

Consumer Dialogue

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Doctors Misleading Patients Liable to be Prosecuted: NCDRC

Doctors misleading patients through false claims about their professional qualifications are liable to be prosecuted for rendering deficient service, the country's apex consumer body has held. "It also amounts to unfair trade practice by doctors", the National Consumer Disputes Redressal Commission (NCDRC) said.

The NCDRC ruling came on a complaint by Meerut native Surendra Kumar Tyagi against a local doctor, S K Sharma, who claimed to be a Master in Surgery and operated upon him, allegedly permanently damaging one of his kidneys. "Though the doctor proclaimed himself to be an MS, he was in fact not so qualified that would clearly amount to misrepresentation to the complainant and others about his real qualification and experience", said an NCDRC bench of members R C Jain and S Chandra.

Agreeing with Tyagi's contentions and findings of the Uttar Pradesh State Consumer Commission, the NCDRC enhanced his compensation to ₹2.5 lakh from ₹1 lakh awarded by the state forum. Tyagi approached the apex consumer forum to enhance the compensation awarded to him by the state in the case against Dr Sharma and Meerut-based Jagat Nursing Home and Hospital. Allowing Tyagi's appeal, the Commission said the compensation in cases of misrepresentation and negligence by doctors should be proportionate to the loss and injury suffered by the patient and cannot be arbitrary.



<http://www.mycoolthing.com>

(Press Trust of India, 07.11.10)

G20 Commits to Financial Inclusion

At the recently concluded G20 Summit held in Korea in November 2010, Para 11 of the summit leaders' main declaration states: "we have agreed to enhance consumer protection", which indicates commitment by the heads of governments of the G20 to take this action themselves. This paragraph also includes a range of other commitments, many of which were argued for.

The G20 governments have also agreed to: "work further on macro-prudential policy frameworks" and to "strengthen regulation and oversight of shadow banking", particularly significant in the context of the activities of 'non-bank' (and, therefore, not regulated as banks) financial institutions. These bodies also contributed to the financial crisis. There is commitment to integrating the "perspective of emerging economies in financial regulatory reforms improving 'market integrity' and improving governance of the International Monetary Fund.

Para 12 also commits to prioritising action on "exclusion from financial services" and a Financial Inclusion Action Plan "to expand opportunities for poor households and small and medium enterprises (SMEs)". This latter coupling of domestic consumers with SMEs is significant, as discourse on financial inclusion in developing countries has tended to overlook, or even faintly disapprove of, developing new mechanisms for household consumer credit, leaving the way open for undesirable forms of credit to predominate. Commitments are also made on "green growth", social safety nets and infrastructure development.

Para 41 of the text of the full Summit addresses "enhancing consumer protection" in slightly more detail. The Financial Summit Board (FSB) is asked to work with the OECD and "other international organisations" to explore and report back by the next summit.

(Pacific Standard Time, CI Blog, 18.11.10)



Ministry of
Consumer Affairs,
Food & Public
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Government of India

सत्यमेव जयते



CUTS CART



Ensure Effective Implementation of Consumer Protection Act

“Consumer Protection Act (COPRA) is a strong and effective law for sensitising consumers at large and as such there is a need to pressurise both Central as well as state governments to enforce rules and provisions as laid down under the Act” said M L Mehta, former Chief Secretary, Government of Rajasthan while speaking as a keynote speaker at a roundtable feedback meeting organised by CUTS in Jaipur on December 15, 2010. The meeting was held under the project entitled, Grassroots



Reachout and Networking in Rajasthan through Consumer Action (GRANIRCA), with the support of the Ministry of Food, Consumer Affairs and Public Distribution, Government of India.

Experts and consumer activists requested the Centre and states to implement the provisions of the COPRA, 1986 in an effective manner, which they hailed as a strong and powerful legislation. The participants lamented that consumer protection remained a neglected area by the governments, which failed to create the basic

infrastructure for dispensation of justice under the law.

Participants argued that the absence of infrastructure in consumer courts and forums was leading to inordinate delays in decisions. Consumer protection was often treated by the governments as dumping ground for bureaucrats they want to get rid of from the mainstream administration.

