
Intergovernmental Group of Experts on Consumer Law and Policy
(IGE Consumer)

3rd SESSION

9-10 July 2018

Room XVII, Palais des Nations, Geneva

Tuesday, 10 July 2018

Morning Session

Agenda Item 3d. Dispute resolution and redress

Contribution by

National Consumer Disputes Redressal Commission

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ALTERNATIVE DISPUTE RESOLUTION

PRESENTATION

by

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NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

AT

**SESSION I : OVERVIEW OF THE UNITED NATIONS GUIDELINES
FOR CONSUMER PROTECTION AND IMPLEMENTATION**

**REGIONAL CONFERENCE ON CONSUMER PROTECTION
“EMPOWERING CONSUMERS IN NEW MARKETS”**

NEW DELHI, INDIA

26 – 27 OCTOBER 2017

GUIDELINES 1985

E. MEASURES ENABLING CONSUMERS TO OBTAIN REDRESS

- ▶ Member States should establish or maintain legal and/or administrative measures to enable consumers or, as appropriate, relevant organizations to obtain **redress** through formal or informal procedures that are expeditious, fair, inexpensive and accessible. Such procedures should take particular account of the needs of low-income consumers.

GUIDELINES 2015

11(f)

..... expeditious, fair, transparent, inexpensive accessible, speedy and effective dispute resolution without unnecessary cost or burden.

14(a)

..... fair, affordable and speedy dispute resolution and redress.

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..... fair effective, transparent and impartial mechanisms to address consumer complaints through administrative, judicial and **Alternative Dispute Resolution**.

WHO IS A CONSUMER ?

3.

..... Consumer generally refers to a natural person, regardless of nationality acting primarily for **personal, family or household** purposes.....

Whether the objectives being achieved?

TRADITIONAL METHODOLOGY

- ▶ Four-tier Structure for consumer dispute resolution in India.
- ▶ Provisions for Appeal, Review and Revision.
- ▶ Procedures almost similar to those in civil courts.
- ▶ Most of the consumers having low financial stakes do not come to the consumer fora / commissions at all, due to lengthy, time-consuming procedures.

ALTERNATIVE DISPUTE RESOLUTION LEGAL PROVISIONS IN INDIA

- ▶ Section 89 of the Civil Procedure Code – out of court settlement – inserted with effect from 1st July 2002.
- ▶ Legal Services Authorities Act, 1987 – System of Lok Adalats (People's Courts).

Section 89 Civil Procedure Code

Settlement of Disputes outside the Court.

- a) Arbitration;
- b) Conciliation;
- c) Judicial settlement including settlement through Lok Adalats; or
- d) Mediation.

JUDGEMENT : HON'BLE SUPREME COURT

Afcons Infrastructure Ltd. & Anr. Vs. Cherian Varkey Construction Co. (P) Ltd. & Ors. [2010 (8) SCC 24] – a historic and landmark judgment on use of Section 89

“Cases normally suitable for ADR Processes” :

.....
.....

v) All Consumer Disputes Including

Disputes where a trader supplier / manufacturer/service provider is keen to maintain his business/professional reputation and credibility or ‘product popularity’.

Judgement dated 30 August 2017 by
Hon'ble Supreme Court of India in
Civil Appeals no. 4761-3/2009

Bijoy Sinha Roy (D) by LRs Vs. Biswanath Das & Ors.

.....



..... A person coming to a consumer court with a grievance of deficiency in service needs **immediate** relief. The very object of setting up Consumer Fora was to provide speedy remedy to a consumer. The Consumer Protection Act, 1986 was brought about in the background of world-wide movement for Consumer Protection. Framework of the Act is based on **Resolution** dated 9 April 1985 of the General Assembly of the U.N. to which India was a **signatory**.

Contd.

.....Section 89 has been added to the CPC laying down mechanism for settlement of disputes outside the Court. Even though strictly speaking, the said provision is applicable only to Civil Courts, there is no reason to exclude its applicability to Consumer Fora having regard to the object of the Consumer Protection Law. Accordingly, we are of the view that the said provision **ought to be duly invoked** by the Consumer Fora.

INTERNATIONAL TRAINING CENTRE OF THE ILO AT TURIN, ITALY

- ▶ PRESENTATION MADE ON ALTERNATIVE DISPUTE RESOLUTION IN LABOUR MATTERS on 4 JULY 2007.
- ▶ HON'BLE SECRETARY GENERAL U.N. ON A VISIT TO THE ITC AT THAT TIME.



Alternate Dispute Resolution:

Settlement of Labour Disputes through Lok Adalats (People's Courts)

presentation by :

Dr. B.C. Gupta, IAS

Home Secretary

Government of Punjab, India

Workshop on

**“Strengthening and re-engineering Labour
Administration to Promote Decent Work”**

**International Training Centre, ILO,
Turin (Italy), 4-6 July, 2007**



DIRECTIONS FROM THE NATIONAL COMMISSION

- ▶ Letter dated 23.08.2005 issued by the National Consumer Disputes Redressal Commission (NCDRC), New Delhi, India directing holding of Lok Adalats (People's Courts) once every week.

THE WAY FORWARD ----

- ▶ Necessary to set-up a Special Task Force consisting of experts from Administration, Judiciary etc. to devise, implement and monitor a mechanism to take care of small consumers.
- ▶ Consumers with no financial stakes, say below US\$ 100 may not be subjected to traditional mechanism for dispute resolution.
- ▶ Strong cooperation/collaboration needed between the executive and the judiciary.
- ▶ Emphasis should be to provide relief to the consumer rather than indulging in technicalities alone.

E-COMMERCE

- ▶ EMPHASIS on “GOODS” & “SERVICES” only in the Consumer Protection Act, 1986.
- ▶ Consumers Rights Act 2015 enacted in U.K.
“ Goods,” “Digital Content” and “Services”.

EPILOGUE

- ▶ Flexible, rational and pragmatic approach needed for Consumer Disputes Resolution.
- ▶ Special emphasis on small consumers so as to provide relief to the population at large.

Thank You . . .