

WANT TO APPROACH A CONSUMER COURT



We bring you the third and final part of our series on “How To Write Complaints”. It will help you understand the procedure to file a complaint in a Consumer Court.

In the earlier parts of the series, we mentioned that two basic groups — consumer organisations and the three-tier consumer grievance redressal mechanism — are empowered to help consumers through advice and/or redressal. Here, in the final part of the series, we explain the procedure and essentials of complaining to consumer forum/ commissions. You can file complaints in the consumer court without having approached any consumer organisation.

Machinery Under Consumer Protection Act, 1986

The Consumer Protection Act, 1986, has two important implications; first it gives the consumer the right to complain to the relevant authority and seek speedy redressal; second, one can claim compensation for any loss or injury suffered on account of the negligence and/or deficiency in service of the manufacturer/service provider.

The consumer can file a complaint at a District Forum, State or National Commission empowered by the Act to promote and protect the rights of consumers.
Consumer Forum and Commissions

For simple redressal to consumer disputes, a quasi-judicial machinery is set up at District, State and National levels called District Forums, State Consumer Disputes Redressal Commission and National Consumer Disputes Redressal Commission respectively. At present, there are 604 District Forums, 35 State Commissions (log on to ncrdc.nic.in for details) with apex body as a National Consumer Disputes Redressal Commission (NCDRC) having its office at Janpath Bhawan, A Wing, 5th Floor, Janpath, New Delhi.

Proceedings are concise in nature and endeavour is made to grant relief to the parties in the quickest possible time keeping in mind the spirit of the Act which provides for disposal of the cases within stipulated time schedule.

If the District Forum’s decision is not acceptable to a consumer he can challenge the same before the State Commission and against the order of the State Commission, a consumer can go to the National Commission.

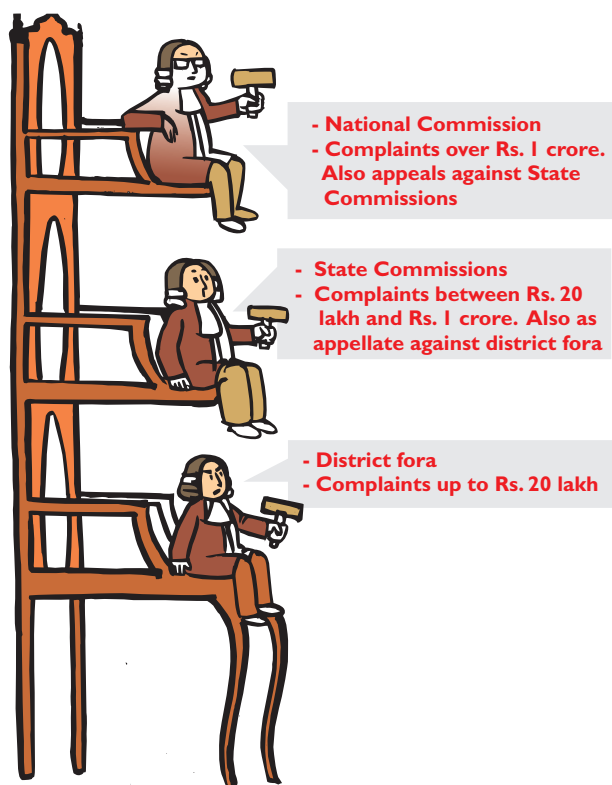
The National Commission has been conferred with the powers of administrative control over all the State Commissions. National Commission is empowered to issue instructions regarding,

- (1) adoption of uniform procedure in the hearing of the matters;
- (2) prior delivery of copies of documents produced by one party to the opposite parties;
- (3) urgent supply of copies of documents; and
- (4) general overseeing of functions of the fora

The functioning of the fora is consumer friendly, and thus consumers can file complaints and appear as party in person.

Area of Authority

Before resolving a consumer dispute, two aspects are taken into consideration - the money/stake involved and



the territory where the cause of action has arisen. Based on this the complaint is filed either in the forum or commission concerned.

Financial Authority

- * In cases where the value of goods or service is less than Rs. 20 Lakh, you will have to file the complaint before the District Forum.
- * In cases where the value of goods or service involved is more than Rs. 20 Lakh but does not exceed Rs. 1 crore, you will have to file the complaint before the State Commission.
- * In cases where the value of goods or service involved is more than Rs. 1 crore, you can file a complaint before the National Commission.

Territorial Authority

The place where the cause of action arises as per the facts of the case, determines the jurisdiction of the complaint. This means you will need to consider the area in which the opposite party is based or carries on its work or business.

If you, for instance, file a complaint against a service provider who is based or functions or has a branch

Procedure for Consumer Complaint at a Glance

1. One may send a notice to the opposite party mentioning a time-limit to settle the grievance though it is not compulsory.
2. Prepare a complaint with the required details (as given below).
3. Get the complaint affidavit notarised through a notary.
4. Make required number of photocopies after notarising.
5. Prepare a bank draft from a nationalised bank to pay court fee.
6. Submit the complaint and court fee to the receiving clerk in the consumer court who will give you the date for admission hearing and complaint reference number.
7. On admission hearing, you would be informed whether or not your matter is admitted. If admitted you will be given the date for next hearing.
8. The court will send a notice with your complaint copy to the opposite party seeking reply within 30 days, and asking it to attend the hearing.
9. The hearings will continue till the matter is decided.
10. A copy of the court order will be communicated to all the parties by registered post.

It is important that you attend the hearings, else the matter may be decided ex parte on the merits of the case.

office in central Mumbai for a sum below Rs. 20 lakh you would need to approach the Central Mumbai District Forum for redressal.