“Indian farmers are the most vulnerable sections of society, but they are the least protected by the consumer laws”, observed Rao Rajendra Singh, MLA from Shahpura. He further said that there is no guarantee of the effectiveness of pesticides or other farm inputs. He demanded a ban on drugs and pesticides which have already been banned at international level.

Sukh Ram Kohli, MLA from Basedi, felt that rural consumers are more exploited than the urban ones. There is a need to have more product testing laboratories in Rajasthan. He also sought a lesser role for lawyers in the consumer forums.

Haneef Mohammed, former President, Jaipur District Consumer Forum, pointed out that Rajasthan does not have even a single testing laboratory as per the provisions of the COPRA delaying justice related to product testing.



G P Gupta, President, District Consumer Forum, Churu opined the consumer courts were, at times, more equipped than the mainstream ones, but what was often missing was the manpower.

George Cheriyan, Director CUTS International, stated most of the posts related to consumer protection, including those of the consumer protection councils in Rajasthan are vacant. There are bound to be delays in dispensing justice in consumer forums, as vacancies remained.

National Consumer Day

Every year, ‘National Consumer Day’ is celebrated on December 24 to mark the enactment of the COPRA, 1986. The observance of the Day reminds us of the need to make consumers, especially those in the remote, rural and far-flung areas, more aware of their rights. The responsibility for this rests with all of us and more particularly with the government agencies.

With a view to emphasising the commitment of the government towards consumer welfare, the Department of Consumer Affairs has adopted the theme “Consumers! Discharge your Responsibilities: Assert your Rights” for this year’s National Consumer Day. The GRANIRCA project team, along with all 12 district partners organised meetings, rallies, exhibitions, distributed literature in the form of pamphlets, handbills and posters in order to make people aware of their rights. All the programmes were organised at the district level.



IDBI Bank Asked to Pay for Harassment

Complainant A K. Mallick of Kolkata filed a complaint before the District Forum submitting that he had applied for a loan of ₹7,50,000 for purchase of a housing plot from the IDBI Home Loans Ltd and paid an advance of ₹50,000 to the vendor. The complainant further submitted that due to the failure of the Bank to disburse the loan, he could not pay the balance price to complete the transaction of purchase within three months and, as a result of which, the vendor forfeited the advance amount. The Consumer Disputes District Forum, Unit I, Kolkata, allowed the complaint and ordered refund of ₹65,000 including compensation and costs. In appeal, the West Bengal State Commission confirmed the order of the District Forum.

Ultimately, the Bank filed petition against the said order before NCDRC submitting that the sanctioned letter of the loan was conditional upon remaining legal and technical formalities, meaning thereby that it was not final, but a conditional sanction of loan. NCDRC modified the said order, reducing the amount of compensation payable for mental agony and harassment undergone by the complainant to ₹10,000. *(NCDRC, 10.11.10)*

ICICI Bank Penalised

Hans and Company, Sirhind, Punjab, filed complaint before the District Consumer Disputes Redressal Forum, Fatehgarh Sahib in Punjab, on September 03, 2009, against ICICI Bank Limited. The company counsel informed the forum that the company entered into a Credit Franchise Agreement (CFA) on December 29, 2006, with the bank for earning its livelihood and, after entering into the CFA, the company had established an office at Sirhind after spending around ₹3 lakh and paid a rent of ₹6,000 per month till the closure of the local bank branch.

As per the complaint, at the time of executing the CFA, the bank obtained an FDR, which matured on January 14, 2008, for the amount of ₹5 lakh at an interest rate of 8 percent per annum for the security purpose. The bank terminated the CFA on its own and closed its business in Fatehgarh Sahib area and had no right to retain the FDR of ₹5 lakh taken as security. However, it did not return the same and harassed the company intentionally, which was a big deficiency in service on part of the bank.

The Forum directed ICICI Bank Limited to pay ₹10,000 as mental agony and harassment, ₹5,000 as litigation charges to Hans and Company, Sirhind, Punjab. The Forum observed in the judgment that under Clause 16 of the CFA, it was specially written that either party may terminate this agreement by providing two months prior written notice. The conditions laid down in the Clause were not violated by the complainant. The bank was required to give prior notice of two months to terminate the agreement.

