

Functional Analysis of The Consumer Commissions of Himachal Pradesh

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Abstract:

Consumer Rights may not be fundamental rights in constitution of India but they do impact the enjoyment of fundamental rights, and hence needs protection. United Nations General Assembly adopted a resolution on the “Guidelines for consumer protection act “on 9th April 1985. These Guidelines recognized 8 rights of the consumers which needed protection and in context of India Consumer Protection Act 1986 (COPRA) was made and it recognized 6 rights for the consumers in India. This Act provided for the establishment of Consumer Protection Council at State and Central level for protection of consumer rights. It also provided for establishment of Redressal Agencies at central, state and district level for redressal of complaints and grievances of consumers. In Himachal Pradesh as per the consumer protection act 1986 the State Government has established the state commission and District Commissions. In Himachal Pradesh Consumer forums started functioning in the year 1989 and Himachal Pradesh state Consumer Protection Council was also established. In this article Author has made an effort to statistically analyze the functioning of the consumer forums of Himachal Pradesh. Secondary data available online and offline was gathered and critically analyzed by the author and conclusions and suggestions made.

Keywords: Consumer; Consumer rights; Consumer Forum; Protection; District Commissions; State Commission; Commission

Introduction:

India has a long history of prioritizing consumer protection, dating back to 3200 B.C. Ancient Indian rulers were keen on regulating not just social conditions, but also the economic well-being of their people by establishing trade restrictions to safeguard the interests of buyers (Dr Rajendra Prasad, n.d.). These rules were formulated by the Dharmashastras or Smritis, which provided a comprehensive code to govern human behavior (Prathibha Goyal, 2021). The most authoritative texts among the Smritis were Manu Smriti, Yajnavalkya Smriti, Narada Smriti, Bruhaspathi Smriti and Katyayana Smriti, with Manu Smriti being the most influential (Aditi Vishnoi, 2020). The provisions of Arthshastra written by Vishnugupta, Kautilya, or Chanakya of the Mauryan period are similar to those of the Smritis, implying that Kautilya turned the metrical rules of Dharmashastras into prose and transformed the tenets of Dharma into administrative law through Arthshastra. While Dharmashastras promote dharma and view deviation as

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sin, the Arthshastra establishes rules and considers law-breaking as a crime punishable by the government (Prathibha Goyal, 2021).

Legislations enacted to regulate some of the consumer interests prior Consumer Protection Act 1986.

1. The Drug (Control) Act, 1950
2. The Industries (Development and Regulation) Act, 1951
3. The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954
4. The Prevention of Food Adulteration Act, 1954
5. The Essential Commodities Act, 1955
6. The Trade and Merchandise Marks Act, 1958
7. The Monopolies and Restrictive Trade Practices Act, 1969
8. The Cigarettes (Regulation of Production, Distribution, and Supply) Act, 1975
9. The Standards of Weights and Measures Act, 1976
10. The Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980
11. The Standards of Weights and Measures (Enforcement) Act, 1985
12. The Bureau of Indian Standards Act, 1986

Consumer Protection Act of 1986:

The rapid expansion of trade and commerce gave traders an unfair advantage over consumers, which was a direct consequence of industrialization. Consumers lacked knowledge about their rights, leaving them at a disadvantage. It wasn't until 1986 that lawmakers in India decided to organize and consolidate efforts to protect consumers' interests and recognized the need for a welfare legislation in the form of the Consumer Protection Act (COPRA) of 1986. The introduction of COPRA aimed to safeguard consumers' rights and interests by providing a multi-dimensional approach, including awareness campaigns and the establishment of consumer councils. This enabled consumers to resolve disputes through an efficient and speedy redressal mechanism. (www.finology.in, 2019) The Indian parliament passed the Consumer Protection Bill in 1986, and it was later signed into law by the President on December 24th 1986. This law is now known as the Consumer Protection Act of 1986, which is recorded as statute number 68 of 1986.

The Act aimed to promote and protect the rights of consumers such as:

1. the right to be protected against marketing of goods which are hazardous to life and property
2. the right to be informed about the quality, quantity, potency, purity, standard and price of goods to protect the consumer against unfair trade practices
3. the right to be assured, wherever possible, access to an authority of goods at competitive prices
4. the right to be heard and to be assured that consumers interests will receive due consideration at appropriate forums
5. the right to seek redressal against unfair trade practices or unscrupulous exploitation of consumers
6. right to consumer education.

