



AGRIBUSINESS AND THE INDIAN CONSUMER LAW: AN OVERVIEW

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Abstract--At present, sustainable and renewable resources are important to many consumers and so it is essential that they have accurate information about the products. The growing interdependence of the world economy and international business practices have contributed to the development and upliftment of consumer rights and their protection. Globalization and technological developments made a great impact on the quality, availability and safety of goods and services in agriculture sector. In India, consumers are still exploited and unscrupulous trade practices such as misleading advertisement, adulteration of food, poor quality, hazardous products still exist. The trends in global agribusiness are changing at a rapid pace and the agriculture business is more concerned with delivering customer care and value than increasing the quantity of production only. The consumers are more conscious of their rights and therefore the sustainability of agribusiness should ensure consumers safety and producer's welfare along with legal awareness is the need of the time. This paper tries to discuss Consumer law and agribusiness in India. The purpose of this paper is to educate business in agriculture sector about their obligations under the Consumer Protection Act, 1986. It aims to assist manufacturers, suppliers, advertisers and others to assess any environmental claims they make and to improve the accuracy and usefulness to consumers of their labeling, packaging and advertising.

Key words: consumer, agribusiness, law, goods, quality.

I. INTRODUCTION

Consumer protection is one of the largest concerns of the globalized world. No country can disregard the interests of the consumers. The consumer needs to be supply with good qualities of products and services. The Consumer protection laws have originated and developed as a natural response to the recognition of the rights of every consumer to be protected against exploitation and abuse by any manufacturers or supplier of goods or service providers. Trace with care, the idea of consumer protection can be found to have existed in every kind of social order and judicial mechanism, whether primitive or modern.¹ India has faced a rapid increase in the supply of consumer goods, and there has been an increase in the provisions of consumer services as well as new methods of distribution of consumer products.

On the other hand, Agriculture is subject to state laws and therefore each state has its own separate laws regarding mortgage of agricultural law and agribusiness. It has evolved out of the new input-output matrix. Application of managerial concepts, models and strategies at both individual and institutional levels are concrete with set results. The central Government has introduced a Scheme for Agri-business Development and Agriprenuers are now realizing the importance of quality changes and value addition in agriculture. Despite all these healthy trends, agri-business has its challenges for rural development in terms of resource utilization, rural livelihood and rural ecology. Issues regarding appropriate technology, labour productivity, cooperation, credit, and marketing and extension services are crucial even in the new set-up of reforms.² Due to globalization, agri-business has opened new steps for growth and development of the rural economy in general and of the agrarian economy in particular. It also analyses the challenges in developing agribusiness arising out of the diversity and/or paucity of resources and difficulties of adaptation.

II. CONCEPT OF AGRIBUSINESS AND CONSUMERISM

Agricultural law is a relatively new phenomenon. Farmers have always been subject to established contract, real property and estate laws, but it wasn't until the mid 1980's that federal and state governments began treating the production of food and fiber as a calling worthy of special treatment. The law as it relates to agriculture is

¹ Verma S.K. & Afzal Wani,M.(2004).*A treaties on consumer protection laws*.New Delhi, ILI, 3.

² Retrieved September 18th from <http://www.practicallaw.com/agriculture-guide>.



concerned with farmers and the consuming public. Agricultural law is designed to ensure the continued, efficient production and distribution of foods and fibers. Through a vast system of regulations that control the various aspects of agricultural practice, federal and state governments are able to provide for the needs of both agriculturalists and consumers³

As commonly understood consumerism refers to wide range of activities of government business and independent organizations designed to protect rights of the consumers. Consumerism is a process through which the consumers seek redress, restitution and remedy for their dissatisfaction and frustration with the help of their all organized or unorganized efforts and activities.⁴ It is a social movement seeking to protect the rights of consumers in relation to the producers of goods and providers of services. Consumer is the focal point of any business. Consumers' satisfaction will benefit not only in agribusiness but in normal business as well. There are various components of consumerism. One of the most important components is self-protection by consumers. Consumer must be aware of his rights, raise voice against exploitation and seek redressal of his grievances. Consumers' consciousness determines the effectiveness of consumerism. It is the duty of the consumer to identify his rights and to protect them. Voluntary Consumer Organizations engaged in organizing consumers and encouraging them to safeguard their interests is another important element of consumer movement, the success of consumerism lies in the realization of the business that there is no substitute for voluntary self-regulations. Regulation of business through legislation is one of the important means of protecting the consumers. Consumerism has over the time developed into a sound force designed to aid and protect the consumer by exerting legal, moral and economic pressure on producers and providers in some of the developed countries. One of the most important means of tackling the problem is the provisions of Public Interest litigation.⁵

III. INTERNATIONAL SCENARIO

Controlling agribusiness is essentially a problem of managing the global common and effective response to agribusiness would depend on the creation of conditions for international cooperation or collective action by the different nations. India has been a member of the World Trade Organisation (WTO) since 1 January 1995 and a member of the Food and Agriculture Organization of the United Nations (FAO) since 1945 and was one of its founding members. India has been a member of the World Trade Organisation (WTO) since 1 January 1995.

