

A Comparative Study Of Consumer Courts In Tamil Nadu & Kerala States - A Statistical Survey Report

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INTRODUCTION

Consumer Courts in India receive less attention from Central and State Governments as they are a non-profit organization and non-revenue department functioning for consumers' benefit at the National, State and District level. The state of Tamil Nadu is also not an exception to this National rule. Statistical data published by National Commission at New Delhi reveals that consumer courts in Tamil Nadu (State Commission and 30 District Forums) have been showing less than average performance, as compared to all the states in the country. Thus, an attempt has been made to study the performance of consumer courts in Tamil Nadu, in comparison with Consumer Courts in Kerala for a nine-month duration, commencing from November 2009 to September 2010.

CONSUMER COURTS - A BRIEF INTRODUCTION

The Consumer Protection Act had been formulated by the Indian Government in the year 1986, to help Indian citizens exercise their Rights and Duties as alert consumers by raising their voice against unfair trade practices and business injustices practiced by unethical business organizations through their products, and services manufactured and provided against Government Standards and Norms. In India, Consumer Courts exist as a 3 tier structure functioning at National, State and District Level. As on September 2010, there existed 1 National Commission at New Delhi, 34 State Commissions and 627 District Forums in the Country. Consumer Courts in India are free from tedious legal procedures and formalities practiced by Civil and Criminal courts. Complaints can be filed in a consumer court in a plain white paper, for which stamp papers are not required. Similarly, consumers themselves can argue their cases in consumer courts, and they don't need lawyers.

RESEARCH OBJECTIVES

1. To make a comparative study of Consumer Courts in Tamil Nadu and Consumer Courts in Kerala for a period of 9 months, commencing from November 2009 to September 2010.

✿ Analyzing the performance of Tamil Nadu State Commission with Kerala State Commission.

✿ Analyzing the performance of total 30 District Forums in Tamil Nadu, with 14 District Forums in Kerala.

✿ Examining the number of vacancies existing for the posts of President and Members in Consumer courts in Tamil Nadu and Kerala.

✿ Number of Functioning and Non-Functioning District Forums in Tamil Nadu and Kerala.

2. To make a critical review on the functioning of Consumer Courts in India, and to make suitable suggestions for their improvement.

LITERATURE REVIEW

¹Supreme Court has described the functioning of Government Bodies in India and the pathetic situation of Indian

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¹Supreme Court in the case of Lucknow Development Authority vs. M.K. Gupta- (1994), 1 SCC 243.

Consumers in its Landmark Judgement as follows:

"The importance of the Act lies in promoting welfare of the society by enabling the consumer to participate directly in the market economy. It attempts to remove the helplessness of a consumer which he faces against powerful businesses, described as, "a network of rackets" or a society in which, 'producers have secured power' to 'rob the rest' and the might of public bodies, which are degenerating into storehouses of inaction, where papers do not move from one desk to another as a matter of duty and responsibility, but for extraneous consideration, leaving the common man helpless, bewildered and shocked. The malady is becoming so rampant, widespread and deep that the society, instead of bothering, complaining and fighting against it, is accepting it as part of life. The enactment in these unbelievable yet harsh realities appears to be a silver lining, which may in the course of time, succeed in checking the root'."

²The Article titled "Consumer Forum Remains Headless" by V. S. Palaniappan in "The Hindu" newspaper published on Tuesday, May 25th 2004 spoke about how the Coimbatore consumer court had existed without a President for the past 6 months, resulting in huge backlog of cases. About 460 Cases were pending before the court. Eighty-one cases could not be executed for want of the president among which, 28 were special trial cases. Similarly, 138 cases filed by affected consumers could not be numbered for the same reason. This situation also holds good for Nilgiris District Consumer Forum as well.

NEED FOR THE STUDY

India has become a dump yard for many multi-national corporations and business giants to dump their products and services, which are manufactured against the societal ethics and code of business conduct. This is because of the conservative nature of Indian consumers, who accept any injustice done to them rather than fighting against it and due to the negligent attitude of the Indian government towards consumer courts, which suffer from severe weaknesses, the problem has been aggravated. Thus, when consumer courts in a country are not functioning effectively in solving consumer problems; it encourages unscrupulous business organizations to enter the market and exploit the consumers.