Required Details

Many consumers find it difficult to decide on the matter to be included in the complaint. Primarily, your complaint should be clear, definite and precise. All facts and documents must be in order. Here is a list of details that are necessary for lodging a complaint at the district, State and national level.

- (a) A cause-title i.e. The complaint should, if possible, have a heading

- (b) Your name, description and address
- (c) The name, description and address of the opposite party or parties
- (d) Facts about the complaint and when and where it arose
- (e) How the opposite parties are liable to be proceeded against and why they are answerable or accountable to this petition
- (f) Copies of documents in support of the allegations contained in the petition. Complainants are advised to keep copies of the complaint/petition and all furnished documents for their records. A list of documents should be furnished along with the complaint, duly signed by you
- (g) You would also need to state how the case falls within the jurisdiction of the forum/ commission — whether the opposite party resides or carries on business or has a branch office or personally works for gain within the jurisdiction of the forum or whether the cause of action (damaged goods or deficient service) arose within the forum's jurisdiction
- (h) You are also entitled to claim the cost of your complaint from the opposite party. Hence include that amount in your complaint

Consumers having the same problem can join together and file a single complaint. This can be done by enclosing a petition with the complaint.

According to the Consumer Protection Act, 1986, you don't need a lawyer to file the petition or argue the case as you can do it yourself.

Filing Your Complaint Before...

The District Forum

The procedure for filing a complaint is very simple. It can be made on a plain paper with the necessary particulars. You can file a petition in person or by an authorised agent, after it has been notarised, through registered post or regular post. It is important that you serve a personal or legal notice to the opposite party before filing the complaint.

Required copies: 4 plus additional copies for each opposite party

Limitation: complaint must be filed within two years from the date of cause of action having arisen

Monetary/

Jurisdiction: up to Rs.20 lakhs

Court Fee :

- * Upto Rs.1 Lakh : NIL for those below the poverty line holding Antyodaya Anna Yojana cards
- * Upto Rs.1 Lakh : Rs.100
- * Above Rs.1 lakh up to Rs.5 Lakhs : Rs.200
- * Above Rs.5 lakhs up to Rs.10 Lakhs : Rs.400
- * Above Rs.10 lakhs up to Rs.20 Lakhs : Rs.500
- * Demand draft in favour of **President**, Consumer Disputes Redressal Forum, (name of) District

State Commission

According to the Consumer Protection Act, 1986, complaints where the value of goods or services exceeds Rs. 20 lakhs but does not exceed Rs. 1 crore, can be filed straightaway in the State Commission. It has also been provided that any person aggrieved by an order passed by the District Forum may prefer an appeal against such order to the State Commission within 30 days from the date of the order.

Required copies : 4 plus additional copies for each opposite party

Limitation: complaint must be filed within two years from the date of cause of action having arisen

Jurisdiction : Rs.20 lakhs to Rs. 1 crore

Court Fee :

- * Above Rs. 20 lakhs up to Rs. 50 lakhs : Rs. 2,000
- * Above Rs. 50 lakhs up to Rs. 1 crore : Rs. 4,000
- * Demand Draft in favour of **The Registrar**, (Name of) State Commission, payable at that state only

First Appeal against District Forum

First Appeal can be filed against the order of any District Forum within the state with the following requisites -

1. Documents of record with correct name of all parties and their addresses.
2. Certified copy of the District Forum order.
3. Four plus additional copies for each respondent for filing an appeal.
4. Appeal to be filed within 30 days from the date of receipt of District Forum Order.
5. Any conditional delay, interim orders and other petitions are to be submitted along with an affidavit.
6. Statutory Deposit: Rs. 25,000 or 50 per cent of award/compensation amount which ever is less to be deposited by appellant/opposite parties

(Continued on page 37...)

(...Continued from page 12)

National Commission

The procedure to file a complaint at the National commission is the same as for State Commission. A dissatisfied consumer may file a complaint directly in the National commission or appeal against the decisions made by State commission within 30 days from the date of the order.

Required copies : 4 plus additional copies for each opposite party

Limitation: complaint must be filed within two years from the date of cause of action having arisen Monetary

Jurisdiction : above Rs.1 crore

Court Fee :

* Above Rs. 1 crore : Rs. 5,000

* Demand Draft in favour of **The Registrar**, National Consumer Disputes Redressal Commission

Appeal against the orders of the National Commission can be filed before the Supreme Court within a period of thirty days. You may note that there is no fee for filing appeal before the State Commission or the National Commission.

Joint Complaint

Consumers having the same problem can join together and file a single complaint. This can be done by enclosing a petition with the complaint. This petition should just state that since the facts and circumstances relating to the complaint are the same and since the same relief is to be claimed for all the petitioners, they may be allowed to join and file a single complaint.

Possible Redressal

Depending on the nature of relief sought by the consumer and facts, the redressal forums may give orders for one or more of the following relief:

- (a) removal of defects from the goods
- (b) replacement of the goods
- (c) refund of the price paid
- (d) award of compensation for the loss or injury suffered
- (E) removal of defects or deficiencies in the services
- (f) discontinuance of unfair trade practices or restrictive trade practices or direction not to repeat them
- (g) withdrawal of the hazardous goods from being offered for sale or
- (h) award for adequate costs to parties

Sources: *Consumers Guide To Fighting Back (Book)*; *Consumerism - Strategies and Tactics (Book)*; CERS Complaints Division; delhistatecommission.nic.in, vakilno1.com, consumercourt.netfirms.com/consumercourtfee.html, <http://ncdc.nic.in/>, <http://www.virtualpune.com/citizen-centre/html/>