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International Plant Protection Convention (IPPC): India signed the International Plant Protection Convention (IPPC) on 30 April 1952 and subsequently ratified it on 9 June 1952.

Office International des Epizooties (IOE)/World Animal Health Organisation: India is a member of the Office International des Epizooties (IOE), also known as the World Animal Health Organisation

Intergovernmental Panel on Climate Change (IPCC): IPCC was formed by the United Nations Environment Programme and the World Meteorological Organization (WMO) in the late 1980s as a scientific body to assess the most recent scientific, technical, and socio-economic information produced worldwide. It generates assessment reports from time to time on this basis, giving its understanding of the impact of anthropogenic interference on the climate. It is an international body with the voluntary participation of 194 member countries of the UN and the WMO. The early laws on hazardous waste were aimed at managing the flow of hazardous emissions coming from firms in order to reduce potential impacts, especially on human health. But toxic emissions are more difficult to manage. This has led policymakers to attack the toxics problems. This can be

³ Retrieved September 20th from <http://legal-dictionary.thefreedictionary.com/Agricultural+Law>.

⁴ Jain, N.K.(2008). *Consumer Protection Law and practice*. New Delhi, Regal Publication, 5.

⁵ Showkat Hussain shah,(2014). *Consumer Interest Litigation under the Consumer Protection Act,1986 in India : A critical analysis*.Nirma University Law Journal, Vol-3,Issue-2,06.



done in two ways:⁶(1) by recycling residuals back into the production process and (2) by shifting technologies and operations so that the amount of residuals actually generated by firms is reduced.

IV. THE CONSUMER PROTECTION ACT, 1986 AND IMPORTANT JUDICIAL DECISIONS

The Industrial revolution brought a radical change in the lives of the human beings as regards the goods and articles consumed by them in their day to day life. The concept of market was also brought into existence. As the society was Laissez Faire, the State used to intervene in the lives of its citizen very rarely. There were no effective laws to regulate the relationship between the buyer and seller. The principle of “Caveat Emptor” i.e. “Let the buyer Beware” was the rule of the day.⁷ The consumers came to be abused and exploited by unscrupulous traders whose only object was to make profit at every cost. This led to the consumers’ movement throughout the world. The developed countries like the U.S.A and United Kingdom were the first to realize the need to protect the interests of consumers who became a powerful and intelligent class in the society. The concept of consumer came into existence and consumer protection became one of the primary duties of the State.

The United Nations General Assembly passed a resolution in 1985 emphasizing the need for consumer education. The resolution lays down certain guidelines for better protection of consumers. These guidelines which were unanimously adopted in the General assembly on 9th April, 1985 are also described as “Chapter of Human Rights”.⁸ These guidelines represent an initial attempt to create a global framework for consumer protection policy and measures. They act as a stimulating factor for such legislation framed in many countries. The Consumer Protection Act, 1986 is one of such legislation in India. The popularity of the enactment lies in its objectives of identifying consumers’ rights and providing cost-effective and speedy redressal. In the US case of *Escola v. Coca Cola Bottling Co*⁹, a waitress was injured when a soda bottle exploded in her hand. Justice Traynor asserted that public policy demanded recovery for the plaintiff even if negligence could not be proven because the manufacturer was in the best position to insure against the damage. This position was based on the theory that the consumer does not have the same opportunity to inspect products, the same knowledge to recognize dangers, or the ability to bear the cost of such dangers. This idea of liability imposed without fault became known as “strict liability”. The Parliament of India enacted Consumer Protection Act on 24th December 1986 to provide a mechanism for cheaper and speedy redressal of the grievances of the consumers.¹⁰ The Act aims to protect consumer interests. The Consumer Protection Act also imposes strict liability on manufacture/producers of goods, in case of supply of defective goods, and service provider, in case of deficiency in rendering service. The Act applies to all goods and services unless specifically exempted by the Central Government. In *Laxmi Engineering works v.PSG Industries*¹¹ it was held that it is not the value of the goods but the purpose for which it was purchased that matters. The Consumer Protection Act, 1986 is supported by Consumer Protection Rules, 1987 and Consumer Protection Regulations 2005.¹² Consumer services are important to effective regulation, policy development and implementation. In *Super Computer Centre v.Globiz Investment Pvt. Ltd*¹³ it was held that the purchaser of the machinery would certainly be a consumer in respect of defect in machine during period of warranty. A good consumer knows what to look out and what to avoid. It means knowing where and how to get the best value for money, where to go if things go wrong.¹⁴ Since 1989 India has been observing 15th March, as the National Consumer’s Day. This day has a historic importance as it

