and IT enablement, 'determination' is the key motivator and urged everyone to put collective efforts to achieve speedy and timely redressal.

them to sensitise the consumers about the e-daakhil portal and encourage them to file their grievances through the online mechanism.

### Conclusion

Delayed disposal and huge pendency continue to remain a major challenge even though everyone seems to be working towards resolving the issues with the consumer grievance dispute redressal mechanism. So where does the problem lie? Will the consumers really get speedy justice ever? ▶

Mr. Piyush Goyal proudly announced at the National Consumer Day celebrations in Delhi that the disposal of complaints has doubled to nearly 90,000 in a short span of six months.



Justice R.K Agrawal, President of NCDRC drew attention to the inadequate strength of judges and cited that the judge to population ratio is 21:1 million. He called for judicial impact assessment, case/court management, classification and assignment of complaints in a scientific manner.

## National Workshop for Effective and Speedy Consumer Disputes Redressal



- Digital media such as WhatsApp and e-mail can be used for speedy consumer complaint redressal
- Emphasis on affordable justice to Consumers
- The Government is taking proactive steps to encourage mediation
- Consumer Commissions should be able to dispose cases within 3-5 months to provide speedy justice
- Like e-filing, importance should also be provided to e-disposal



**The Union Minister of State for Ministry of Consumer Affairs, Food and Public Distribution Ms. Sadhvi Nirajan Jyoti** in her keynote address underlined that we are all consumers in our day-to-day life and would definitely expect speedy redressal of our grievances. Further, she quoted that "*Jaisa hamara kathan ho vaisa hi hamara chintan hona chahiye*" in respect to finding solutions to deliver speedy justice to consumers.

## EMPOWERING CONSUMERS WITH ACCESS TO FORUMS FOR REDRESSAL



In case of any deficiency in goods or services, a consumer has the right to approach the consumer commissions constituted for redressal of grievances. These institutions are simple and informal in nature. They are kept free from the complicated judicial procedures and other shackles of the civil courts.

**THE CONSUMER PROTECTION Act, 1986** was a unique piece of social welfare legislation specifically enacted to protect the interests of the consumers. It provided effective and efficient safeguards against various forms of exploitation and unfair dealings.

In case of violation of consumer rights, the consumer has the right to file a complaint and expect an effective resolution. Accordingly, a three-tier quasi-judicial structure was established to address grievances of consumers and settle consumer-related disputes in a cost-effective manner. The authorities were charged with providing speedy redressal of consumer complaints along with compensation for the inconvenience suffered.

While the Consumer Protection Act became a weapon in the hands of consumers to fight against exploitation by unscrupulous traders, sellers, manufacturers and service providers, timely and efficient redressal of grievances was still lacking.

This Act was replaced 33 years later by the new Consumer Protection Act, 2019 to overcome the innate deficiencies and shortcomings while also addressing the emerging challenges like e-commerce, direct selling, telemarketing, misleading advertisements and more. It again focusses on ensuring simple, speedy and inexpensive access to redress consumer grievances by overcoming the inherent lacunae in the previous regulation.

Apart from widening the ambit of the Act, the new law has broadened the definition of the consumer and established an independent authority for consumer protection (Central Consumer Protection Authority – CCPA). It has also introduced flexibility in both the place and form of filing complaints. Let us take a look at the provisions related to redressal and adjudication of consumer complaints in detail:

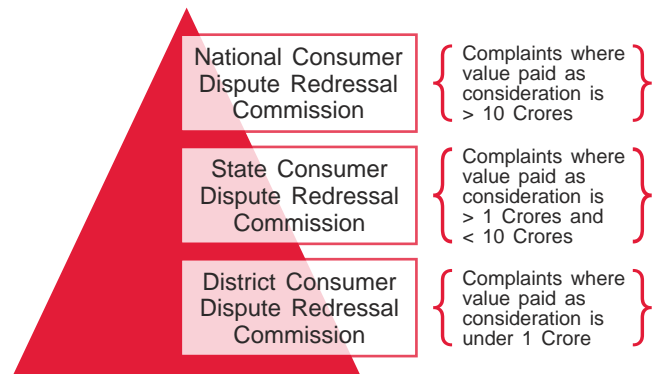
**Section 2 of the Consumer Protection Act, 2019 lays down that a consumer can make a complaint in the following circumstances:**

- Loss or damage caused due to unfair contract, unfair or restrictive trade practice of a trader or service provider
- The article purchased is defective
- The service availed suffers from any deficiency
- A trader or service provider has charged a price in excess of the stipulated price
- Goods or services, which will be hazardous to life and safety when used, are being offered for sale to the public
- A claim for product liability action can also be made against the product manufacturer, product seller or product service provider, as the case may be.

## Consumer Disputes Redressal Agencies

The modified three-tier machinery comprises of:

- District Consumer Disputes Redressal Commission (also known as District Commission): There is a DCDCRC in every district. It entertains complaints where the value of goods or services paid as consideration does not exceed Rs. 1 crore.
- State Consumer Disputes Redressal Commission (also known as State Commission): There is a SCDRC in every state. It entertains complaints where the value of goods or services paid as consideration is between Rs. 1 crore to Rs. 10 crores.
- National Consumer Disputes Redressal Commission (also known as National Commission): The NCDRC is located in New Delhi and entertains complaints where the value of goods or services paid as consideration exceeds Rs. 10 crores.



**At present, there are a total of 673 consumer commissions in the country - one National Commission, 35 State Commissions and 637 District Commissions. (Source: Ministry of Consumer Affairs, Government of India)**

A complaint has to be instituted in a Consumer Commission within the local limits of whose jurisdiction –

- the opposite party resides or carries on business or has a branch office or personally works for gain
- where the cause of action, wholly or in part, arises
- the complainant resides or personally works for gain

**It is noteworthy that the new Act has enhanced both the territorial and pecuniary jurisdiction in favour of the consumers and to ease the burden on the apex body.**

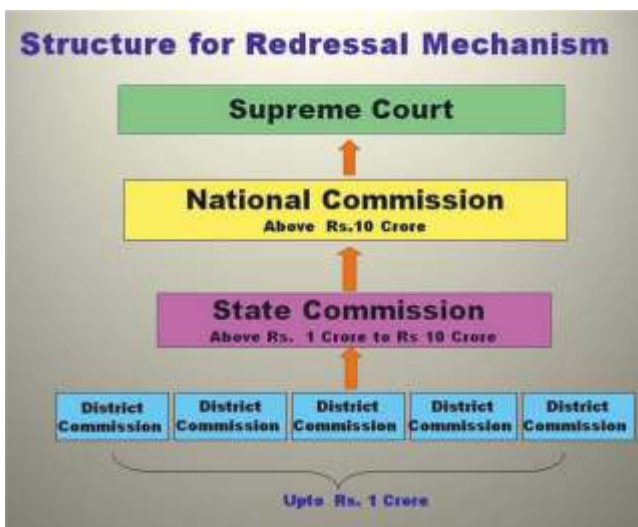
In case a consumer is not satisfied with the order passed:

- An appeal petition against the Order issued by a District Commission can be filed before the State

Commission within 45 days from the date of receipt of Order.

- An appeal petition against the Order issued by a State Commission can be filed before the National Commission within 30 days from the date of receipt of Order.
- An appeal petition against the Order issued by a National Commission can be filed before the Supreme Court of India within 30 days from the date of receipt of Order.

**A second appeal cannot be filed unless a substantive question of law is involved**



Reliefs available to consumers from Consumer Commissions:

- Removal of defects from the goods
- Removal of defects or deficiencies in the services
- Replacement of the goods
- Refund of the price paid
- Award of compensation for the loss or injury suffered
- Discontinue and not to repeat unfair/restrictive trade practice
- Withdraw hazardous goods from being offered for sale
- Cease manufacturing of hazardous goods and desist from offering services which are hazardous in nature
- If the loss or injury has been suffered by a large number of consumers who are not identifiable conveniently, to pay such sum (not less than 25% of the value of such defective goods or services provided) which shall be determined by the commission
- Issue corrective advertisement to neutralise the effect of a misleading advertisement
- Provide adequate costs to the parties

### Procedure for Filing a Complaint

- A complaint can be filed on a plain paper. Stamp paper is not required.
- The complaint can be filed with the applicable consumer commission, the District Collector, Commissioner of the regional office or the CCPA.
- Complaints filed with the District or State Commission should be in three sets while the National Commission requires four sets. Additional sets equal to the number of opposite party(s) also have to be furnished.
- A complaint can be filed by the complainant in person or by his/her agent. It can even be sent by registered post.

**It is not compulsory to engage a lawyer to file or represent a complaint. The consumer can do it himself/herself or through a representative.**

The complaint petition should contain the following particulars:

- Name and complete address of the complainant
- Name and complete address of the opposite party/parties
- Date of purchase of goods or services
- Amount paid for the above purpose
- Particulars of goods purchased with numbers or details of services availed
- Details of complaint should be explicitly mentioned
- Bills/receipts and copies of connected correspondence, if any
- Relief sought
- Complaint should be signed by the complainant or his authorised agent.

A nominal fee is applicable for filing complaints where the value of goods or services paid as consideration is above Rs. 5 lakh. (see Table 1)

**While complaints could only be filed in writing earlier, the new Act provides for electronic filing facility as well. Therefore, complaints can now be filed online on government portals like - <https://consumerhelpline.gov.in/> or <https://edaakhil.nic.in/> and also on mobile apps like - NCH app, Umang app or Consumer app.**

**Complaints can even be registered by calling the National Consumer Helpline number 1800-11-4000 or 1915 or sending a text message to 8800001915.**



**TABLE 1:**

Sl. No.	Value of goods or services paid as consideration	Amount of fee payable (in Rs.)
	<b>District Commission</b>	
(1)	Upto rupees five lakh	Nil
(2)	Above rupees five lakh and upto rupees ten lakhs	200
(3)	Above rupees ten lakh and upto rupees twenty lakhs	400
(4)	Above rupees twenty lakh and upto rupees fifty lakh rupees	1000
(5)	Above rupees fifty lakh and upto rupees one crore	2000
	<b>State Commission</b>	
(6)	Above rupees one crore and upto rupees two crore	2500
(7)	Above rupees two crore and upto rupees four crore	3000
(8)	Above rupees four crore and upto rupees six crore	4000
(9)	Above rupees six crore and upto rupees eight crore	6000
(10)	Above rupees eight crore and upto rupees ten crore	6000
	<b>National Commission</b>	
(11)	Above rupees ten crore	7500

**A complaint has to be filed within two years from the date on which the cause of action arises. However, a complaint may also be filed after two years, if the complainant satisfies the Commission that he/she has sufficient reasons for not filing the complaint within such period.**



**The Supreme Court has expressly laid down that consumer commissions do not have the power to extend the time given to the opposite party beyond the stipulated 45 days!**

**(Decision of the Constitution Bench of Supreme Court of India in New India Assurance Company Ltd. Vs. Hilli Multipurpose Cold Storage Private Ltd. delivered on 04.03.2020 and reaffirmed by the Supreme Court in the case of M/s Daddy's Builders Pvt. Ltd. & Another vs. Manisha Bhargava and Anr. decided on 11.02.2021, and Diamond Exports & Anr vs. United India Insurance Company Limited & Ors decided on 14.12.2021.)**

To facilitate consumers in online filing of complaints, NCDRC launched the e-Daakhil portal on 7th September, 2020. This serves as a hassle-free, speedy and inexpensive facility for consumers to conveniently approach the relevant consumer forum from anywhere without having to travel and be physically present to file their grievance. They can also pay the fees electronically and track the process online.

E-Daakhil has many features like e-notice, case document download link & VC hearing link, filing written response by opposite party, filing rejoinder by complainant and alerts via SMS/email.

As of 31st August, 2022, more than 23,600 complaints have been filed using the e-Daakhil Portal and more than 84,600 users have registered on the portal. Presently, the e-Daakhil facility is available in around 700 consumer commissions, which includes the National Commission and consumer commissions in 33 states and union territories. The application was launched in Dadar and Nagar Haveli and Daman and Diu State/District Commissions from 30th September, leaving just Ladakh and Jammu and Kashmir to be onboarded.