Consumer Protection Act 2019:

The Consumer Protection Act, 2019 is a benevolent social legislation that lays down the rights of the

consumers and provides there for promotion and protection of the rights of the consumers. The first and the only Act of its kind in India, it has enabled ordinary consumers to secure less expensive and often speedy redressal of their grievances. By spelling out the rights and remedies of the consumers in a market so far dominated by organized manufacturers and traders of goods and providers of various types of services. The Act mandates establishment of Consumer Protection Councils at the Centre as well as in each State and District, with a view to promoting consumer awareness. The Central Council is headed by Minister In-charge of the Department of Consumer Affairs in the Central Government and the State Councils by the Minister In-charge of the Consumer Affairs in the State Governments. It also provides for a 3-tier structure of the National and State Commissions and District Commissions for speedy resolution of consumer disputes.

The Himachal Pradesh state Consumer Disputes Redressal Commission and District Commissions:

The H.P State Consumer forum and District Consumer forums were established under the Consumer protection Act 1986 in the year 1989 and started functioning with effect from 1st November 1989. In the Beginning besides State consumer forum Headquartered at state capital Shimla and lone District consumer forum at Shimla was established. And subsequently other consumer forums were established. Details about Different consumer forums is being mentioned below:

1. Total number of districts in HP: 12
2. No. of district commission in the state: 12
 - a) Total set up: 12
 - b) Functional: 12
 - c) Non-Functional: 0
 - d) Whole Time District Commissions: 4
 - e) Names of Whole time District Commissions: Shimla; Mandi; Una; Kangra at Dharamshala
 - f) How Many Clubbed: 8
 - g) Names of Districts where District commission are yet to be set up: Solan, Hamirpur, Sirmaur at Nahan, Bilaspur, Kullu, Chamba, Kinnaur and Lahaul & Spiti.
 - h) Shimla District Consumer Forum For: Districts Shimla, sirmaur & Kinnaur
 - i) Mandi District Consumer Forum For: Districts Mandi; Kullu, Lahaul Spiti,
 - j) Una District Consumer Forum For: Districts Una, hamirpur and bilaspur
 - k) Kangra District Consumer Forum For: Districts Kangra, Chamba and solan
 - l) Number of districts where more than one District Forum has been set up: Nil

Objectives of the study:

1. To study Geographical expanse and Management structure of Consumer Forums of Himachal Pradesh.
2. To analyze statistically the functioning of the Consumer Forums with respect to number of cases filed; disposed of; pending and disposed of within time frame.
3. To check for the implementation of the Confonet project; OCMS; E-Daakhil and E-JAGRITI
4. To verify whether administrators; officers and staff of the consumer forum is properly trained or not
5. To understand the steps taken by consumer forums for consumer rights awareness of general public

Research Methodology:

The present study is majorly a statistical analysis of functioning of the consumer forums (State Consumer

Commission and District Consumer Commissions) of Himachal Pradesh. Secondary data was gathered by author from Government and non-government sources available in online and offline mode regarding number of cases filed; disposed of; pending and disposed off within time frame at consumer forums. Data regarding training imparted to officials and various online tools used by consumer forums of Himachal Pradesh was also gathered. Author critically studied and analyzed the data and made observations on this data only.

Table 1; Information regarding vacancy in the state and district commissions:

State Commission		District Commission		Remarks
President	Members	Presidents	Members	
				1 post of member vacant in HP state consumer commission, Sanctioned strength of President and Members is 1 and 2 respectively
Nil	1	Nil	7	7 posts of members are vacant at District consumer commissions. Sanctioned strength of Presidents and Members is 4 and 24 respectively

Source: [Statistics-HP Consumer Commission](#)

As per the Table 1; one post of member is vacant at State Commission out of sanctioned strength of 2 posts and 7 posts of members are vacant at District commissions of Himachal Pradesh out of sanctioned strength of 24 for all the district commissions of Himachal Pradesh. State commission has posts of 2 members for Male and Female. Post of member for Female is lying vacant at state commission.

Table 2; Performance of State Commission and District Commissions since inception until 31st December 2023.

	No. of cases filed since inception	No. of cases disposed of since inception	No. of cases pending since inception	No. of cases disposed of within prescribed time norms
State Commission	35157	34019 (96.76%)	1138	23316 (68.53)
District Commission	74299	70623 (95.05%)	3676	33515 (47.45%)

Source: [Statistics-HP Consumer Commission](#)

Table 2; above show the statistics of cases filed, disposed of, pending and disposed of within prescribed time frame. Percentage of number of cases disposed of at state commission and district commissions are 96.76% and 95.05% respectively, which is to be appreciated but the cases disposed of within time frame are 68.53% and 47.45% which is a matter of concern and hence need to be addressed. Number of cases pending since inception are 1138 at state commission and 3676 at District Commissions, these are the

cases which has not been resolved in decades since the inception of consumer forums; it’s a very serious issue and shows the failure of consumer forums.