⁶ Retrieved 20th from <https://uk.practicallaw.thomsonreuters.com/1-6041046?transitionType=p default and context data and bhcp=1>

⁷ Reddy, Gb. (2009). *Law of Consumer Protection*. Hyderabad, Gogia Law Agency, 4th Edition, 1.

⁸ *Ibid*, p. 2.

⁹ 24 cal.2d.453

¹⁰ Ashok.R.Patel, (ed.) .(2014). Inaugural Speech of Hon’ble Mr. Justice Ashok Bhan quoted in *25 years of consumer protection Act: Challenges and the way Forward*, NLSU, Bangalore, 4.

¹¹ AIR 1995 SC 1428

¹² *Ibid*, p.20.

¹³ III(2006) CPJ 265(NC)

¹⁴ *Supra* note3 at 9.



was on this day in 1962, when the Bill for Consumer rights was moved in the US Congress. During his speech President John F. Kennedy had remarked:

“If a consumer is offered inferior products, if prices are exorbitant, if drugs are unsafe or worthless, if the consumer is unable to choose on an informed basis, then his dollar is wasted, his health and safety may be threatened, and national interest suffers”.

He equated the rights of the ordinary American consumer with national interest and attributed four basic rights to the American Consumer namely the right to safety, the right to choose, the right to information and the Right to be heard.¹⁵

In India, the Consumer Protection Bill, 1986 seeks to provide for better protection of the interests of consumers and for the purpose, to make provision for the establishment of Consumers council and other authorities for the settlement of consumer disputes and for matter Connected therewith. These objects are sought to be promoted and protected by the Consumer Protection Council to be established at the Central and State level. To provide speedy and simple redressal to consumer disputes, quasi judicial machinery is sought to be set up at the district, State and Central levels. Penalties for the compliance of the orders given by the quasi judicial bodies have also been provided.

Under the Consumer Protection Act, 1986 Consumer Disputes Redressal Agencies (CDRA) have been set up at different Districts, States and National Levels to render simple, inexpensive and speedy justice to consumers in respect of complaints against defective goods, deficient services and unfair/restrictive trade practices. A consumer may also initiate proceedings in a civil court under the law of contract, sale of goods, or any other existing law. The provisions of the Act do not debar a consumer from going to a civil court for compensation for loss or damage which might have been caused to him due to the defect in the goods purchased by him. The Act provides for a separate enforcement machinery and redressal forum with the aim to provide the consumers, a simple and expeditious solution to consumer problems. In several judgments the National Commission has provided guidelines with regard to powers of Consumer Disputes Redressal Agencies (CDRA).¹⁶ A new step has been taken in consumer justice and protection in India with the enactment of the Consumer Protection Act, 1986. The setting up of Consumer Disputes Redressal Agencies (CDRA) namely District Forum at district level, State Commission at State level and National Commission at national level¹⁷ provide a cheap and speedy justice for consumers. In the case of *Lucknow Development Authority v. M.K. Gupta*¹⁸ it was held that while establishing the jurisdiction of the CDRA, the service provided by a private body or a statutory or public authority are within the Jurisdiction of the Consumer Protection Act. The comprehensive consumer protection legislation is meant for the creation of many channels for the speedy redressal of consumer grievances. It is an important social legislation that enshrines the rights and remedies of the consumers. The Provisions of the Act has to be construed as broadly as possible in favor of the consumer and the purpose of the enactment is that the consumer can seek redressal against manufacturers, traders of goods and providers of various types of services

V. OTHER LEGAL ASPECTS

The Consumer Protection Act, 1986, however is not the only law that deals with the consumer protection and is not the first of its kind. There are number of pre-constitutional law and also the post constitutional laws that aim at the protection of the consumer interests. Some of these enactments are the Sale of Goods Act, 1930, the Indian Penal Code, 1860, the Drugs and Cosmetics Act, 1940, the Prevention of Food Adulteration Act, 1954, the Standards of Weight and Measures Act, 1976 etc. Some of the other important legal aspects can be discussed as follows:

The Constitution of India, 1950: The Constitution of India which is the fundamental law of the land contains a number of provisions which go a long way in protecting the right of the consumers. The word ‘Consumer’ is

¹⁵ Kuljit Kaur. (2007). *Consumerism-Rights and Responsibilities*. M.D.U.Law Journal, Vol.XII, Part .II ,117.