### Commission-wise Case Status since inception (07-09-2020 to 31-08-2022)

Commissions	Complaints Filed	Admitted Complaints	Disposed Cases	Pending Cases
NCDRC	4,957	4,355	73	198
SCDRCs	1,204	964	50	914
DCDRCs	17,479	271	766	3,589
<b>Grand Total</b>	<b>23,640</b>	<b>5,590</b>	<b>889</b>	<b>4,701</b>

The fees can be paid in the form of a crossed Demand Draft drawn on a nationalised bank or through a crossed Indian Postal Order drawn in favour of the President of the District Commission/Registrar of the State Commission/Registrar of the National Commission, as the case may be.

### Timelines for Disposal

The Consumer Protection Act, 2019 stipulates that every complaint should be disposed of as expeditiously as possible.

On the receipt of a complaint, the consumer commission should send a copy to the opposite party within 21 days, directing them to share their version of reply to the notice within a period of 30 days. This period can be extended by a maximum of 15 days only.



ConfoNet (Computerization and Computer Networking of Consumer Commissions in Country) is an internet-based Case Monitoring System developed for automating the work flow of the consumer commissions, starting from complaint registration right till the announcement of judgment. It is focused on improving operational efficiency, co-ordination, accessibility, speed in judicial administration and to set Information Communication Technology (ICT) infrastructure at consumer redressal commissions all over India. It aims at providing:

- E- Governance
- Efficiency
- Transparency
- Systematisation of working
- Achieving time bound delivery of justice to the consumers

Consumers can easily check the complaint status, case history, judgment and other details that have been uploaded by the national, state and district commissions on <https://confonet.nic.in/>.



If the opposite party fails to take any action or represent his case within the stipulated time, the commission should proceed ex-parte on the basis of the evidence brought to its notice by the complainant.

Moreover, the said consumer commission should decide on the complaint within a period of 3 months from the date of receipt of notice by opposite party where the complaint does not require analysis or testing of commodities and within 5 months if it requires analysis or testing of commodities.

### Conclusion

The existing system is excellent in spirit as it strives to safeguard consumer rights and resolve their disputes. But the actual execution on the ground leaves much to be desired! ▶

**“Inclusion of cases in the Lok Adalat can certainly be a factor which would result in early disposal of the cases.”**



## **Dr. Justice ARIJIT PASAYAT**

is a former judge of the Supreme Court of India. He hails from Orissa, where he practised in matters relating to taxation and constitutional affairs before the Orissa High Court while also taking up other commercial cases. He has been appointed to various elevated positions such as additional judge in the Orissa High Court, Chief Justice of Kerala High Court and Chief Justice of Delhi High Court. He has also held the position of Executive Chairman of the National Legal Services Authority.

Justice Pasayat headed the Supreme Court appointed high-level committee to look into the functioning of consumer courts and suggest remedial measures. He speaks to The Aware Consumer about the state of consumer commissions in our country.



**Q With your rich experience and insight, can you please share your views on the excessive pendency of cases in the various commissions functioning under the provisions of the Consumer Protection Act 2019. What do you think can be done to reduce the backlog?**

Inclusion of cases in the Lok Adalat can certainly be a factor which would result in early disposal of the cases. It would be appropriate for the legal aid authorities to organise Lok Adalat specially for consumer protection cases. It is a part of the legal aid mechanism to organise legal literacy camps. The authorities can organise such camps specifically for consumer protection cases.

**Q Does inordinate delay in justice lead to miscarriage of justice?**

The Committee had clearly stated that the number of cases pending before various Commissions was alarmingly large and ran into thousands in some States. This is certainly a factor which has weighed with the parties in seeking resolution of their disputes. The number of adjournments in the old pending cases is primarily because of the feeling that any decision in the matter after such long time will be really of no consequence.

**Q Why are the provisions of the new Consumer Protection Act, 2019 related to time-bound disposal of cases not being enforced?**

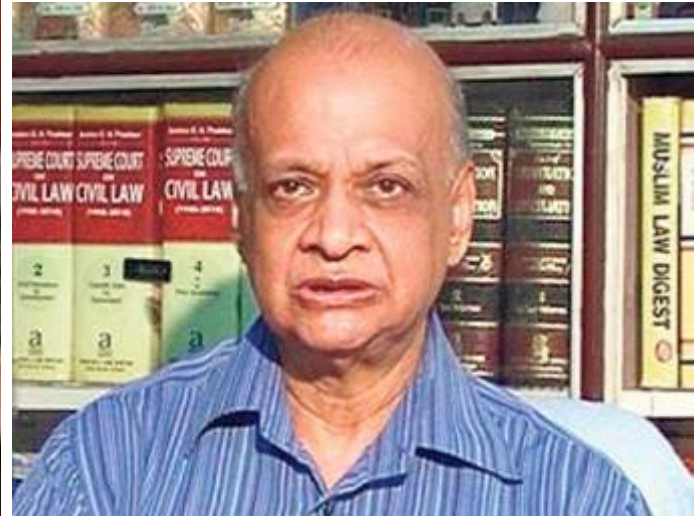
The Consumer Protection Act, 2019 has to a great extent provided for redressal of violation of Consumer

Protection rights. Though the statute is comprehensive, much still depends upon the implementation of various provisions and the practical reality of long pendency which renders the ultimate relief non-effective. Though the statute provides for time bound disposal of cases, the practical realities render that objective illusory.

**Q According to you, what steps should the Hon'ble Supreme Court of India take based on your report as the Chairman of a Committee by the Apex Court and the recent Suo Motu Writ Petition (Civil) No. 2 of 2021 dated October 21, 2021 under the Article 32 of the Constitution of India?**

The concern shown by the Hon'ble Supreme Court regarding the delayed disposal of proceedings was amply reflected when it passed order in the Suo Motu Writ Petition (Civil) No.2 of 2021. Taking into account the objectives behind the enactment of the Consumers Protection Act, the Hon'ble Court wanted to know the reasons for long pendency of cases. In the report submitted by the Committee chaired by me, the major factors for such delay were highlighted to be:

1. Inadequate infrastructures for the functioning of the District Level and State Level Commissions;
2. Considering the non-uniform payments to Members of the aforesaid Commissions in various States, there was reluctance in joining as Members or Chairman of such Commissions. Since the payments made to such Members were pittance, there was lack of seriousness in dealing with and disposal of the cases;



**The number of adjournments in the old pending cases is primarily because of the feeling that any decision in the matter after such long time will be really of no consequence.**

3. The concerned departments of the Central and State Governments were not giving due attention to the functioning of the Commissions.
4. It was noticed that in most States, the officers of the District and the State Commissions were situated at a long distance from the regular court premises. Since the lawyers practicing in Consumer Protection cases were basically dealing with the civil, criminal and revenue cases etc., they were not given priority to the Consumer Protection cases. The distance between the Courts and the Officers of the Commission was also a factor.

In the aforesaid scenario, concerted deliberations amongst various stakeholders including the concerned departmental authorities and the Commission Members and Chairman to find solutions are imperative.

**Q How can the Central Government bring efficiency and accountability among the states as related to consumer protection?**

No Government is serious about the functioning of the consumer commissions in the country. We had stated in 2017 itself that close to 10,000 cases have been pending in different States for the last 20 years while 40,000 cases were pending for more than 10 years. However, no concrete action has been forthcoming in this regard.

It will be fruitful if the centre ensures that the state governments take action well in advance for filling up of vacancies of President and Members and to maintain a panel of candidates for filling up of future vacancies also to avoid delay in appointments. The Circuit Benches from National Commission should frequently visit the States. Additional Benches can also be constituted in the State Commissions mainly to dispose of backlog of pending cases. The Central Government should provide financial assistance to the States/UTs for strengthening of infrastructure of consumer commissions including computerization and networking.

**Q What can be done to reduce the incredibly high rate of adjournments of consumer cases? What else can be done to restore the confidence of consumers in the Consumer Complaint Redressal System?**

Our committee noticed that the long seriousness of the Members and Chairman is not seriously viewed and definite yardsticks for disposal which are necessary to be fixed have never been done. This is leading to a sense of casualness that is affecting the delivery of justice to the consumers. I exhort upon the government and the senior officers to take all remedial measures for concluding all pending matters of consumer forums on priority. These should be sorted out under the laid down framework to ensure that consumers start trusting the redressal system that has been created to deliver justice to them. To add to this, educating the people about the rights on consumer protection is crucial! ▶



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- Tourism
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- Public Sector Insurance Companies
- National Saving Scheme of Ministry of Finance
- Employees' Provident Fund Organization
- Regional Passport Authorities
- Central Government Health Scheme
- Central Board of Secondary Education
- Kendriya Vidyalaya Sangathan
- National Institute of Open Schooling
- Navodaya Vidyalaya Samiti
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- ESI Hospitals and Dispensaries directly controlled by ESI Corporation under Ministry of Labour. ▶



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**Pyush Misra**  
Trustee,  
Consumer Online Foundation

## TIMELY RESOLUTION OF COMPLAINTS IS A CONSUMER'S RIGHT



“Can we quit the culture of making false promises to the consumers about protecting their rights and offering timely redressal of their complaints when we are routinely failing to honour the same?”

– exclaims Pyush Misra

**DELIVERING PROMPT JUSTICE** through quick redressal of consumer issues has turned out to be one of the biggest farces of our democracy. Right since the 1980s, the consumer right advocates have been championing the cause of speedy justice but to no avail.

Alas, this is a failure of the political and judicial system which have been reduced to merely a reward-seeking exercise. The purpose behind instituting consumer commissions was creating a dedicated and speedy alternative that avoided the redundant civil court procedures. Yet, the current system seems to be riddled with the same inefficiencies and intricacies. "The same ills have crept into the system," observed Suresh Misra, Professor and Chairman, Centre for Consumer Studies, Indian Institute of Public Administration (IIPA).

The mandate of resolving consumer disputes within 90 to 150 days remains a beautiful mirage that has never been realised till date. And it will continue to stay a distant dream given the current status and ongoing in the consumer commissions.

**Taking Regulatory Bodies to Task**

Does anybody even care about the Consumer Protection Act anymore? In fact, why does the government even bother to make laws when it is not concerned about ensuring compliance of the same? What is the use of burdening the system with regulations when they are not being implemented?

Come to think of it, why should the government spend its scarce resources on creating layers of consumer complaint redressal mechanisms when their performance always remains lacking? Is there any point in spending the taxpayers' money on regulators when they fail to provide justice to the consumers? Isn't paying the numerous officers their salaries an unnecessary strain on the public coffers when nothing good is coming out of the exercise?

Scrap the National Consumer Helpline, scrap the ombudsmen, scrap even IRDAI, TRAI, RERA, etc, when they cannot live up to their purpose!



**Smt. Droupadi Murmu, President of India**

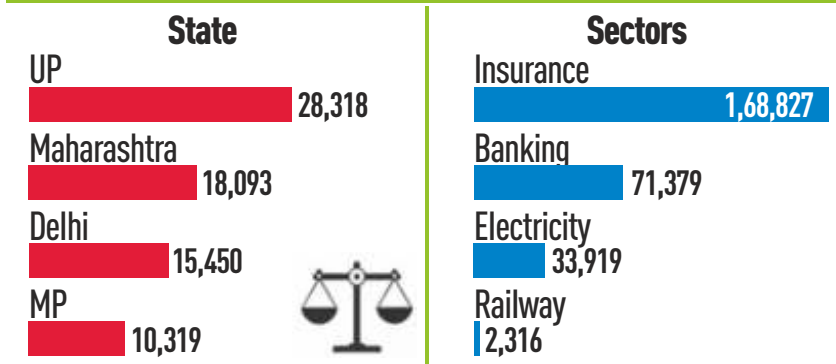
In her valedictory address at the Constitution Day celebrations in November last year, President of India, Droupadi Murmu severely criticised the functioning of the courts in India. She urged the executive, judiciary and legislature to evolve an effective dispute resolution mechanism to mitigate the people's plight.