The Tamil Nadu government has been giving less attention to consumer courts in the state for the past few years, by having a large number of unfilled vacancies for the post of President and Members and by increasing a large number of non-functioning district Forums. Similarly, the efforts made by the Tamil Nadu government to increase awareness among the state population on consumerism are far from adequate. The study will bring insight into the pathetic situation of Consumer Courts in India, particularly in Tamil Nadu, and provides an opportunity to examine the importance the Tamil Nadu Government gives to consumers and their problems in the state. Therefore, this comparative study on Consumer Courts in Tamil Nadu and Kerala States was much needed.

SCOPE OF THE STUDY

The study was restricted only to studying Consumer Courts in Tamil Nadu and Kerala States and to make a comparison between them. The term Consumer Courts include State Commission and District Forums. The phrase "Consumer Courts in Tamil Nadu" refers to Tamil Nadu State commission located at its State Capital Chennai and 30 District Forums for 30 districts in the State. Similarly, the Phrase "Consumer Courts in Kerala" refers to Kerala State Commission located at its State Capital, Thiruvananthapuram and 14 District Forums for 14 districts in the State. Likewise, the period considered for comparison was 9 months, commencing from 30th November 2009 to 6th September 2010.

Various Issues of Statistical Reports published by National Consumer Dispute Redressal Commission, New Delhi were taken (at periodic intervals) as the base data for the comparison purpose. Major attributes used for the comparison are total number of cases filed, disposed, pending, % of case disposals, number of vacant posts, and non-functioning District Forums in each State. Consumer courts in Kerala were chosen for comparison due to their commendable performance at the National level. Though Kerala is one among the smallest state in terms of the population (31.84 million) and geographical area (38,863 sq. km), it occupies the 3rd place in India and 1st place in South India to receive a large number of consumer cases on an average, and for their efficient functioning.

² Article titled "Consumer forum remains headless" by V. S. Palaniappan in "The Hindu" on May 25th 2004.

PROFILE OF CONSUMERS IN TAMIL NADU

Consumers in Tamil Nadu, for the study purpose, have been broadly classified into Rural and Urban consumers. Tamil Nadu as a state is well developed, being the second most Industrialized State, its State Capital Chennai being the second largest software exporter in India, ranking 3rd in Foreign Direct Investment, contributing 9% to the Country's GNP, as well as being well placed in terms of technology, infrastructure, investment pattern and like; consumers in Tamil Nadu are also well developed in terms of their consumption pattern, Investment pattern, buying behaviour and like. However, when it comes to enforcement of their basic rights and duties as consumers, they are lacking behind. Awareness about consumerism is high among rural consumers as compared to urban consumers. Urban consumers, even if aware, are not approaching consumer courts for justice due to their conservative nature.

PROFILE OF CONSUMERS IN KERALA

Kerala as a state is recognized for its unique Culture and Heritage. The State attracts lakhs of people each year for its 5000-year-old Ayurvedic treatment. It is also one among the frequently visited tourist states across the country. As per 2001 census, about 91% of the state population was literate. Keralites by nature, enforce their rights and fight for justice, which has uplifted the functioning of consumer courts in the State.

METHODOLOGY

Descriptive Research Design was used for the study to describe the performance of Consumer Courts in Tamil Nadu and Kerala from November 2009 to September 2010.

✿ **Methods Of Data Collection :** The data for the study was collected using both Primary and Secondary sources. Under Primary source, Personal Observation at Chennai District Forums and Tamil Nadu State Commission were undertaken. Personal interviews with few lawyers handling consumer cases and few administrative employees at District Forums were also conducted.

Secondary Data is the major source used for conducting the study. The study made use of:

- ✿ Statistical Reports published by National Commission, New Delhi.
- ✿ Journal Articles related to Consumerism and Consumer Protection Act.
- ✿ Published Judgement copies of Supreme Court of India.
- ✿ Newspaper Articles.
- ✿ Government Websites etc.