(www.punjabnewslines.com; www.consumerlaw.in)

School Gets Rap for Retaining Fee

Complainant Ainesh Chandra, who had filed an application through his father Arun Chandra, a resident of Nayagaon, alleged that he took admission in Class VI in the KBDVA School for the session 2010-11 and deposited admission fee of ₹15,900 on February 17, 2010. He was told by the school authorities that the classes would commence on April 07, 2010. He simultaneously also appeared in the test for admission at another school, St John's, on February 27, 2010, the result of which was declared on March 25 and he was successful.

After considering his options, he decided to take admission in St John's School and deposited a fee of ₹11,135. Thereafter, he surrendered the seat in the respondent school before the start of the classes and sought a refund. He contacted DAV a number of times and, on May 12, 2010 got a cheque for ₹3,000 against the deposit of ₹15,900.

The respondent stated that the deposit of fee was towards admission and tuition fee for three months, which was non-refundable (displayed on the notice board). It was pleaded by the respondent that caution money of ₹3,000 was refunded to the complainant after making deductions according to school rules.

The complainant brought the case before Chandigarh District Consumer Disputes Redressal Forum which termed the act of the school unjustified in retaining the total fees of a student and directed the respondent to refund ₹11,900 (after deducting ₹1,000 as service/processing/administrative charges and ₹3000 which has already been refunded to the complainant), along with litigation costs of ₹5,500. *(Times of India, 29.11.10)*



In order to implement effectively the provisions specified in the Petroleum and Natural Gas Regulatory Board (PNGRB) Regulations, 2008 and 2010, PNGRB hereby issues following guidelines for protection of Petroleum Natural Gas (PNG) and Liquefied Petroleum Gas (LPG) domestic consumers. Many instances have come to the notice of PNGRB regarding a widespread and organised scam in many cities or gas distribution networks involving persons flashing false identity cards and posing as authorised representatives or inspectors of either the government or the concerned entities sent to check the fittings and accessories of gas stoves or other related equipment. Such unauthorised persons generally charge large amounts from unsuspecting householders by declaring some parts or tubes to be defective and replacing these with spurious parts, thereby endangering the safety of consumers.

Guidelines for PNG and LPG Domestic Consumer Protection

- (a) Domestic consumers need to be provided right of access only to the authorised agents for the purpose of reading, repairing, replacing or testing of the equipment, if the authorised agent carries proper identification and authorisation documents.
- (b) It shall be the responsibility of the authorised entities to intimate to consumers the type of documentation and identification provided to their employees or the employees of their outsourced agencies.
- (c) Authorised entities shall intimate in advance to the consumers any scheduled inspection in an area.
- (d) Authorised entities are also responsible to give a call number(s) of a designated officer.
- (e) Upon inspection and in case of defect of equipment for PNG/LPG consumers, charges, if any, may be collected by the authorised entities in the next gas invoices, after taking acknowledgement from the consumers for the parts replaced or work done.
- (f) Authorised entities for city gas distribution shall immediately start a publicity campaign to create consumer awareness in this regard.
- (g) Authorised entities also need to advise consumers to report such incidents in the consumers' premises in the last one year.
- (h) Authorised entities are also responsible for filing of first information reports (FIRs) in the concerned police stations.
- (i) Invoices sent out by authorised entities shall also indicate related details.



During the year GRANIRCA project team has come out with the following documents:

1. A research document entitled, *Status of Consumer Protection in Rajasthan* which analyses the status and performance of the key authorities/institutions responsible for strengthening consumer protection at the district level.
2. A *Training Manual on Consumer Protection* is helpful in imparting effective trainings to prepare a cadre of grassroots consumer activists on various issues related to consumer protection, with special focus on the state of Rajasthan.
3. Two briefing papers entitled *Advertising: Challenges and Future Prospects* and *Consumer Protection in the Financial Sector: Challenges and the Way Forward*, were prepared with the objective to inform readers about the overview of consumer protection in field of advertisement and financial sector in India, especially the challenges faced by consumers and suggestions to move ahead to ensure stable, secure and services to consumers.