While her comments were for the judicial system in general, they extend to the consumer grievance redressal machinery as well.

The Parliament is our supreme legislative body and its time is of utmost value in a democracy like India. Lack of obedience of the laws promotes dishonesty and corruption as traders, sellers and service providers feel they can get away with all kinds of unscrupulous behaviours. This in turn hinders the development of the country.

**HIGH PENDING**

**CASES PENDING BEFORE CONSUMER COMMISSIONS**



Why don't we start thinking in terms of taking note of the laws that have no compliance and take action on them? Why aren't there serious repercussions when consumer complaints remain unresolved beyond the stipulated time? Why can't government officers that nonchalantly tell consumers to 'go to court' be declared incompetent and removed from their duties?



## Complete Lack of Accountability

There is a characteristic apathy across the system. The judges take an oath to fulfil the responsibilities of their post. However, their duties seem to fall by the wayside as their efficiency remains markedly poor. As these officers are not held accountable to the consumers or to the government, the number of pending complaints continues to grow.

Judicial accountability can bring in an element of external pressure to clear the files in a time-bound manner. Action should be taken against judges that do not play by the rules and cause unnecessary delays in adjudicating the complaints. Till when can they be allowed to stay dormant?

To add to this, there is zero accountability from the states too. As is the norm, the centre drafts laws, but the states fail to implement them at the ground level. This applies to various provisions of the Consumer Protection Act including the timeframes mandated for speedy redressal of complaints.

Meanwhile, the centre and states continue to trade charges as usual. The states allege that they do not get enough funds from the centre to run the commissions while the centre points out that consumer affairs is a state subject. And even when the central government gives periodic grants and other disbursements, the states fail to use them properly.



**The Consumer Protection Regulations, 2005 required every Consumer Commission to dispose of at least 75 to 100 complaints per month. The appalling reality is that the rule**

**remained on paper with hardly any consumer court abiding by the specification.**

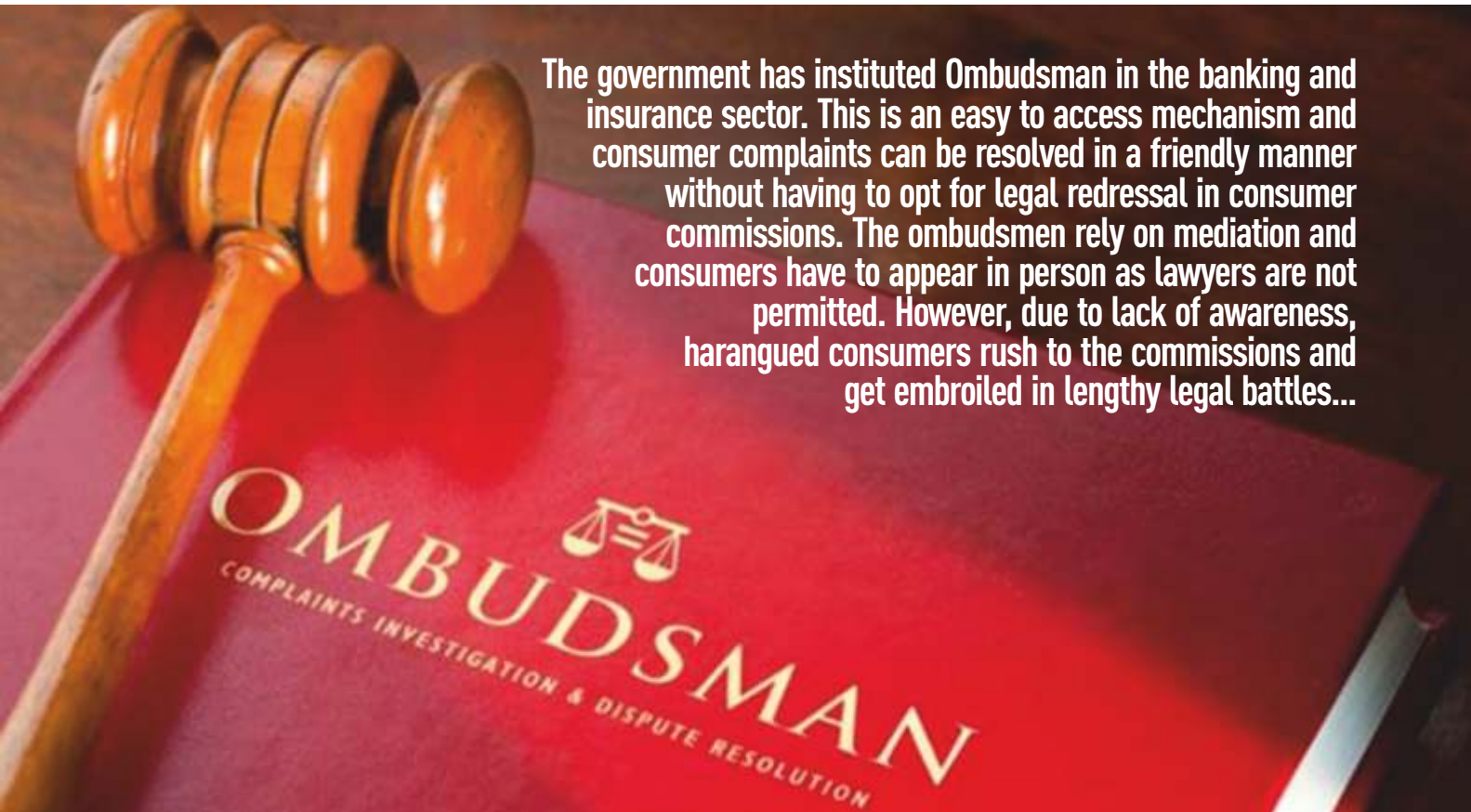
**And when we consider that more than 100 complaints are filed in the commissions every month, the backlog is bound to increase!**

Why are the states in the habit of according low priority to consumer rights? This lackadaisical approach and lack of political will has to change.

## Conclusion

The consumers' faith in the consumer protection regulations has hit rock bottom as they are repeatedly denied justice for genuine problems. What we need is a speedier justice system with timely delivery of justice on all counts. Scrupulously adhering to the time stipulations is the only way out here! ▶

**The government has instituted Ombudsman in the banking and insurance sector. This is an easy to access mechanism and consumer complaints can be resolved in a friendly manner without having to opt for legal redressal in consumer commissions. The ombudsmen rely on mediation and consumers have to appear in person as lawyers are not permitted. However, due to lack of awareness, harangued consumers rush to the commissions and get embroiled in lengthy legal battles...**



## Consumer Rights Take a Backseat with Rising Backlog of Complaints – Who is to Blame?

The excessively slow and delayed dispensation of justice in consumer commissions can be attributed to several technical and non-technical reasons. The forums have to clean up their act to ensure that the pendency does not end up defeating the very purpose of the consumer commissions and even the consumer protection laws!



*While consumers lament the pendency of their complaints, the commissions are overwhelmed with the pending complaints!*

**THE CONSUMER PROTECTION Act** is the blueprint for consumer rights in India. While the Act has always provided for timely and efficient redressal of consumer grievances, pendency of complaints in consumer commissions remains a major challenge that is only getting worse over the years!

**In 2020, official data retrieved from the online consumer case monitoring system, ConfoNet (Computerization and Computer Networking of Consumer Commissions in Country) showed that as many as 459 consumer complaints, revision petitions and appeals were pending with the National Commission for more than a decade.**

With over 550,000 complaints remaining pending in the various consumer commissions across the country, the immense backlog can be attributed to a bouquet of reasons. Let us take a look at some of them.

**Tareek Pe Tareek!**

The prime reason for the delay in disposing of the complaints is the long and unnecessary adjournments sought by the advocates, sometimes on the flimsiest of grounds.

Indeed, the most common modus operandi of lawyers (especially from the defendant's side) is to keep seeking adjournments for the complaint right until the final hearing. Postponing the hearing to a later date not only leads to an unnecessary slowdown of the decision-making process but also causes the complaints to keep piling up.

**In the National Consumer Disputes Redressal Commission(NCDRC), for every 100 complaints heard in 2022, there were 92 adjournments –63,249 adjournments took place in 68,810 complaints heard. The adjournment rate was 90% in 2019 and 87% in 2017.**

Advocates dream up the silliest of excuses for pushing an adjournment – imagine your complaint hearing getting postponed because the arguing counsel of the opposite party is getting married! “There have been instances when the next date for hearing is after months. The consumer has no option but to wait,” said a litigant who has been fighting a never-ending battle against a real estate firm in the NCDRC.

Ideally, there shouldn't be more than one adjournment in a complaint. However, in reality, there are at least 7 to 8 adjournments per complaint. To add to this, the length of adjournment is also ludicrously long with many complaints being deferred for a year or even more!

This is in spite of the Consumer Protection Act expressly stipulating that no adjournment shall ordinarily be granted by consumer commissions unless sufficient cause is shown and the reasons for grant of adjournment have been recorded in writing. The

commissions are also empowered to make such order as to the costs occasioned by the adjournment.

**The NCDRC, on February 26, 2020, adjourned the hearing of a complaint to March 3, 2021, when a request for adjournment was made on the grounds that the arguing counsel was unwell!**

**More Than Meets The Eye**

Can we overlook the fact that most big companies have a battery of lawyers that can keep stretching the case indefinitely? The legal team can even skilfully complicate the issues with legalese which a regular consumer will not be able to manage. Some even go to the extent of attempting to influence the judges or even the other party.

Consumer Affairs Minister, Mr. Piyush Goyal addressed the elephant in the room by directly advising the commissions, "Do not get influenced



**ConfoNet data shows that the average period of adjournment in the NCDRC during 2022 was 84 days. The average gap between hearings in the state commissions ranges from 90 to 110 days. Contrast this with the Consumer Protection Act, 2019 specification that an appeal must be disposed of within 90 days! The mandate is that all consumer complaints should be settled in 90 to 150 days.**

**Yearwise Adjournment report NCDRC**

Year	Number of Hearings	Number of Adjournments	Average Period of Adjournments (in Days)
2014	46925	36811	97.1
2015	49184	38671	88.55
2016	51883	43586	87.8
2017	64117	56122	93.58
2018	76452	68096	99.8
2019	75733	67962	113.18
2020	78788	74894	83.11
2021	69368	66405	129.26
2022	71072	65350	86.33



**“A practice of keeping the matter for final hearing after 45 days from the date of receipt of summons by**

**the opposite party must be adopted and a time limit should be given to each party for completing the arguments.”**

**– Kumar Deepraj,  
a lawyer based in Delhi**

by either consumer activists or big industry who request adjournments often. If you reduce adjournments, it will help in speedy justice and speedy disposal of cases.”

The only genuine reason to surface for the repeated adjournments is that the commissions often lack the technical expertise to decipher the intricacies of a complaint. “One of the reasons for delays is lack of technical expertise when a bench is dealing with a variety of complex matters pertaining to finance or insurance. Or when the manufacturer is not in the same state and many agencies have to be involved with the bureaucratic processes to be followed”, points out Mr. Gopal Ratnam, Secretary, Consumer Care Society, Bangalore.

### What is the Government Doing?

In May last year, the union Consumer Affairs Ministry sent notices to the national, state and district level commissions urging them not to grant adjournment for more than a month to ensure adhering to the timelines provided under the Consumer Protection Act, 2019. In case of any delay in resolving the complaints beyond two months due to adjournment requests, the commission may consider imposing costs on parties. Even in case of more than two requests of adjournment by either parties, consumer commissions may, as a measure of deterrence, impose costs on the parties.



**“It is something as simple as (examining) whether we can reduce the number of adjournments or reduce the long duration between two adjournments. That is in your hands, doesn't need any regulation or orders. It is your choice and that of the members or chairman of your commission.”**

**– Mr. Piyush Goyal**

Union Consumer Affairs Secretary, Rohit Kumar Singh clearly stated in the letter, “Frequent and long adjournments not only denies a consumer his right to be heard and seek redressal, but also takes away the spirit of enactment which the legislature intended. Therefore, consumer commissions are requested to ensure that in no circumstance adjournment for a long period is provided.”