ANALYSIS AND RESULTS

Table 1: Performance of Kerala and Tamil Nadu State Commissions					
S.L	Particulars	November 2009		September 2010	
		Kerala	Tamilnadu	Kerala	Tamilnadu
1.	Cases Filed since Inception	22,438	20,722	23,025	21,447
2.	Cases Disposed since Inception	20,249	17,820	21,468	18,691
3.	Cases Pending since Inception	2,189	2,902	1,557	2,756
(Source: www.ncdrc.nic.in)					

INFERENCE (TABLE 1 AND FIGURE 1)

1. Statistics as in November 2009 Indicate:

- ✿ Kerala State Commission received 1716 more cases than Tamil Nadu.
- ✿ Kerala Commission had disposed 2,429 more cases than Tamil Nadu.
- ✿ Tamil Nadu had 713 ($2,189 - 2,902 = 713$) more cases pending than Kerala for disposal.

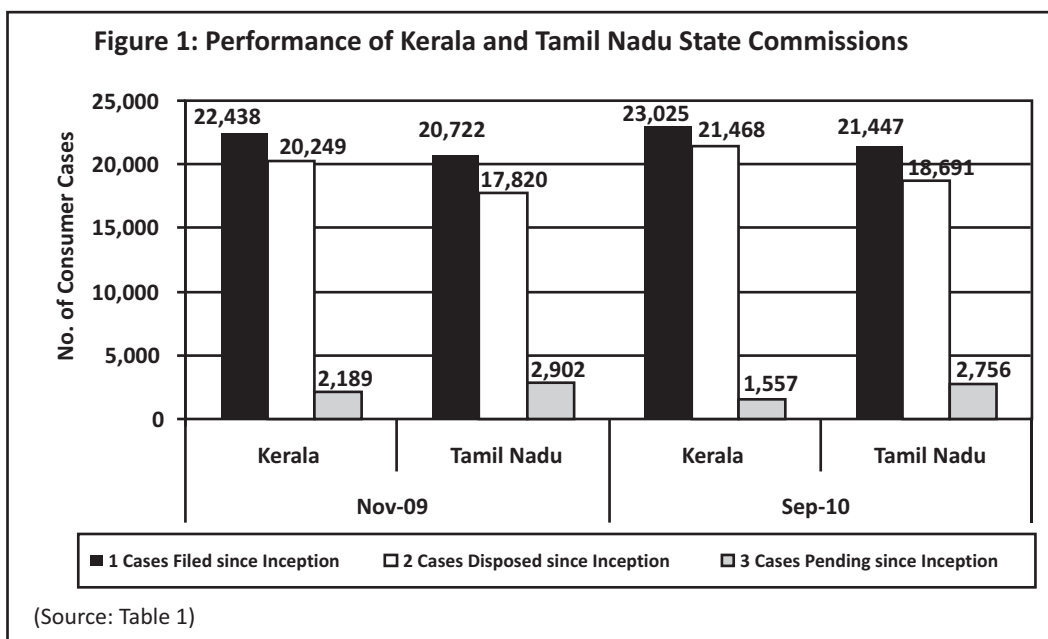
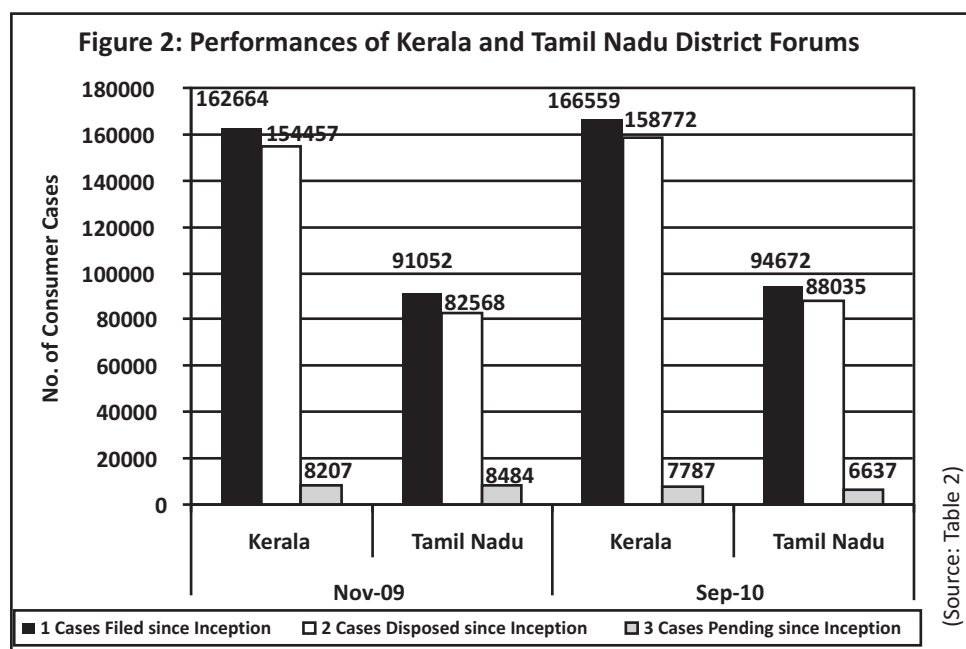