¹⁶ Saraf, D.N.(1992). *Consumer protection Law*, Annual Survey of Indian law,52.

¹⁷ Sections 11, 17 and 21 of the Consumer Protection Act, 1986.

¹⁸ (1994) 1SCC 243.



not found in the Constitution. The founding fathers of the Constitution had a glorious vision of the establishment of a new society in India with high ideals for guaranteeing the multi-dimensional welfare of all the people.¹⁹ For instance, Art.46 provides that the State shall endeavor to protect the economic interest of the weaker section of its population and also protect them from social injustice and all forms of exploitation. Exploitation includes consumer exploitation which means harassments and frauds in the market place, and also less value of quality and quantity. The Act is said to be comprehensive piece of social welfare legislation for the benefit of consumer. It is the solemn duty of a welfare State to strive for the establishments of an egalitarian society wherein economic, social and political equality and justice prevail.²⁰ However, the use of the term 'Protection' is significant in view of the present day need of the consumer. In *C.P.Moosav v. Chowgle Industries Ltd*²¹; it was held that the case falls under sec.2 (1) (d) (ii) and appellant is entitled to compensation. The word "consumer" has been defined in the Consumer Protection Act, 1986 and it means any person who buys any goods for consideration, but does not include a person, who obtains such goods for resale, or for any commercial purpose, does not fall within the definition of the word consumer. In *Synco Textiles Private Ltd.v. Greaves Cotton and Co.Ltd.*,²² the National Commission in its majority opinion interpreted the term consumer by laying emphasis that a person buying goods for use in a large scale profit making activity will not be "consumer" entitled to protection under the Act.

In India, each state has its own separate laws relating to land usage rights and ownership of agricultural lands. The usage rights and ownership of agricultural land fall under the ambit of entry 18 in the State List (List II) of the Seventh Schedule of the Constitution of India, which includes "land, rights in or over land, land tenures including the relation of landlord and tenant, and the collection of rents and transfer and alienation of agricultural land". Article 246 of the Constitution of India expressly states that the Legislature of the State has exclusive power to make laws for such State in relation to any of the matters set out in the State List (List II) in the Seventh Schedule. There is no existing regulation in relation to sale of agricultural land by the Government.

The Transfer of Property Act, 1882: The Transfer of Property Act 1882 states that in the absence of a contract or local law or usage to the contrary, a lease of immovable property for agricultural or manufacturing purposes will be deemed to be a lease from year to year, terminable, on the part of either lessor or lessee, by six months' notice expiring with the end of a year of the tenancy.²³ Section 117 states that the chapter governing leases will not apply to agricultural purpose unless the State Government declares the applicability of the same through publishing a notification in the Official Gazette. Several States in India such as Delhi, Uttar Pradesh, Karnataka and Maharashtra strictly prohibit lease of agricultural land for any term whatsoever.

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013: The Act applies to those land acquisitions which the government has carried out for public purposes either by the government itself or by private companies, to which further amendments that are highly politicized are likely to follow. The Act specifically lists the purposes for which the appropriate government can expropriate land as agricultural land is not considered a capital asset.²⁴ Therefore, it is not subject to capital gains tax. However, the Finance Act 2013 has put certain exceptions to this general rule, whereby the land must not be considered as agricultural land and must be subject to a capital gain of 1% of the consideration amount:

The Seeds Act 1966 (Seeds Act) and the Seeds Rules 1968 (Seeds Rules): The Seeds Act is the central legislation which regulates the crop seed industry in India. The Seed Rules were enacted to supplement the Seeds Act 1966. The authorities set up under the Seeds Act are the Central Seed Committee, Central and State Seed Laboratory, and Seed Certification Agency. In *Seed Association of Madhya Pradesh, Indore v Union of*

¹⁹ Rao Koteswar P. (e.d).(1981). Constitution,State and Consumer Welfare. quoted in Leelakrishnan,*Consumer Protection Control*, Eastern Book Company, Lucknow, 81.*and legal*

²⁰ Reddy, D.V.N .1989).*Justice to the Consumer and the Consumer Protection Act*. Supreme Court Journal, 21.