### Other Factors Come into Play

The consumer commissions are overburdened due to many other reasons as well. Let us take the vacancies for instance. The government is notorious for delaying the filling up of vacancies in consumer forums. Why does the government not appoint replacements immediately for the vacancies arising in the commission due to retirements?

The Consumer Protection Rules, 2020 require that the process of appointments should be initiated by the state governments at least six months before the vacancy arises.

**At the end of December 2022, there were 46 vacancies in the State Commissions (including Presidents and members) while the number is 340 for District Commissions.**

**(Source: Ministry of Consumer Affairs, Government of India)**

And yet, the posts continue to lie vacant for months after they have been vacated!

Alas, the judges and other members that do get appointed are either clueless political appointees or retired judges who tend to approach the consumer complaints with a predominantly legal mindset. As a consumer rights activist points out, “They don't show a serious understanding of consumer issues or a consumer's state of mind!”

Another sad fact is that the number of benches itself is quite low (especially at the district level). Every district has only one district forum and this often proves to be woefully inadequate to meet the number of complaints filed on a regular basis.

The verdict also gets delayed when a judge or member happens to be on leave. Frequent absenteeism becomes an insurmountable hurdle at times.

Add to this, shortage of staff and inadequate infrastructure facilities. In fact, the commissions often lament the lack of resources and manpower as key reasons for pendency of complaints. The authorities should provide them the necessary administrative and technical support on an urgent basis.

Two high-level panels — Bagla Committee in 2000 and the Justice Arijit Pasayat Committee in 2016 — had made extensive suggestions to improve the working conditions of the commissions. But the lacunae continue to remain unattended.

### Working Hours

With all ongoing efforts failing to make any considerable dent in the pendency of complaints, questions are raised on whether the consumer commissions are actually functioning for the full working hours and hearing



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complaints. In fact, a counsel showed the cause list to the Delhi High Court which made it evident that the district consumer fora only sit for a limited amount of time between 11:30 am to 12:20 pm and between 12:20 pm to 1:10 p.m.

Following this, the Delhi High Court (in July 2022) sought a report from the Delhi State Consumer Commission on the status of working hours of all the consumer forums. Justice Prathiba M Singh stated, "The Consumer Forum(s) ought to function for the full working hours for hearing matters between 10:30 a.m. and 1:00 p.m. and from 2:00 p.m. to 4:00 p.m., on a daily basis, as per the regulations."

### Technical and Procedural Issues

It is not just about dilatory tactics and other loopholes; the consumer dispute redressal mechanism is weighed down by cumbersome procedures and other technical impediments too. The needlessly complicated, opaque and bureaucratic requirements add nothing to the justice process and only end up delaying the adjudication.

"One particularly absurd process that comes to mind is the tendency for them to require parties to file 'affidavits of admission/denial' and 'affidavits in evidence' which is 99.9% regurgitation of each party's pleadings," stresses Vaibhav Kumar, a lawyer practicing in consumer commissions in Delhi. He explained that this is a civil procedure which is not examined in consumer commissions and, therefore, becomes redundant. The need for admission or denial of documents also needs to be reevaluated.

Why don't the lawmakers take a closer look at the current practices in conjunction with the attorneys? Why don't they take a leaf out of the book of other countries that have a stronger consumer redressal system with robust remedies?

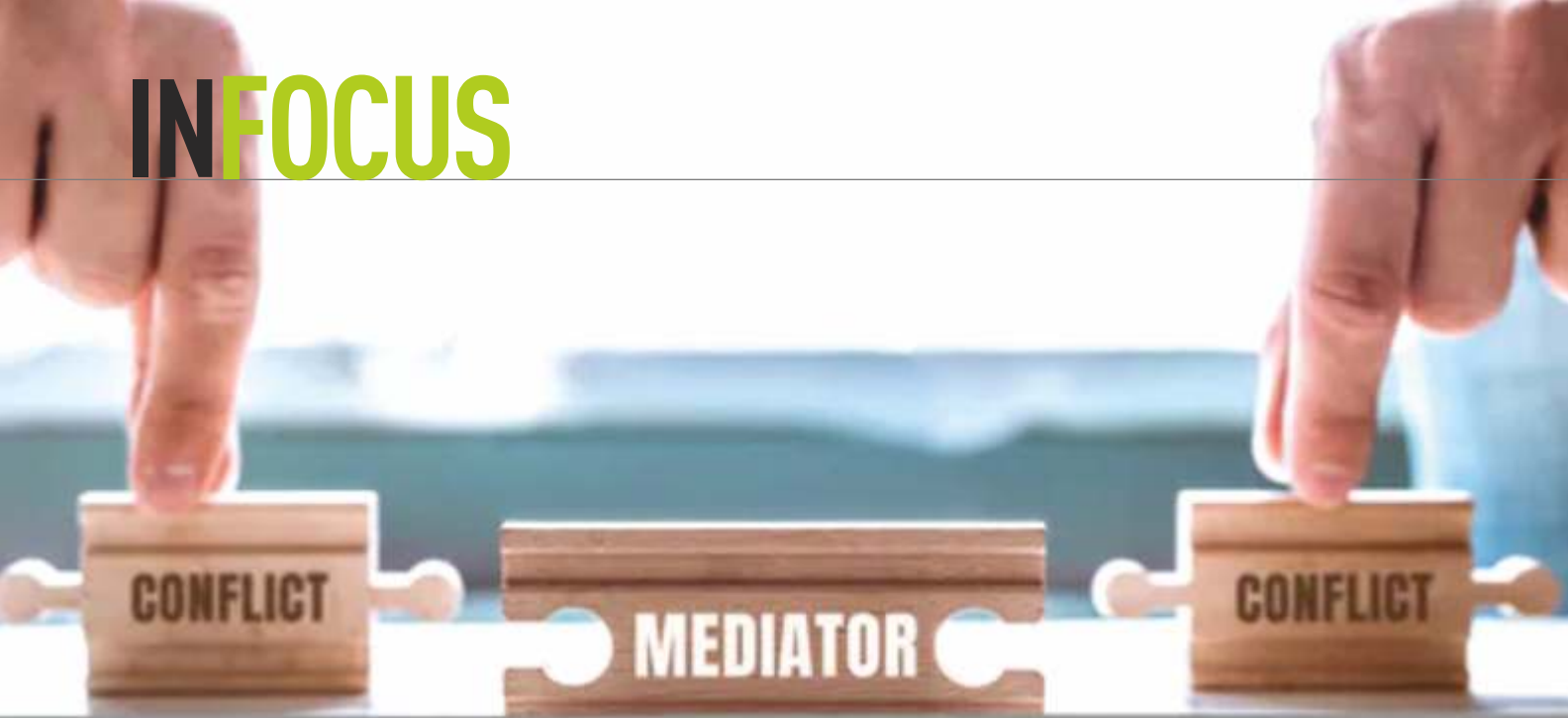
### Conclusion

The entire process is flawed and the poor consumer is the only one who suffers due to delay in decisions. He is the one who sits outside the courtroom for years waiting to get justice. With this fight for justice becoming almost endless, the consumer ends up frustrated and deeply demoralised. Well aware that the final outcome will take much longer than expected, many lawyers themselves advise clients to avoid filing a consumer complaint, especially those involving small sums of money! ▶



According to a report submitted by senior advocate Gopal Sankaranarayanan to the Supreme Court in December 2021, many district and state consumer redressal bodies do not have storage rooms to preserve case files or chambers for members appointed to hear complaints. In some instances, there were no courtrooms and even something as basic as washrooms were lacking.

The report even revealed that Rajasthan, Karnataka, Uttarakhand and Andhra Pradesh do not even have a dedicated and permanent building for the state consumer commission.



Voluntary and speedy resolution of complaints – the mediation way!

# The Mediation Alternative to Dispute Resolution

The age-old process of mediation has been internalised in a formal manner by the Consumer Protection Act, 2019 as an alternate dispute resolution mechanism that affords quick, easy, direct and prudent justice to the consumer. Whether it unfolds as expected is another question altogether.



**RESOLVING DISPUTES BETWEEN** two people through a neutral third party is the norm in informal circles since time immemorial. This kind of amicable settlement usually proves to be satisfactory as the parties themselves decide the outcome, thus increasing the rate of success.

Our ancient epic, the Mahabharat, is a classic example of using a mediator to resolve conflict, even though it failed miserably in this context. Diplomatic relations are always carved out on the backbone of mediation.

The Mediation and Conciliation Project Committee of the Supreme Court of India has defined mediation as, "a voluntary, binding process in which an impartial and neutral mediator facilitates disputing parties in reaching a settlement. A mediator does not impose a solution but creates a conducive environment in which disputing parties can resolve all their disputes."

In other words, the mediator helps the parties communicate and try to settle the dispute by reaching a mutually acceptable solution of the dispute. It should be noted that the mediator will never 'decide' the case.

## Mediation for Resolving Consumer Grievances

One of the highlights of the new Consumer Protection Act, 2019 is the stress on mediation as an Alternate Dispute Resolution mechanism. It expressly encourages the parties to undergo mediation as a faster and amicable mode of settling consumer disputes.

**A Consumer Commission may refer a consumer dispute for mediation at the first hearing of the complaint after its admission, or at any later stage (with the consent of the parties), if the Consumer Commission is of the view that there exists an element of settlement which may be acceptable to the parties. Also, parties at any stage of the complaint can opt for settlement through mediation.**

Accordingly, the Act provides for the establishment of Consumer Mediation Cells to be attached to each of the District Commissions, State Commissions and the National Commission. Following this, the central government also notified the Consumer Protection (Mediation) Rules, 2020.

**The mediation cells do not have appellate jurisdiction and their decision is deemed final. Both the complainant and respondent are bound to follow the order passed by a mediation cell. Either party cannot raise an appeal against the same.**

The Rules state that all consumer disputes can be referred for mediation, except the following matters:

- Matters relating to medical negligence resulting in grievous injury or death

- Matters relating to defaults or offences for which applications of compounding of offenses has been filed by one or more parties
- Complaints involving serious and specific allegations of fraud, fabrication of documents, forgery, impersonation or coercion
- Complaints relating to prosecution for criminal and non-compoundable offenses
- Complaints involving public interest or the interest of numerous persons who are not parties before the Commission

In any complaint other than those mentioned above, the Commission before which the complaint is pending may choose not to refer it to mediation if it appears to the Commission that there is no scope of a settlement which may be acceptable to the parties or that mediation is otherwise not appropriate having regard to the circumstances of the complaint and the respective positions of the parties.

**Mediation will not only save time and money of the parties involved in litigating the dispute, but will also help reduce overall pendency of complaints.**

## Who is the Mediator?

Every commission prepares a panel of mediators to be maintained by the Consumer Mediation Cell attached to it. The names are recommended by a selection committee comprising of the President and member of the Commission. The empanelled mediators have a tenure of five years. They are eligible to be considered for re-empanelment for another term.

The Commission will nominate a mediator from the panel for a complaint based on his/her suitability for resolving the consumer dispute involved. The mediator can be changed in certain situations.

The role of the mediator is to facilitate a voluntary resolution by helping remove any misunderstandings and generating options of resolution. He/she cannot impose any terms or settlement on the parties. In fact, the mediators are provided appropriate training to conduct the mediation and it is mandatory to attend the same.

**153 District Commissions, 11 State Commissions and the National Commission have established mediation centres so far - as stated by the union Ministry of Consumer Affairs in June 2022**

## How does it Work?

Upon the admission of a complaint, if a commission feels that it is fit for mediation, it can direct the parties to give their written consent, within 5 days, to undergo mediation. If the parties agree and give their consent, the commission shall refer the complaint to the mediation cell within 5 days.

Alternatively, the parties can themselves choose to file an application requesting reference of the dispute to mediation. On receiving such an application by any of the parties, consented by all the parties, the Commission may consider sending the matter for mediation.