Table 2: Performances of Kerala and Tamil Nadu District Forums					
S.L	Particulars	November 2009		September 2010	
		Kerala	Tamil Nadu	Kerala	Tamil Nadu
1.	Cases Filed since Inception	162664	91052	166559	94672
2.	Cases Disposed since Inception	154457	82568	158772	88035
3.	Cases Pending since Inception	8207	8484	7787	6637

(Source: www.ncdrc.nic.in)

2. Statistics as in September 2010 Indicate:

- ✿ Kerala received 1,578 more cases than Tamil Nadu.
- ✿ Kerala disposed 2,777 more cases than Tamil Nadu.



❖ Tamil Nadu had an additional 1,199 more cases pending than Kerala, for disposal.

3. Comparison Duration: (Sep 2010 - Nov 2009) = 9 Months

❖ Kerala received 587 cases and Tamil Nadu received 725 cases.

❖ Kerala disposed 1,219 cases and Tamil Nadu disposed only 871 cases.

❖ Kerala reduced the pending cases by 632, while Tamil Nadu reduced the pending cases only by 146.

INFERENCE (TABLE 2 AND FIGURE 2)

1. Statistics as in November 2009 Indicate:

❖ Kerala District forums received 71,612 more cases than Tamil Nadu.

❖ Kerala Forums disposed 71,889 more cases than Tamil Nadu.

❖ Tamil Nadu forums had 277 more pending cases than Kerala for disposal.

2. Statistics as in September 2010 Indicate:

❖ Kerala District Forums received 71,887 more cases than Tamil Nadu.

❖ Kerala disposed 70,737 more cases than Tamil Nadu.

❖ Kerala had 1,150 more pending cases than Tamil Nadu.

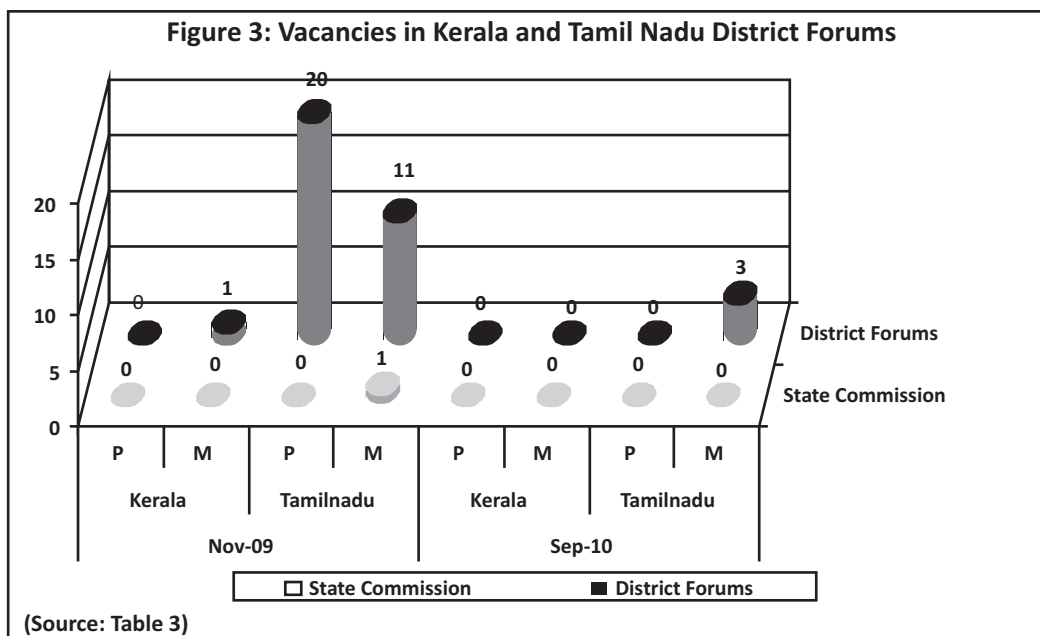
3. Comparison Duration: (Sep 2010 - Nov 2009) = 9 Months