Table 3; Status of E-Daakhil Filling.

Consumer Commissions	No of cases
State Consumer Commission	343
District Commissions	829

Source: [Statistics-HP Consumer Commission](#)

Table 3 above shows the statistics related to the complaints received through E-Daakhil portal upto 31st December 2023 at state commission and District commissions. A smaller number of complaints has been received in two and half years since the establishment of the portal. Consumer commissions needs to run campaigns to make public aware about the virtues of online registration of their complaints.

E-Daakhil: E-Daakhil (online case filing system) launched at NCDRC on 7th September 2020, and in consumer commissions of himachal Pradesh was launched on 25th June 2021. Under the light of CPA 2019 and during Covid times, it was the need of the hour to facilitate the consumer by online filing to battle the pandemic situation. It is very vital as through this portal all the deprived and aggrieved consumers will be able to file the consumer complaints in the consumer Commissions online from anywhere at the comfort of their own and also pay the complaint fee & monitor the status of the case online. Any consumer/advocate can register themselves on the eDaakhil software with proper authentication through OTP sent on their registered mobile / activation link sent on registered email-id. Thereafter, they can proceed for filing of complaint. **Source:** (<https://edaakhil.nic.in>)

Integration of e-Daakhil with csc (common service centre):

e-Daakhil has also been integrated with the Common Service Center (CSC), a mission mode project under the Digital India program to make public utility services accessible to residents of remote and rural parts of the country. Therefore, consumers who do not have the access or knowledge to operate electronic devices can seek help from their local CSCs to file complaints in the concerned consumer commission. CSCs are authorized to collect rupees 50 as a fee to file complaint on behalf of the consumers for single registration. e-Daakhil portal has been synced with the confonet and OCMS (online case monitoring system). **Source:** (<https://edaakhil.nic.in>)

Table 4; Implementation of Confonet Project:

	Activities	State Commission	District Commissions
i)	Computer Hardware/Software has:		
	1. Been received	Yes Yes	Yes Yes
	2. Been installed	Yes	Yes

	3. Been functional		
ii)	Activities being done through computers:	Yes	Yes
	a) Is Case Monitoring System installed & operational?	Yes	Yes
	b) Has the live cases data been entered?	Yes	Yes
	c) Whether Cause list & Judgements being posted on the Websites?		

Source: [Statistics-HP Consumer Commission](#)

Implementation of confonet project is being shown above in the table 4. It shows that Hardware and Software have been properly installed and is functional in all the commissions of the state of himachal Pradesh. Almost all the activities like case monitoring; live cases data; Cause list & judgements etc are being carried out using computers in all the commissions.

CONFONET (computerization and computer networking of consumer forums in the country):

The CONFONET project has been implemented in the backdrop of The Consumer Protection Act, 1986. Under the provision of the Act, quasi-judicial machinery, namely, Consumer Forums at the district level and Consumer Dispute Redressal Commissions at the State and National Level were setup. CONFONET aims to digitalize the functioning of the Consumer Commissions at all the three tiers (National, State and District) throughout the country to enable access of information and computerize the workflow of consumer commission. The Members and staff of the various Consumer Commissions and Forums can access statistical reports regarding filing, disposal, and pendency of cases at their respective commissions/forums, at ConfoNet portal. National Commission, 34 state commissions, 14 circuit benches and 649 district commissions have been covered under CONFONET project. Source: NCDRC

OCMS (Online Case Monitoring System):

The Case Monitoring System provides a single window solution for automation of all the activities undertaken at the Consumer Forums at the National, State and District Levels. The registration of complaints, recording of court proceedings, issue of notices, generation of cause lists, recording of judgments, recordkeeping and generation of statistical reports and all other court related activities are

carried out through this standardized software alone. Role based logins can be created for the different users and related services can be easily offered to them. The Case Monitoring System incorporates specifically designed modules which allow replication of data to a Centralized Online Server. Once data has been exported to this server, it can be accessed by the public in the form of case status and case history information, cause lists, judgments, and national level reports. **Source: NCDRC**

Table 5; Age wise pendency of cases:

	Cases pending since inception	Cases pending for more than 5 years	Cases pending for more than 3 years	Cases pending for more than 2 Years
State Commission	1138	29	144	69
District Commission	3676	121	328	385

Source: [Statistics-HP Consumer Commission](#)

It's said that justice delayed is justice denied, this proverb very aptly fits for the statistics given in table 5 above. As per The Himachal Pradesh consumer protection rules, 1988 cases received at consumer forums should be resolved within 90 to 150 days (3 months to 5 Months) of receipt of notice to the respondent. This rule seems to be non-functional as per the statistics above in table 5. All the commissions of the state are required to carry out studies into the details of the above cases and look for the causes of delay in justice and device the solution for such issues.