The following points should be kept in mind for mediation:

- The parties can appear before the mediator in person, through their counsel or send an authorised representative.
- If a party does not participate in the mediation, the Commission can direct it to participate in the proceedings.
- The mediator's fee will be decided by the President of the Consumer Commission based on the nature of the dispute. It is shared equally by both the parties.
- When a complaint is referred for mediation, the complainant is entitled to receive a refund of the application fee paid for the complaint, but only if a settlement is reached between the parties.

**The mediator will be guided by the principles of natural justice and fair play.**

Following are the functional stages of the mediation process (as laid out in the Mediation Training Manual of India by the Supreme Court committee):

- **Introduction And Opening Statement** - The Mediator establishes neutrality by disclosing everything about himself before explaining the process to the parties. The focus is on developing a good rapport with the parties, gaining their confidence and trust and creating a healthy environment that will be conducive for constructive negotiations. He will also try to motivate the parties for an amicable settlement of the dispute.
- **Joint Session** - This session is for the common hearing of all the parties of the dispute. The mediator will gather information while providing an

**The time period provided for mediation is three months. The mediation shall stand terminated on expiry of three months from the date of first appearance before the mediator unless the time for completion of mediation is extended by the Consumer Commission, in which case it shall stand terminated on expiry of such extended time.**

opportunity to the parties to hear the perspective of the other party(s). The mediator himself focuses on understanding the perspectives, relationships and feelings of the parties to the dispute. Further, this session is used to understand facts, issues, obstacles and possibilities of settlement.

- **Separate Session(s)** - Private sessions are organised to understand the dispute at a deeper level and the underlying interests of the parties. Parties can use this to vent their emotions and also disclose confidential information which they do not wish to share with other parties. The mediator will work on bringing the parties to a solution-finding mode and encourage them to generate options and find terms that are mutually acceptable.
- **Closing** - When the parties settle on mutually acceptable terms for settlement, the mediator will confirm them orally before reducing them in writing in a Settlement Agreement. This will be signed by all parties to the dispute and the Mediator will affix his signature certifying that the agreement was signed in his presence. A copy is furnished to each of the parties while the original is sent to the Commission.

**Mediation is  
voluntary,  
party-friendly  
and  
cost-effective**





**The information shared in a mediation proceeding remains strictly confidential. Either party or the mediator cannot use any of the information, documents, proposals, admissions or views shared during the mediation. There will not be any audio or video recording either.**

An appropriate order - in accordance with the agreement – has to be passed by the Commission within seven days of receipt of the settlement report and the complaint gets disposed. The Commission will enforce the order akin to a decree passed by it in regular cases of consumer disputes.

In case the parties are unable to reach a settlement, the complaint is returned to the Commission as 'not settled' without assigning any reason for non-settlement or fixing responsibility on any one for the same. The Commission shall then proceed to hear the complaint as usual.

### Critical Analysis

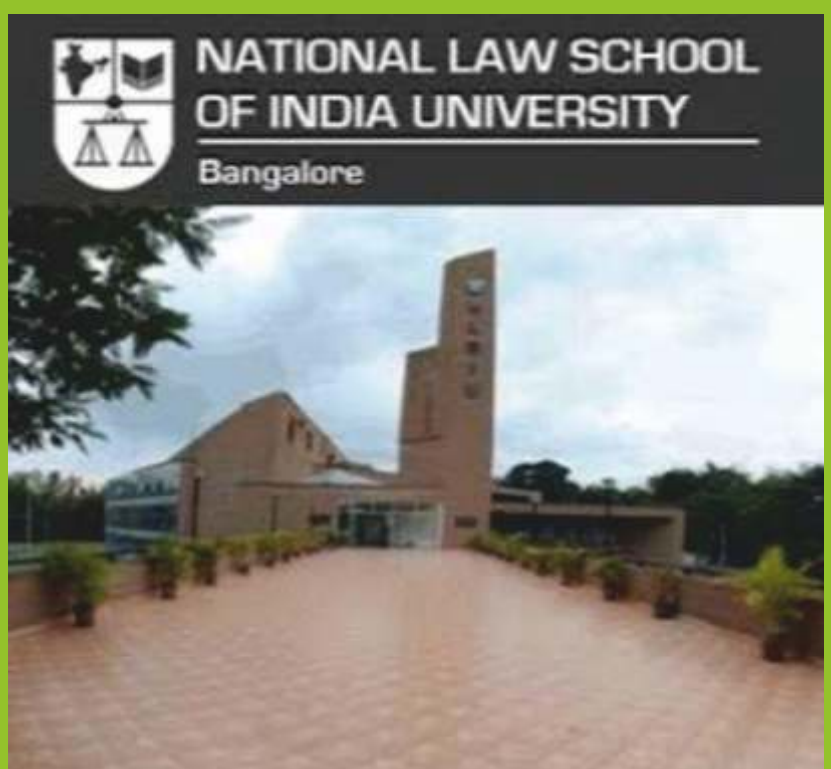
The point of contention here is that consumers should be encouraged to opt for mediation before knocking on the doors of the commissions! Filing a complaint and having the judiciary decide whether it should be sent for mediation only prolongs the process for no practical reason. Does it make sense to add to the delay in resolution?

Then again, while it is true that in the case of mediation, the final decision-making power lies with the parties instead of the commission, in reality, the complainant (consumer) has lesser bargaining power. He/she mostly has to 'settle' or compromise to be able to arrive at a mutually acceptable resolution. The only benefit is that mediation will be quicker and cost-effective.

The mediation mechanism actually needs an ombudsman where the parties can raise their concerns relating to the conduct of the mediator, if any.

### Conclusion

On paper, Consumer Mediation Cells are the answer for speedy and efficient disposal of consumer complaints in a manner that is affordable for the consumers. But are they actually able to achieve the same? This platform should not end up becoming an additional step in the consumer grievance redressal process which eats up time and adds to the pendency of complaints! ▶



**The Government should proactively promote online dispute resolution by way of electronic mediation (e-mediation). This will eliminate the location and distance barriers for parties that want to opt for mediation.**



**An Online Consumer Mediation Centre has been established at the National Law School of India University, Bengaluru under the aegis of Ministry of Consumer Affairs, Government of India. It aims to provide state-of-the-art infrastructure for resolving consumer disputes both through physical as well as online mediation on its platform.**

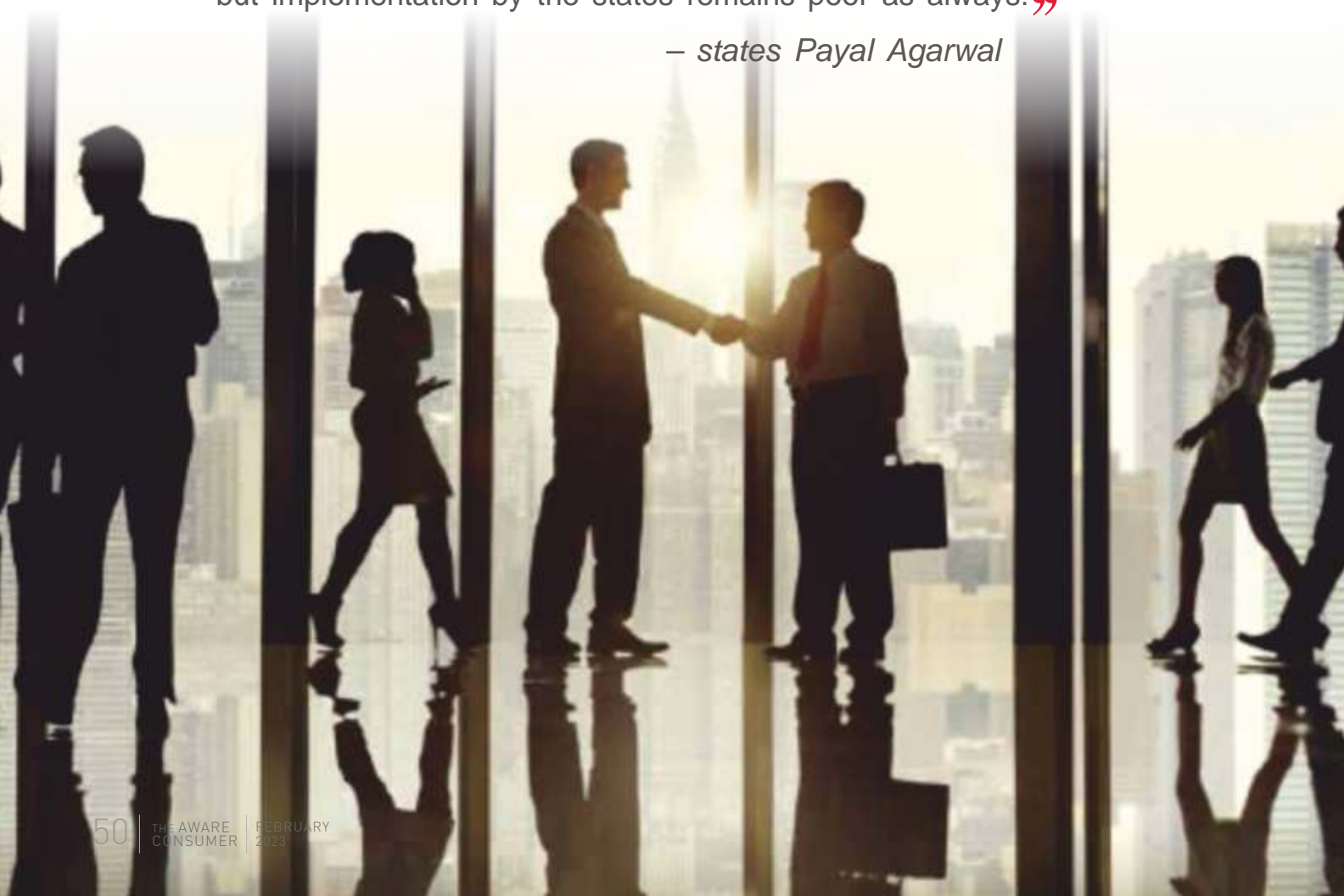


**Payal Agarwal**  
Editorial Consultant

## Bringing Accountability in **Direct Selling**

“Marketing products and services directly to consumers through an independent workforce of direct sellers is legal in India. However, the poor regulatory regime allows certain shady direct selling companies the impunity to promote pyramid or money circulation schemes that cheat the public. The government has made a good first attempt at regulation, but implementation by the states remains poor as always!”

– states Payal Agarwal



**SELLERS REACHING OUT** to buyers at their homes, offices or other places is considered one of the oldest modes of selling goods and services. This traditional format has evolved into 'Direct Selling' that is prevalent around the globe today. Consider brands such as Amway, Avon, Herbalife, Tupperware, Oriflame and Modicare that comprise of individuals selling directly to their family, friends and other networks in a non-retail environment and you will get the picture.

The Indian Direct Selling Association defines direct selling as the *"marketing, distribution and sale of goods or providing of services as a part of network of direct selling, other than under a pyramid scheme, to consumers, generally in their houses or at their workplace or through explanation and demonstration of such goods and services at a particular place."*

The model rests on the premise of engaging distributors (direct sellers) who in turn build their own networks to sell the products or services. Each distributor works as an independent salesperson and earns commissions on the sales made by himself/herself as well as sales made by his/her recruits into the network.

There are no intermediaries like distribution centres or wholesalers in the supply chain. In fact, these products are not found in retail stores and the distributor or direct seller becomes the only source.

Also known as network marketing, the selling involves one-on-one or group presentations, meetings and catalogues for accomplishing the sales in non-retail settings.

**As on January 2022, the Indian direct selling industry is valued at Rs. 16,000 crores and is expected to reach Rs. 64,500 crores by 2025. (Source: Financial Express) Direct selling is providing self-employment opportunities to around 80 lakh individuals in India, more than 60% of which are women. (Source: Indian Direct Selling Association)**

This is indeed a successful model that has gained a strong foothold in India, especially among the housewives who are able to use their inherent marketing skills to earn an income even if they don't have a valid educational qualification. Many of them manage to provide monetary support to their families by selling to their connections, some become financially independent and some even earn enough to buy a car, house, etc.