❖ Kerala had received 3,895 cases, and TamilNadu received 3,620 cases.

❖ Kerala disposed 4,315 cases and Tamil Nadu disposed 5,467 cases.

❖ Kerala reduced the pending cases by 420, while Tamil Nadu reduced the pending cases by 1,847.

Table 3: Vacancies in Kerala and Tamil Nadu Consumer Courts									
S.L	Particulars	November 2009				September 2010			
		Kerala		Tamil Nadu		Kerala		Tamil Nadu	
		P	M	P	M	P	M	P	M
1.	State Commission	0	0	0	1	0	0	0	0
2.	District Forums	0	1	20	11	0	0	0	3
TOTAL		0	1	20	12	0	0	0	3
(Source: www.ncdrc.nic.in)									



INFERENCE (TABLE 3 AND FIGURE 3)

1. Statistics as in November 2009 Indicate:

State Commissions:

- ✿ Kerala State Commission had requirement for Presidents and Members.
- ✿ Tamil Nadu State Commission had 1 Member Post Vacant.

District Forums:

- ✿ Kerala District Forums had 1 Member post vacant.
- ✿ Tamil Nadu District Forums had 20 vacancies for the post of President and 11 vacancies for Members.

2. Statistics as in September 2010 Indicate:

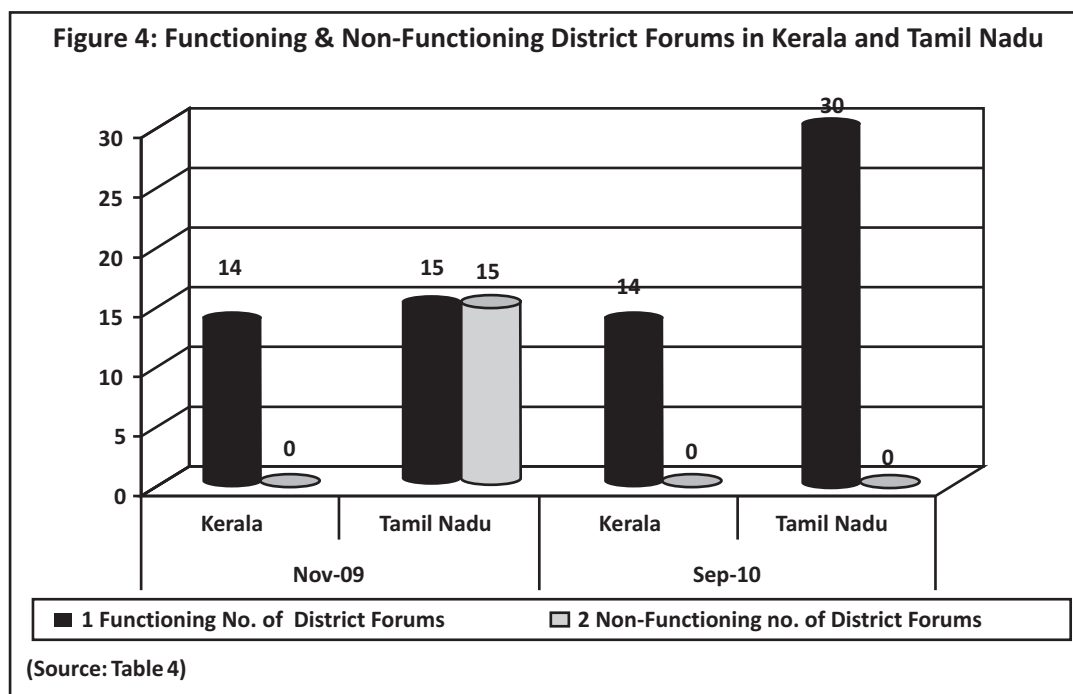
State Commissions:

- ✿ No vacancies existed in Kerala either for the post of President or Member.
- ✿ No vacancies existed in Tamil Nadu either for the post of President or Member.

District Forums:

- ✿ No vacancies existed in Kerala either for the post of President or Member.
- ✿ Tamil Nadu District Forums had 3 vacancies for the post of Member.

Table 4: Functioning & Non-Functioning District Forums in Kerala & Tamil Nadu					
S.L	Particulars	November 2009		September 2010	
		Kerala	Tamil Nadu	Kerala	Tamil Nadu
1.	Functioning No. of District Forums	14	15	14	30
2.	Non-Functioning no. of District Forums	0	15	0	0
	Total No. of District Forums	14	30	14	30
(Source: www.ncdrc.nic.in)					



3. Comparison Duration: (Sep 2010 - Nov 2009)=9 Months

State Commissions:

- ✿ Kerala State Commission maintained “No Vacancies” status for the posts of both President and Member.
- ✿ Tamil Nadu State Commission filed 1 vacancy for the post of Member.

District Forums:

- ✿ No vacancies existed in Kerala either for the post of President or Member.
- ✿ 20 Presidents and 8 Members were appointed for Tamil Nadu District Forums.

INFERENCE (TABLE 4 AND FIGURE 4)

1. Statistics as in November 2009 Indicate:

- ✿ In Kerala, all 14 District Forums are Functioning.
- ✿ In Tamil Nadu, out of the 30 District Forums, only 15 District Forums are functioning and the remaining 15 District Forums are not functioning.

2. Statistics as in September 2010 Indicate:

- ✿ In Kerala, all 14 District Forums are functioning.
- ✿ In Tamilnadu all 30 District Forums are functioning.

3. Comparison Duration: (Sep 2010 - Nov 2009)=9 Months

- ✿ In Kerala, there exists no significant change.
- ✿ In Tamil Nadu, the number of functioning District Forums increased from 15 to 30.

FINDINGS OF THE STUDY

1. Kerala State commission was found to be receiving on an average, 1,647 more cases than Tamil Nadu State commission (Refer to Table 1).
2. On an average, Kerala State commission was found to be disposing 2,603 more cases than Tamil Nadu State commission (Refer to Table 1).
3. It was found that the Tamil Nadu State Commission, on an average, had 956 more pending cases than Kerala State Commission (Refer to Table 1).
4. Statistics reveal that 14 District Forums in Kerala were receiving, on an average, 71,750 more cases than 30 District Forums in Tamil Nadu (Refer to Table 2).
5. 14 District Forums in Kerala were disposing, on an average, 71,313 more cases than 30 District Forums in Tamil Nadu (Refer to Table 2).
6. a. Nov 2009 Statistics revealed that District Forums in Tamil Nadu were found to be possessing 277 more pending cases than the District Forums in Kerala (Refer to Table 2).
6. b. September 2010 Statistics revealed that District Forums in Kerala were found to be possessing 1,150 more pending cases than the District Forums in Tamil Nadu. This is due to the efforts taken by the Tamil Nadu Government to regularize the functioning of all 30 District Forums by filling the unfilled vacancies (Refer to Table 2).
7. a. Nov 2009 Statistics indicate that District Forums in Tamil Nadu had 20 vacancies for the post of President and 11 vacancies for the post of Member, against 1 vacancy for the post of Member in Kerala District Forums (Refer to Table 3).
7. b. Sep 2010 reveals that in Tamil Nadu, the number of vacancies for the post of President in District Forums reduced from 20 to Zero and vacancies for the post of Member also reduced from 11 to 3. Kerala District Forums had “No Vacancy” either for the post of President or for the post of Member (Refer to Table 3).
8. a. Nov 2009 indicates that, in Tamil Nadu, only 15 District Forums were functioning out of 30. In short, 50% of District Forums in Tamil Nadu were non-functioning (Refer to Table 4).
8. b. Sep 2010 indicates that, due to the efforts taken by the Tamil Nadu Government, all the 30 District Forums in Tamil Nadu were functioning (Refer to Table 4).