Table 6; Training (IIPA & BIS) Indian Institute of public administration & Bureau of Indian standard and Others

		To be trained in the year	Trained so far	During the Quarter
a)	Training of Members/Presidents in IIPA	No Training letter received from IIPA	SCC: Nil DFs: Nil Total: 15	NIL
b)	Training of State/District level officers in BIS training institute	No training letter received from BIS	Nil	Nil
c)	Training under Confonet: a) Presidents and Members	No training letter received under Confonet	Nil	Nil
	b) Other Staff	All the ministerial staff were imparted training by TSPs (Training specialists) posted in the offices of District Forums and State Commissions. Apart from this, 10 officials of the State Commission		

		District Commissions were also imparted computer training at NIIT, Chandigarh sponsored by the NIC (National Informatics center) during the year, 2006.
d)	Any other Training	E-JAGRITI

Source: [Statistics-HP Consumer Commission](#)

Training is an essential part of any job and in today’s world of technology no one can work efficiently without training. As technology is changing at very fast pace so learning of the technology need to be matched with the changing technology and time and for that training is of utmost essence. As per table 6 above No training has been imparted to the presidents and members of the state and district commissions in a span of year/quarterly by IIPA and only 15 presidents and members of the state and district commissions of Himachal Pradesh received training since inception of consumer forums. None of the Presidents and members received training in Confonet. None of the officers of the State and District Commission received training at BIS (Bureau of Indian Standard); however, training was imparted to the officers by TSPs (Training Specialists) posted at the respective commissions of Himachal Pradesh. Apart from this, 10 officials of the State and District commissions were provided training at NIIT, Chandigarh sponsored by the NIC (National Informatics Center). All the statistics mentioned above in the table 6 shows the pathetic condition of training in consumer forums; this could be the reason for the pendency of cases as per table 5 and low level of disposal of cases within time frame as per table 2. This issue of low level of trained presidents, members and staff needs urgent attention.

E-JAGRITI: E-JAGRITI is an acronym for “Electronics, Justice, And Grievance Redressal, Information, Technology, and Innovation”. It is envisaged to integrate consumer grievance platforms, namely OCMS, E-DAAKHIL, NCDRC Case Monitoring System, Confonet Website, mediation application, in a single platform. Artificial Intelligence and machine learning tools will be used in E-Jagrity portal to resolve consumer cases. E-JAGRITI portal was launched on 24th December 2023. (Source: <https://e-jagrity.gov.in>)

Table 7; Other Indicators:

i)	Whether state consumer welfare fund set up	Nil (State consumer commission did not receive any fund for this purpose)
ii)	Whether Consumer Clubs set up in school/colleges	Nil (No fund received for setting up consumer clubs)
iii)	Whether President, State commission declared as head of the department	Yes
iv)	Whether President, District Forum declared as head of office	Yes

v)	Panel of Members for immediate appointments maintained or not	State Commission: No	District Commission: No
vi)	State Consumer Protection Council. Reconstituted on: Last Meeting held on:	09/12/2011(HP State Consumer Commission Protection council reconstitute on 09/12/2011 vide notification No. FDS-A(4)-1/2003, dated, Shimla-02, the 9 th December, 2011 Meeting not held till today (Meeting is to be fixed by State Consumer Protection Council and not by State Consumer Commission).	
vii)	Whether District Consumer Protection Council Set up	Yes	
viii)	Whether one of the existing officers in each district designated as District Consumer Protection Officer. If Yes, please specify	Additional Deputy commissioner of respective district. (State Government has notified additional deputy commissioner as District consumer Protection Officer)	
ix)	Budget allocation in the state Budget plan a) For State Commission and District For a b) For Consumer Protection activities c) For consumer awareness and publicity	Yes	Nil Nil

Source: [Statistics-HP Consumer Commission](#)

Lack of availability of fund at the disposal of state consumer commission and District consumer commissions is one of the major obstacles in their functioning and it can be observed from the Row number (i) and (ii) given in the table 7 that State consumer welfare fund has not been set up yet and neither has been any clubs set up in school and colleges. Lack of interest on part of the state government can be

observed from the Row (ix) part b and c where in there has never been budget allocated by State Government for consumer protection activities and consumer awareness & publicity. This shows that government doesn't pay heed to make consumers aware about their rights and neither consider them worth to be protected. Row (v) of the table shows that the Panel of Members for immediate appointments has not been maintained at any of the commissions of Himachal Pradesh and hence if any vacancy arises due to any reason will not be filled immediately which will further delay the functioning of consumer commissions. Meeting of State consumer Protection Council as per row (vi) of the table has not been held even once since it was reconstituted on 09/12/2011; when as per rules it should meet twice a year.