### The Hidden Problem

While direct selling – be it single-level or multi-level marketing – is a legitimate business opportunity and above board, the fraudulent pyramid schemes make up the other end of the spectrum. The problem is that they look and sound very much like direct selling.

The scam here is that you have to pay money to sign up and you are expected to keep recruiting people in your network. There is usually no product to be sold here. And even if you are required to sell some genuine/sham products, your income is based on the number of people you enlist, not how much you sell. Therefore, it's all about enrolling new people and collecting money from them.

While the promoters make extravagant pitches about getting rich quick and dangle the carrot of luxury cars, exotic vacations, hefty bonuses, etc., they actually turn out to be tied to huge goals and benchmarks of recruitment. In reality, hardly a handful manage to qualify for the lavish rewards. Meanwhile, once in, you find yourself repeatedly called on to pay big amounts for training sessions, marketing materials and so on. Finally, while some do manage to generate a steady income, most recruits are just not able to keep up and have to quit, thus losing all the time and money they invested. With all this, the company gets rich without doing anything!

The root cause of the issue is that there is no legal framework that distinguishes genuine direct selling networks from such illegal pyramid and ponzi schemes. This has riddled

the direct selling entities with uncertainty around the legitimacy of their operations.

Both the industry and the consumers suffer from the lack of regulatory clarity! While illicit pyramid schemes indulge in fraud and deception under the guise of direct selling, the irony is that many genuine direct selling companies are mistaken for fraudulent pyramid/ ponzi schemes.

### Bridging the Regulatory Gap

It was only in 2016 that the industry got a semblance of regulation when the government laid out the Model Framework for Guidelines on Direct Selling to curb the menace of illegal multi-level marketing and pyramid schemes that were masquerading as legitimate businesses. However, these were only advisory in nature and lacked enforceability.

Then came the Consumer Protection Act of 2019 that broadened the definition of 'consumer' to include those who buy goods or avail services through direct selling or multi-level marketing. It also states that 'direct selling' means marketing, distribution and sale of goods or provision of services through a network of sellers, other than through a permanent retail location.

With the Act proposing that - for the purposes of preventing unfair trade practices in e-commerce, direct selling and also to protect the interest and rights of consumers, the Central Government may take such measures in the manner as may be prescribed, the Department of Consumer Affairs, Government of India formulated the Consumer Protection Direct Selling Rules, 2021 that came into force from 28th December, 2021.

The Rules expressly state that, "Direct selling entities and direct sellers are prohibited from promoting a pyramid scheme or enrolling any person to such scheme or participating in such arrangement in any manner whatsoever in the garb of doing direct selling business". Nor can they participate in money circulation schemes in the garb of doing direct selling business.

The Rules are applicable to:

- All goods and services bought or sold through direct selling
- All models of direct selling
- All direct selling entities offering goods and services to consumers in India, even those that are not established in India
- All forms of unfair trade practices across all models of direct selling

However, direct sellers and direct selling entities using e-commerce platforms for sale have to comply with the requirements of the Consumer Protection (e-Commerce) Rules, 2020.



**Direct selling is essentially the marketing of products and services directly to consumers in a person-to-person manner, away from permanent retail locations.**

**On the heels of the notification of the Direct Selling Rules, the Enforcement Directorate (ED) froze the assets of Amway India (worth over Rs. 757.77 crore) for running a pyramid fraud focused on signing up new members in the guise of direct selling.**

The rules lay down a list of duties and obligations of both direct selling entities and their direct sellers to safeguard the interest of consumers. The primary features cover:

- Direct selling entities have to establish an adequate grievance redressal mechanism with provision for filing of complaints by consumers through its offices/branches/direct sellers, either in person or through post, telephone, e-mail or website. These complaints have to be addressed in the prescribed timelines. The companies will have to bear the liability in any action related to the authenticity of such goods or services.
- Direct selling entities or their direct sellers cannot charge any entry or subscription fee. Neither can they persuade consumers to make a purchase based upon the representation that they can reduce or recover the price by referring prospective customers to the direct sellers for similar purchases.
- Direct selling entities have to be incorporated as a company or

partnership, have a physical location and maintain a website. They should also enter into a prior written contract with direct sellers, maintain a record of the details of all its direct sellers and monitor their practices.

- Direct selling entities should appoint a nodal officer who will be responsible for ensuring compliance with the provisions of the Act and the Rules. They also have to issue a self-declaration of compliance with the Rules.

**The rules still fail to define direct selling in clear terms. They also seem to be riddled with a host of other ambiguities. Even the direct sellers themselves are decrying the lack of clarity!**

### The Haunting Spectre of Poor Implementation

The Rules require every State Government to set up a mechanism to monitor or supervise the activities of direct sellers and direct selling entities. While this is essential for ensuring compliance, hardly any states have implemented the same.

While 17 States had notified the DS GL between 2016-2021, the DS Rules leave States in a quandry, as the Centre had de-notified the DS GL, after the DS Rules were notified in Dec 2021. Ideally, the States may expressly maintain the principles of the DS GL that are enshrined within

the DS Rules, and set up a monitoring mechanism for the DS industry. This too, the industry will have to achieve, one State at a time, as most States do not have the manpower or bandwidth to take on this added responsibility. The industry would be advised to carry out Capacity Building for State officials.

**The states seem to intentionally avoid implementing the laws and continue to threaten and bully the direct sellers. This is not only troublesome for the latter but also curbs the immense potential of the industry and keeps it from growing....**

Therefore, while consumers now have the recourse of filing a complaint with the direct selling entity or even the consumer commission to receive compensation, refund or replacement, the situation will not change unless the states start taking their responsibility seriously. Meanwhile, the consumer grievance will continue to remain pending in the commissions like all others of its ilk!

### Conclusion

The new rules can bring clarity in the marketplace and give an impetus to the direct selling industry apart from protecting the consumers and 'direct sellers' from losing their hard-earned savings to a 'direct selling business'. ▶



**Bina Jain**

- Former President, All India Women's Conference (AIWC)
- Chairman, Healthy You Foundation, New Delhi

## Supreme Court Attempts to Breathe Life into the Graveyard of Consumer Complaint Pendency

“The Supreme Court stands perturbed by the imminent vacancies in the consumer fora across the country along with other unacceptable matters pertaining to the consumer complaints. It has been initiating suo moto legal action in such instances, but the rulings seem to be falling on deaf ears!”

– points out Bina Jain



*The Supreme Court is taking notice of the grave situation, but the government and the commissions do not seem to be bothered! Will they ever care enough to listen?*

**THE SUPREME COURT** and High Courts have the right to take up matters on their own – i.e., without any petition being filed or interest being brought before them. *Suo moto* is a Latin term that means action taken by a government agency, court or other central authority of its own accord, and this *suo moto* right has been warranted under Article 32 and Article 226 of the Indian Constitution.

The Supreme Court often takes *suo moto* cognizance of legal matters related to the violation of rights or breach of duty and initiates legal action accordingly.

### Regarding Vacancies in Consumer Commissions

The apex court has been hearing a *suo motu* case titled 'Inaction of the Governments in appointing President and Members/Staff of Districts and State Consumer Disputes Redressal Commission and Inadequate Infrastructure Across India' for almost two years now.

It unequivocally stated that consumer rights are 'important rights' and non-manning of posts and inadequate infrastructure in the district and state consumer commissions across the country deprives the citizens of redressal of their grievances.

In August 2021, a bench of Justices Sanjay Kishan Kaul and Hrishikesh Roy expressed anguish and disapproval over the delay in



**“Is there some 'muhurraat' required for taking steps? States are defeating the purpose for which the consumer protection laws have been made... they have been made for the benefit of people.” – Justice Kaul**

filling up vacancies and issued a slew of directions for the centre and states to complete the process within eight weeks.

The bench slammed the central and state governments by asking if they deliberately kept the vacancies pending to dissuade people from filing complaints! “You don't want complaints to be processed, for

citizens to get justice? There is no manpower, there is no infrastructure.... People get fed up. You say 'we will get this thing done' or 'we will get that thing done', and then nothing happens. You seem to have only vacancies and not appointments.”

The state governments were even pulled up for not filing status report and affidavits regarding vacancies in consumer forums on time and warned that the chief secretaries of the respective states will be summoned in this context.

On expiry of the stipulated period, the bench of Justices S K Kaul and M M Sundresh again rued the delay stating that, “We are stretching our jurisdictions to see the vacancies are filled. It's unfortunate that the judiciary is called upon to look into this issue... This is not a very happy situation.”

The top court perused the report and suggestions of *amicus curiae* (friend of the court) and senior advocate Gopal Sankaranarayanan in December 2021 and analysed the

**The bench said in no uncertain terms, “If the government feels it doesn't want the consumer tribunals, it should abolish the Consumer Protection Act itself. But if the government puts the Act in place, then they should be manned!”**

**“Consumers are getting no redressal of their grievances due to cases piling up owing to the vacancies at the forum!”**

**– the Honourable Supreme Court**



steps taken by all the states in filling up the vacancies. Calling out the continued inaction, the court stated that it was doing the work which was not supposed to be done by it and asked the states to take steps to fill up vacancies as per its orders or be 'careful in future' as their chief secretaries may be summoned.

The bench was especially critical of the state of Rajasthan and issued an unequivocal warning to the counsel. By April, 8 states had filled their vacancies while some others stated their difficulties and sought exceptions or consideration.

Two months later, following on the prior warning, it also imposed monetary fines (Rs. 1 to 2 lakh) on various state governments for non-compliance of the order to fill up vacancies and delays in filing the affidavit. The bench said this is the only language the state governments will understand!

**By April, 8 states had filled their vacancies while some others stated their difficulties and sought exceptions or consideration.**

In July 2022, the same bench once again directed the states and union territories to initiate the process of filling the posts in consumer commissions six months before a vacancy is about to arise while granting them two months to complete the process of filling the vacant posts.

At one point in the hearings, Aman Lekhi, the Additional Solicitor General for the Centre, said there was an ongoing litigation in the court regarding the tenure of tribunal

members. He defended that the ongoing confusion was causing delay in the appointments. But the court struck it down as simply an excuse.

Despite all this, there still seems to be little progress in filling up the vacancies in the commissions.

### Regarding Poor Infrastructure in Consumer Commissions

Taking the lack of proper infrastructure facilities in the consumer commissions into view, the Supreme Court cautioned the states against the possibility of lapse of central funds for developing infrastructure in courts if they fail to give their share into the fund.

Amicus curiae Gopal Sankaranarayanan contended that a number of state governments - Goa, Delhi, Rajasthan, Kerala and Punjab - have not submitted information for staff and Bihar has not submitted a status report for infrastructure.

### Regarding Setting Up of Mediation Centres in Consumer Commissions

The bench further directed the states to setup a mediation centre and workable e-filing system in the District and State Consumer Dispute Redressal Forums saying that "Mediation is an important, if not at times a better method of resolution of disputes".

This was after the amicus curiae reporting that Mediation Cells had not been set up in many states even though it is compulsory. The e-filing system has also not been

implemented in many of the states, especially Kerala.