9. Lawyers for Consumer Cases:

- ✿ There are no exclusive lawyers who handle only Consumer Cases.
- ✿ Lawyers were found giving last priority to consumer cases as compared to civil and criminal cases due to their poor revenue generating nature.
- ✿ Lawyers were found in Consumer Courts only during their case hours and were not provided with Separate cabins and sufficient Reference Resources by Consumer Courts.

10. Existing Problems in Tamil Nadu Consumer Courts:

- ✿ Records were not being maintained properly. Record rooms were not fully computerized.
- ✿ Manual Registers were maintained in large numbers to retrieve Data & Information.
- ✿ Tamil Nadu State Commission does not have its own building, and it was found operating in a rented place in Chennai (Mylapore) with no parking facility, causing inconvenience to the public.
- ✿ Tamil Nadu State Commission does not have its own website, even though it is continuously insisted by National Commission, New Delhi. Department of Civil Supplies and Consumer Protection of Tamil Nadu started its own website www.consumer.tn.gov.in in 2008.
- ✿ District Forums in Chennai, Trichy and Madurai were only receiving more than 500 consumer cases a year. The remaining 27 District Forums received less than 100 cases a year.

11. Role of Consumer Activists and Voluntary Consumer Associations was found to be less effective in Tamil Nadu, as compared to Kerala. Similarly, Consumer Awareness was found to be low among the Tamil Nadu state population, as compared to the people living in Kerala.

12. Critical Review of Consumer Courts in India:

- ✿ Consumers approaching Consumer Courts for justice were mostly above the age of 40 years.
- ✿ 90% of the complainants in Indian Consumer Courts were male.
- ✿ Consumer Courts in India lack in basic infrastructure facilities like Parking facility, Canteen facility, etc., as compared to Civil and Criminal Courts.
- ✿ Judgements given by Indian Consumer Courts are not severe, as compared to Judgments given by Consumer Courts in Foreign Countries.
- ✿ Judgements given by the Indian Consumer Courts mostly order the losing party either to replace the product, or to provide compensation or both. These Judgments are not as severe as given by the Civil & Criminal Courts.
- ✿ As per Consumer Protection Act 1986, a consumer case has to be disposed off within 90 to 150 days. In reality, 98% of the consumer cases in India exceed this time limit. This is a major drawback of the Indian Consumer Courts.

SUGGESTIONS

1. Delay in Judgements is the major reason which prevents many consumers from approaching consumer courts, as they need to wait for years to get judgements. Consumer courts should strictly adhere to the time limit of disposing cases within 90 to 150 days.
2. Efforts should be made to enforce the establishment of Additional Bench Courts in few Districts, where there are more number of pending cases, to dispose of them quickly.
3. Additional Bench Court can be situated at 2 or 3 convenient locations in the city (preferably near Bus & Rail Services) to enable consumers to approach them without much inconvenience.
4. Parking & Canteen facilities can be made available in court premises for the benefit of the litigants.
5. Usage of Softwares should be implemented in Consumer Courts to replace manual records and registers and to minimize the dependence on paper work.

6. Consumer Awareness Advertisements:

- ✿ Interesting consumer awareness advertisements should be brought out, with the help of celebrities to catch the attention of the general public.
- ✿ Frequent advertisements on private Television channels and Radio Channels (apart from Government Channels)

need to be given during peak hours to catch the target audience.