Suggestions:

1. District Consumer Commissions have been set up in all the 12 districts of Himachal Pradesh and are functional as well but whole-time consumer commissions have been set up in four districts only and other eight districts have been clubbed under these four whole time District Consumer Commissions. Himachal Pradesh is geographically a difficult area especially tribal area such as kinnaur and Lahaul spiti. It will be in the interest of the 8 clubbed districts to have their own whole-time district consumer commissions.
2. Posts of Members and Presidents at consumer forums should not lie vacant at all, candidates to occupy the posts should be finalized prior to vacancy. It has been observed that mostly female member seat is lying vacant at consumer forums. It smacks of gender prejudice and hence needs redressal. Panel of members should also be made to carry out immediate recruitment as soon as possible.
3. State Consumer Protection Council is required to convene meeting twice a year but in reality, has not conducted meeting even once; this may be a cause that consumer commissions don't feel any political pressure to resolve the pendency of cases and abysmally very low level of cases are resolved within time frame. State government needs to pay attention towards the working of State Consumer Protection Council.
4. Presidents; Members and officers are not receiving adequate level of training from IIPA and BIS. Central and State government needs to make a corpus of fund for the round the year training of Presidents, Members, Officers and Staff. Technical training needs to be provided in operations of Confonet; OCMS; and E-JAGRITI portals.
5. Success of consumer forums depends to a large extent on educated and aware consumer. State government doesn't allocate any budget for promotion of consumer awareness. If consumer is not aware about his/her rights then it will only promote vested interests to take advantage of unawareness of the consumers. Government needs to make a budgetary provision for promotion of consumer awareness through setting up state consumer welfare fund; consumer clubs at school college and university level and also use social media to run campaigns etc.

Conclusion:

After analysis of all the statistics of performance of the State Consumer Commission and District Consumer Commissions of Himachal Pradesh since inception, it may be concluded that performance of the commissions is average. There are certain indicators wherein performance is good enough and there are certain indicators wherein performance is not good enough. Indicators related to the training of the Presidents; Members; and officers was not found to be good enough and hence needs attention whereas staff of the commissions did receive appropriate level of training from TSPs (Training Specialists).

Disposal of cases at all the forums was above 95% but disposal of cases within time frame and pendency of cases is not good enough. Posts of members especially Female member lying vacant shows the gender prejudice of the commission and needs immediate redressal. District Consumer Protection Council headed by Additional deputy commissioner is meeting twice a year whereas State Consumer Protection Council has not convened a single meeting up till now; is a matter of concern. Infrastructure related to Information technology at the disposal of commissions such as Confonet, E-Daakhil, OCMS and E-JAGRITI are functioning reasonably well. Few suggestions have been made above to eliminate the weaknesses in the functioning of the consumer commissions in Himachal Pradesh; if implemented may help improve overall efficiency of the Consumer commissions.

References:

1. Dr A. Rajendra Prasad, n.d., Historical Evolution of Consumer Protection and Law in India A Bird's Eye View, Journal of Texas Consumer Law, pp. 132-136
2. Dr Pratibha Goyal, UDAYINDIA Updated: September 2, 2021 3:25 pm, National Pride: Consumer Protection in Ancient India
3. Aditi Vishnoi; 2020, October 16th Consumer Protection: Tracing History & Recent Developments in India Law Portal
4. Rangarajan, L.N. (1992). Kautilya—the Arthashastra. New Delhi: Penguin Books
5. Mekala, Rajanikanth. (2017). A Study on Evolution of Consumer Protection Act in India – CPA1986.
6. Consumer_Handbook.pdf; Department of consumer affairs; Government of India
7. <https://blog.finology.in/Legal-news/Overview-of-Consumer-Protection-Act-1986> 13th September 2019, An Overview of the Consumer Protection Act ,1986
8. Consumer Protection Acts and Rules, 2019, Department of consumer affairs, Government of India
9. World Consumer Rights Day; Press Information Bureau; Ministry of Information and Broadcasting Government of India
10. Dr Poornima Sharma; Consumer Movement in India; International Journal of Yogic, Human Movement and Sports Sciences 2018; 3(1): 269-272
11. Pradeep S. Mehta; Economic Regulations, Competition, and Consumer Protection in Ancient India; The Anti-Trust India; 1-14