### Regarding Legislative Impact Study on Consumer Protection Act

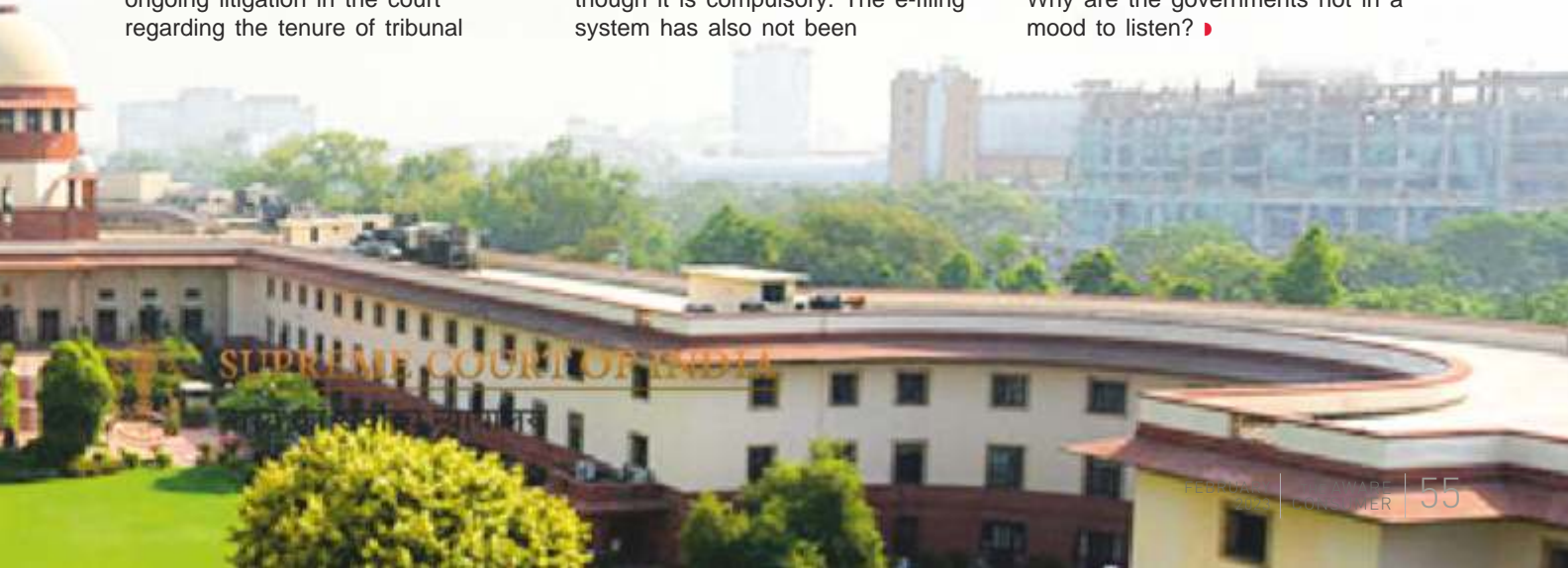
In August 2021, the same bench had asked the Centre if it had conducted a legislative impact study prior to the enactment of the Consumer Protection Act, 2019. The government was directed to complete the exercise and submit a report within four weeks so that the court can know the impact of the legislation on litigation.

This study is a process under which social, economic, environmental and institutional impacts of legislative proposals are made. It estimates the impact of a law on the society over a period of time – like the impact on litigation, kind of manpower and infrastructure required, etc. The centre had filed an affidavit earlier, but this referred to a post-facto exercise after the Act had come into force and that too only in respect of increase in pecuniary jurisdiction.

**The Supreme Court even extended the retirement of the members and Chairman of the consumer commissions, but this proved to be ineffective.**

### Conclusion

The interminable dilly-dallying over the appointments seems to be inexplicable! Alas, the threats of contempt of court proceedings, issuing warrants and even fines seem to be like water off a duck's back. Why are the governments not in a mood to listen? ▶





**Hon'ble Justice Dr. D.P. Choudhury**

- President, Odisha State Consumer Disputes Redressal Commission
- Former Judge of Orissa High Court

## Effective Disposal Of Cases In Consumer Commissions

**THE MAIN OBJECTIVE** of the Consumer Protection Act, 2019 is to protect the interests of the consumers and ensure timely disposal of complaints. It is well said that 'Justice delayed is Justice denied'. The Act has, therefore, made provisions for disposal of complaints within a period of three months and in the event of examination or testing of goods, disposal time has been extended to five months.

The real purpose of this is to award timely justice to the people at large. Therefore, delay in disposal not only encroaches the rights of consumers but also thwarts their power to choices.

Quick disposal of cases does not mean that they should be disposed of without giving any flavour of quality. While we want qualitative disposal, we cannot lose sight of quantitative disposal of cases. Section 38(7) of the Consumer Protection Act, 2019 is clear from its context and the same has been also viewed by the Hon'ble Apex Court in the decision i.e., suo moto taking cognizance of the cases under the Act in the recent order.

Now the question arises that why disposal of consumer cases does not happen on time:

- Lack of proper mindset of the people who are engaged in disposal of cases.
- Lack of infrastructure required to dispose the cases on time.
- Lack of skill for disposal of the cases.
- Lack of proper training of all the stakeholders including consumers for disposal of cases. In many cases, after filing the case, the consumers forget to take the necessary steps. It must be remembered that no complaint can be disposed of without the participation of the complainant.
- Lack of knowledge of the law and other subjects.
- Lack of proper management of cases should be considered to find out how to dispose of the cases within the timeframe with 'win-win' results.
- Lack of knowledge of computerisation of cases.

### Challenges

Time has been given in the Statute to hear the complaint after removal of defects and issuance of summons to the opposite party and to allow both the parties to adduce evidence of affidavit and then to dispose of the cases.

Issuance of summons by the old method of Speed Post should give way to digital methods to serve a copy of summons through e-mail, WhatsApp, courier. The parties normally are to file requisites for issuance of summons – this also has to be managed by the Commission while directing for service of summons by any means whether by Speed Post or any other digital means, but the reply of the opposite party should be on time and in case of delays no further extension should be granted by the commissions.

It must be remembered that 30 days limitation has been given for filing written version and it can be extended to another 15 days. Thus, the Commission religiously ask the parties to file evidence of affidavit within 30 days without any adjournments. Yet there is request by the opposite party; even the complainant seeks time to produce material to satisfy the Commission.

Mere allegation by the complainant without any proof cannot seek for early relief and most of the time the complainant only files a complaint without any proof attached to it. Therefore, the parties must be made aware about what is to be accompanied while filing the complaint. Challenges before the Commission is time limit as given in the Act itself, which has to be insisted upon but the Commission to take care of both parties to adduce material or evidence as the case may be.

By this process, other cases are also taking space. So in order to curtail these statutory processes, a Diary must be maintained meticulously by the Commission so as to keep the cases on 'first come first go basis'.

It is pertinent to note that the arrears of cases pending also causes delay in disposal of the new cases which can be disposed of as per mandate of statute. The cases of consumers who are waiting for years together to get justice have started crying to get justice when the





Commission tried to dispose of the cases filed recently. So, case management must be in place. The Hon'ble Supreme Court of India has already made several judgments on Case Management.

The following steps can be taken for disposal of cases within no time:

- Bunching cases of same nature
- Commitment of the officer to dispose of the cases within certain time
- Identification of group of cases should be sorted out

The nature of each case depends on its facts. The cases can be categorised in the following manner for proper management:

- (i) Most Important, Most Urgent
- (ii) Most Important, Less Urgent
- (iii) Most Urgent, Less important
- (iv) Less Urgent, Less important

For example, compensation for medical negligence is very important, but the cases involving very petty amounts for purchasing goods is not that important. Moreover, for negligence of cases for year old cases can be taken up. However, banking or insurance matters can be taken as important cases because they involve economic growth of the country and also interest gradually being multiplied.

Also in my opinion, consumers purchase goods and if the goods are not up to standard or charged excessive money, such cases should be taken up as most important and their immediate disposal is necessary. Above all, wherever such records appear in the list, they should be

identified so as to dispose them at entry-level itself. If a complaint is received by e-mail, the reply also should be in the same process and order can be passed on the material produced by both the parties or only the complainant.

Positive selfless attitude of lawyers and Judges in the Commission is necessary for delivering consumer justice.

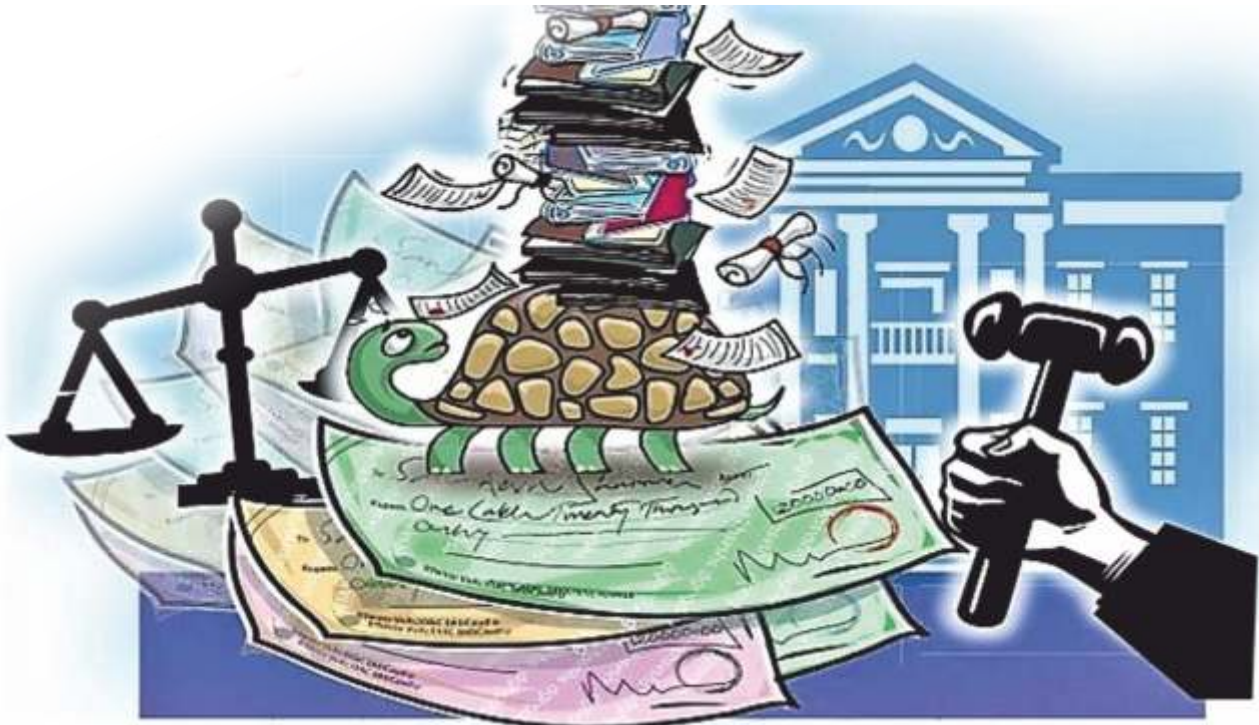
Above all, the State Government and the Central Government must find out ways and means to comply with the provision in the Statute for disposal of cases without any delay. Such consultations should take place at least twice a year.

The selection process adopted for members of the District/State/National Commissions are important to ensure people with real commitment and positive mindset should join Commissions and for that Selection Committee must be in place. In the Old Act, the President held the key for selection of members in the State Commission and District Commissions. But in the recent Act, the President has no role. By that process, the discipline in the Commission is debated at the Bar and as such, delays occur in disposal of cases. For that the Statute requires a re-look. Training workshops on different skillsets are necessary to enhance the capacity of the stakeholders.

The Government should at least fill up the posts of District Commission timely so that President/Member of one District Commission attending another District Commission in temporary arrangement can give attention to pending cases of their Commission to which they are attached. Above all, the Commissions are to be full-fledged, and the staffs should be technically trained in computers so that the entire District Commissions can be paperless. Digitisation of records is also necessary for timely disposal of the complaints. ▶

## A Rocky Road in the Face of Toothless Execution of Consumer Commission Orders

Thrilled that you have finally managed to win your case against a manufacturer or service provider in a consumer commission? Hold your horses as this is not the end of the road by a long shot! Another long battle lies ahead to get the erring party to actually comply with the orders of the commission.



*With a perpetual non-compliance of judgments, be prepared for a long bout of struggle for executing the order of a consumer commission!*



## The Consumer Protection Act, 2019, which repeals the 1986 Act, aims to expand the scope of grievances consumers can complain against and ease the process of filing complaints

**AFTER MONTHS OR** even years of filing a consumer complaint in the applicable forum, the commission issues a favourable order. But the problem of endless pendency of consumer complaints gets compounded by the difficult and time-consuming process of executing the final decree!