7. Judgements given by Consumer Courts in India can be made severe by High Compensation or Replacement, compulsorily accompanied with Imprisonment, which increases the confidence of Indian consumers & prevents or deters unethical business practices.

8. Small columns in Front page of leading Newspapers in Regional languages should be allotted for publishing Judgements of major consumer cases.

9. Appointment of Government Lawyers:

✿ Lawyers well versed in Consumer Protection Act and their Amendments and Rules should only be allowed to handle consumer cases.

✿ Minimum 5 Government Lawyers need to be appointed on a full-time basis for each District, by the State Government to handle consumer cases.

10. Stamps with Consumer Awareness logo can be sold among School Students and College Students to raise funds, and these funds can be used for Consumers' benefit.

11. A Nominal amount of ₹ 50 can be collected from each student studying in Private Schools, Colleges and Universities as a part of their Tuition fees and has to be remitted by the Head of the Institution to the Consumer Department and should be used for the consumers' benefit.

12. The Consumer's logo should be printed on all school uniforms of students studying in private and government schools and on all letter heads of the Government Ministries along with the logo of the Tamil Nadu government to create awareness among the general public.

13. More number of Consumer Clubs should be opened in Schools and Colleges to educate the student community on Consumerism.

14. Government and Private Television Channels should allot 3 minutes of their news time towards “Consumer News”. In the allotted time, Judgements of major consumer cases and public litigation cases should be conveyed to the public. Recently, NDTV News Channel has taken the initiative to convey the news regarding the consumer cases to the general public.

LIMITATIONS TO THE STUDY

1. The comparison period for the study purpose was taken only from 30th Nov 2009 to 6th Sep 2010.

2. Reliability of Secondary Source of data such as published data was mostly used for the study purpose. And the use of primary data was very minimal.

3. Statistical data and reports published by National Consumer Dispute Redressal Commission at New Delhi was taken as the base data for ranking and for comparison purpose.

4. Consumer Courts in Tamil Nadu were compared only with Consumer Courts in Kerala.

5. Basic Statistical techniques and tools like Percentage Analysis and Charts were used.

6. No segregation was made between cases filed under Appeal from District Forums to State Commissions in Tamil Nadu and Kerala States.

CONCLUSION

Consumer Courts in Kerala had been functioning effectively and efficiently in fighting against consumer problems, even before the comparison period, by having a good literacy rate and awareness level among its state population, who fight for justice, by enforcing their rights and duties as alert consumers. The role of the State Government is also applaudable as they have been maintaining “No Vacancy” at Consumer courts and by regularizing their functioning for years. Consumer courts in Tamil Nadu suffered from severe weaknesses until November 2009. The State occupied the 1st place in India for having a large number of non-functioning District Forums, and for having a large number of vacancies for the post of President in Consumer Courts. The Tamil Nadu Government and its connected Ministries put in major efforts in November 2009 to solve the consumers' problems in the State by filling unfilled vacancies for the post of Presidents and Members, by regularizing the functioning of all 30 District Forums, by modernizing the

Consumer courts and Consumer Protection Department, by establishing State Consumer Helplines to provide free counseling to needy consumers in the State. Thus, Tamil Nadu as a state has taken drastic steps to fight for consumer problems, but it is far from the state requirement.

Indian Consumer Courts suffer from severe weaknesses, which reduce its popularity, and create a negative opinion among Indian consumers on its functioning. Based on the above discussed statistical data, the researchers could conclude that, as compared to Tamil Nadu, the consumer courts in Kerala are functioning more effectively. However, this conclusion will be one-sided, as there are other factors, which also need to be given high weightage such as, awareness level of state population on consumerism, nature, attitude and behavior of consumers, their demographic profile, funds' availability, role and support of the concerned State Government and its connected ministries, etc.

Consumer Courts in India are like double edged swords possessed by the Government on one side and consumers on the other side. The contribution of both is essential for the benefit of both. If one side is not handled properly, it hurts the opposite party. Thus, its growth can be attributed to both, government and public, and its weaknesses is also attributed to both. Neither the Government nor the Consumers can be individually blamed for any cause and benefit.

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