²¹ 2001-CPJ-3-9-NC

²² 1991(I) C.P.J.499.

²³ Section 106 of the Transfer of Property Act, 1882.

²⁴ Section 2 of the The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013



India and Ors,²⁵ the issue before the Court was whether for the purpose of carrying on the business of producing and selling of Bt cotton hybrid seeds, the permission from SBCC was required, in terms of the order issued by the General Administration Department on 9 August 2007. The court held that the manufacturers/sellers of the Bt cotton hybrid seeds, need not obtain a prior permission from SBCC, and the State Government order issued on 9 August 2007 was quashed, being illegal, null and void and without any authority of law.

The Food Safety and Standards Act 2006: The main objective of the FSS Act is to consolidate the laws pertaining to food and to establish the Food Safety and Standards Authority of India (FSSAI) for laying down science based standards and regulating storage, manufacture, distribution, sale and import of the foods, along with ensuring safe and nutritious human consumption. The FSS Act prescribes liabilities for the manufacturers, wholesalers, packers, distributors and sellers which are listed in *section 27 of the Act*. In the case of injury, grievous injury or death of a person due to any contaminated food article manufactured, distributed or sold by a person directly or by any third person on his behalf, such person will be both imprisoned for not less than seven years Liable to pay compensation as stated under the FSS Act within a period of six months from the date of occurrence of the incident.²⁶ In addition to the FSS Act, there are numerous other rules and regulations passed by the Ministry of Health and Family Affairs pertaining to food safety and standard setting, which can be accessed at the FSSAI website.

The Foreign Direct Investment (FDI) policy: FDI is determined by the Ministry of Commerce and Industry. The current FDI Policy will be further amended from time to time in accordance with the objectives of the Government of India. The FDI policy allows automatic registration of foreign investments of up to 100% of the shares in floriculture, horticulture, apiculture and cultivation of vegetables and mushrooms under controlled conditions, development and production of seeds and planting material, animal husbandry, fish farming, aquaculture, under controlled conditions. Services related to agro and allied sectors.

The Competition Act 2002: The statute governing competition law in India is the Competition Act 2002, which establishes the Competition Commission of India. It ensures fair market competition and eliminates practices which hinder fair competition, protection of the interests of consumers and freedom of trade. In *Centre for Public interest Litigation v UOI & Ors*,²⁷ the court accepted safety and standard norms as a tool to enforce the right to life under Article 21, and took into account the health concerns with respect to the fruit soft drinks and lack of any crosschecking of all its ingredients (including water). The court directed the FSSAI to form regulations and rules pertaining to the amount and type of water to be used in the soft drinks. In *Sanjeev Kumar v State of HP & Ors (2013)*,²⁸ the court settled the dispute over the application of centre or state legislation, and set out a precedent that where both legislations deal with the matter on similar terms or with minor inconsistency, both legislations will be applicable.

VI. CONCLUSION

The awareness in consumer law can protect to some extent the management of agribusiness in consumer products and market place from violation of consumer rights. The objective of ensuring these consumer products should be "reasonably" safe. Some might argue that these matters are not properly part of consumer law but the relations of consumers to producers, and of workers to firm owners, are played out directly through agricultural markets. It is sometimes easy to believe that all we need is sufficiently severe laws to enforce agricultural, environmental and consumer issues. However, as most of the benefits of the above measures are of a public good nature, it is necessary for the government to play a leading role in agribusiness by developing appropriate policy frameworks for coordinating and guiding initiatives for such measures. The Consumer

²⁵ 2009 (4) MPHT453.

²⁶ Section 65 of the FSSAI Act, 2006.

²⁷ AIR 2014 SC 49

²⁸ CWP No.6709 of 2013-A



Protection Act, 1986 has been amended three times i.e. 1991, 1993 and 2002. On 16th December 2011 Central Government has introduced a Consumer Protection Amendment Bill, 2011 before the Lok Sabha to facilitate quicker disposal of cases and to widen and amplify the scope of some provisions of the Act. The Consumer Protection Bill, 2015 and the Bureau of Indian Standards Bill, 2015 and the Consumer Protection Bill, 2018 are efforts to provide the basis for new dimensions of consumer protection.

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