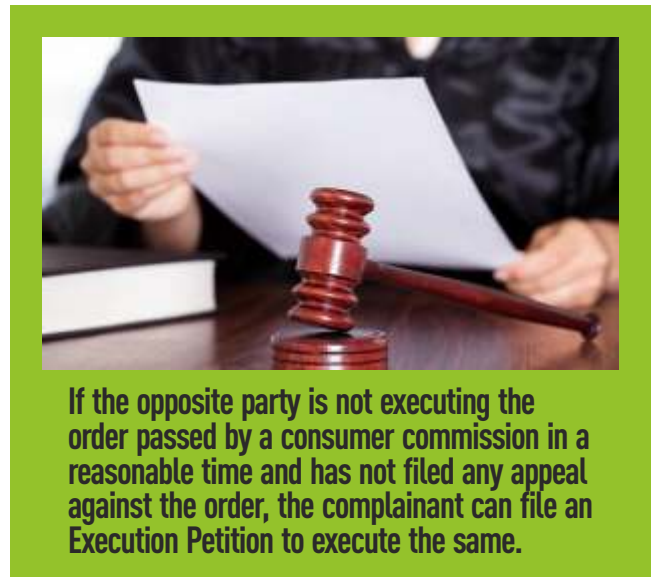
Alas, companies often do not pay heed to the consumer commissions. Their reports, orders and summons are repeatedly ignored with hardly any fallout, if ever! And lack of execution of the order defeats the very purpose of affording justice to the consumers.

### What Does the Law Say?

Section 71 of the Consumer Protection Act, 2019 states that every order made by a District, State or National Commission shall be enforced by it in the same manner as if it were a decree made by a court in a suit before it. The provisions of Order XXI of the First Schedule to the Code of Civil Procedure, 1908 shall, as far as may be applicable, subject to the modification that every reference therein to the decree shall be construed as reference to the order made under this Act.

Section 72 further provides that whoever fails to comply with the said order can be punished with imprisonment (a month to three years) and/or with a fine (Rs. 25,000 to Rs. 1 lakh). The said commission will have the power of a Judicial Magistrate of first class for the trial of offences related to non-compliance.

**Recently, a district commission in Nagpur awarded three years simple imprisonment to an engineer-cum-builder for contempt of its June 2019 orders to refund the deposit on a house with interest. The forum also directed him to pay Rs. 25,000 fine and Rs. 15,000 to the complainant towards the litigation cost. It was provided that he can be released from imprisonment if he fulfils the order. Yet, the actual outcome is another question altogether!**



**If the opposite party is not executing the order passed by a consumer commission in a reasonable time and has not filed any appeal against the order, the complainant can file an Execution Petition to execute the same.**

Unfortunately, the law does not provide for the appointment of specific officers or other staff for enforcing the orders passed by the commissions. With this glaring absence, the commissions have to rely on the District Administration and the procedures of traditional court systems to execute the decision. All that the commission can do is attach the immovable property, agricultural crops, etc. of the party who is not complying with the judgment and even detain him/her in civil prison.

Once an aggrieved consumer files an executive appeal with the commission to take appropriate action, the latter can issue a non-bailable warrant against the defaulting party to secure his/her presence. However, it is often noticed that the police department does not even execute the warrant and arrest the said person!

Based on its ongoing study on the efficiency of the District Commissions in Bengaluru and the Karnataka State Commission, Vidhi Center for Legal Policy

## Why go to court when you can hit it up on social media!

Calling out an errant manufacturer, trader or service provider on social media is proving to be a much more effective approach than filing a complaint in a consumer commission. A 280 character tweet or a Facebook rant tagging the company has become the greatest weapon in the hands of the consumers. It will get retweeted/shared, attract hateful comments and may even go viral within no time. Indeed, social media platforms are becoming the greatest leveller which hits big and powerful companies where it hurts the most!

Fearing a public backlash that can wipe out their reputation, profits and

even the business, the companies are quick to admit their mistakes and rectify the same. Even a simple feedback about a faulty product or poor service can snowball into a furious uproar across the world wide web, and it is considered prudent to make amends immediately. This drives them to keep tabs on social media mentions and the smallest of comments get an immediate response most of the time. In most cases, it leads to corrective action for resolution too; some even go to the extent of revamping their operations!

Alas, while consumers don't seem to find a voice in court, their disappointment, anger and frustration gets a say on social media where people are reading and reacting all the time. While this does not justify social media shaming, it is worth a shot in genuine cases for sure! ▶



suggested the following changes for tackling the problems of execution of orders that will also streamline the process:

- A simplified procedure to execute orders with lesser interaction with external authorities should be adopted by the Consumer Commissions. Specific rules should be framed under the Consumer Protection Act, 2019 to this end.
- The union and state governments should provide for the appointment of execution officers or bailiffs in every Consumer Commission. The execution officer should be provided with the functions and powers to carry out the enforcement of orders in a time bound manner.

Specific guidelines for the functioning of such officers should be issued to ensure transparency of the process.

- The capacity and infrastructure need to be enhanced for the Commissions at all levels - especially at the district level and urban areas where most of the consumer complaints are piled up.

### Conclusion

Consumer commissions currently lack the force to enforce! Structural reforms are needed to ensure that consumers truly feel empowered to seek justice against business wrongdoings. ▶

## SOURCES / REFERENCES

<https://consumerhelpline.gov.in/>  
<https://consumeraffairs.nic.in/>  
<https://confonet.nic.in/>  
<https://pib.gov.in/>  
<https://nalsa.gov.in/>  
<https://www.legalserviceindia.com/>  
<https://www.barandbench.com/>  
<https://www.latestlaws.com/>

<https://www.wbja.nic.in/>  
<https://taxguru.in/>  
<https://www.mondaq.com/>  
<https://www.drishtias.com/>  
<https://vidhilegalpolicy.in/>  
<https://www.tribuneindia.com/>  
<https://theprint.in/>

<https://www.deccanherald.com/>  
<https://economictimes.indiatimes.com/>  
<http://timesofindia.indiatimes.com>  
<https://www.tribuneindia.com/>  
<https://www.moneycontrol.com/>  
<https://www.business-standard.com/>  
<https://www.thehindu.com/> ▶

UPDATE ...



Moving a Step Ahead

Update on the December edition on

# NATIONAL CONSUMER DAY

## India Celebrates National Consumer Day!

**INDIA CELEBRATED THE** National Consumer Day on 24th December, 2022 based on the theme of 'Effective Disposal of Cases in Consumer Commissions'. Addressing an event held to mark this landmark occasion in New Delhi, Mr. Piyush Goyal, Union Minister of Commerce and Industry, Consumer Affairs, Food and Public Distribution and Textiles said that it resonates with the approach of the Government, which is based on ensuring speedy justice not only to consumers who have complained but to the nation at large. He further added that a lot of effort is being made by the government, under the guidance of Prime Minister Narendra Modi, to make it easier – both for business and for consumers.

The Minister applauded the Consumer Commissions across the country for their focussed effort on speedy disposal of complaints. The disposal of complaints has doubled to nearly 90,000 in the last six months while the figure was just 38,000 in the same period last year. He said there will be a ramp up in the

**Mr. Piyush Goyal emphasised that the consumer empowerment is going to be a paramount feature of a developed India and called for keeping consumers at the centre of all the initiatives.**

disposal of pending complaints in the days to come and expressed confidence of eliminating the backlog of complaints across the country.

He also appreciated the Union Consumer Affairs Department for using technology in bringing transparency in the working and other initiatives like the consumer helpline. He noted that the National Helpline which had only 2 languages earlier, has added seven more languages now, taking the tally to services in 12 languages, thus catering to a wider consumer base conversing in their mother tongue.

A host of new initiatives, like the Right to Repair portal, an NTH mobile app and new premises of National Consumer Helpline centre in New Delhi were launched on the occasion. On the 'Right to Repair' portal, manufacturers will share the manual of their product details with customers so that they can either repair it on their own or through third parties, rather than depending on the original manufacturers. Initially, mobile phones, electronics, consumer durables, automobile and farming equipment will be covered.

The Minister quoted John F. Kennedy, "If consumers are offered inferior products, if the consumer is unable to choose on an informed basis, then his money is wasted and the national interest suffers". He called upon consumers to become more demanding for good quality and the right price of the product! ▶

**A Memorandum of Understanding was signed between the Union Consumer Affairs Department and IIT (BHU), Varanasi and a capacity building programme of consumer commissions was launched.**



Many states also organised National Consumer Day celebrations at their level. Our editor, Prof. Bejon Kumar Misra was a speaker at the event organised by the Odisha state government in Bhubaneswar.



## YOUR OPINION MATTERS

# Letters to the



## editor

(December issue:  
National Consumer Day –  
Assert Your Rights: Engage  
with your Regulators)

We are truly humbled by the praise and acknowledgment that is flowing in from varied sources. Please feel free to send in your comments, views or feedback on The Aware Consumer magazine at [bejonmisra@theawareconsumer.in](mailto:bejonmisra@theawareconsumer.in) – we will publish your opinions and implement your feedback while ensuring that your voice is heard on the right platforms.



This one is an awesome edition where even the gaps in regulatory framework are highlighted. This has given an insight to us also to look at the areas where regulatory framework is weak or missing completely. I feel that today's regulation is missing inclusion. An exclusive Regulation smells bias. This is how most of the regulations are being enforced to corner a set of people.

Exclusion comes before inclusion. The prominent factors of exclusion in today's context are religion (no need to explain), profession (media), political bend (ruling or non ruling parties), opinions (pro or anti government) and so on..... The message is clear that you have to be either in favour of what is going on or against it.

The regulatory framework including judiciary is not understanding the fact that being right doesn't mean that you are not wrong. No other alternative doesn't mean we must choose what is not acceptable.....Somewhere we will have to make noise about it!

I feel that we as consumer spends maximum money on government purchases (by paying taxes at all steps of life) and no one is really bothered about the quality of received services, customer satisfaction and redressal of consumer complaints (rather we have to pay for getting the complaints redressed by giving bribes).I hope that one day the government services (income tax, GST, customs, land and urban, water, electricity, FSSAI, metrology, education, etc)will also be under the scanner in some edition of TAC. Thanks for your attention and the exemplary work which you are doing.

– **Kuldeep Sharma, Noida** • [dairystartups@gmail.com](mailto:dairystartups@gmail.com)



I read your article and skimmed through the magazine and realized you have a valid point there with how awareness of our consumer rights and the institutions to approach is still not

known by most of the consumers. The magazine definitely is one approach to throw light on the subject but the magazine itself needs to be circulated vigorously and widely. Our people are totally in the dark where this is concerned and to develop well, we need to know more and the right information too. The common man should know how to get the right help and from where. I'm so glad to see you are giving back to society for its betterment.

– **Ila Yellore Shirali, Pune**  
[ilayellore@yahoo.com](mailto:ilayellore@yahoo.com)



At the outset let me thank you for sending me The Aware Consumer. I found it most informative and educational. I think it's a great way for consumers to keep abreast of developments and changes taking place in diverse fields that affect our everyday lives. It is my go-to publication for information relating to regulations and enforcement. The work that you are putting in, in general, and the oversight and guidance provided by Prof Bejon Misra in particular, is outstanding and highly commendable.

– **Capt. G M Bhat, Goa**



Thank you for the December edition of The Aware Consumer which I read regularly and it is also read by my family members as it is useful for everyone. The most useful article covered is on announcing of new Drugs, Medical Devices & Cosmetics Act 2022 that will supersede the British Era Act. I feel that it will strongly address on the Safety, Efficacy And Conformity of the Medical Products.

Good work.

– **Harbans Wadhwa, New Delhi**  
[hswadhwa@gmail.com](mailto:hswadhwa@gmail.com)



for the next issue in March dedicated to  
**World Consumer Rights Day – Empowering  
Consumers Through Clean Energy Transitions**

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