

THE CONSUMER PROTECTION (ADMINISTRATIVE CONTROL OVER THE STATE COMMISSION AND THE DISTRICT FORUM) REGULATIONS, 2018¹

In exercise of the powers conferred by section 30-A of the Consumer Protection Act, 1986 (68 of 1986), read with section 24-B, the National Consumer Disputes Redressal Commission with the previous approval of the Central Government, hereby makes the following regulations, namely:—

1. Short title and commencement.—(1) These regulations may be called the Consumer Protection (Administrative Control Over the State Commission and the District Forum) Regulations, 2018.

(2) They shall come into force on the date² of their publication in the Official Gazette.

2. Definitions.—In these Regulations, unless the context otherwise requires,—

- (i) "Act" means the Consumer Protection Act, 1986 (68 of 1986);
- (ii) "Rules" mean the Consumer Protection Rules, 1987;
- (iii) Words and expressions used in these Regulations and not defined herein but defined either in the Act or in the Rules shall have the same meaning respectively assigned to them either in the Act or in the Rules, as the case may be.

3. Observance of work.—(1) The State Commission and the District Forum shall list sufficient matters on each working day, to ensure that the work does not finish before the close of the hearing hours as prescribed in Regulation 5 of the Consumer Protection Regulations, 2005.

4. Inspection of State Commission.—(1) The President or a Member of the National Commission duly authorised by him shall inspect each State Commission at least once in a calendar year and prepare a report of such inspection and submit the same to the National Commission within fifteen days of such inspection.

(2) On receipt of the inspection report, the President of the National Commission may issue such administrative directions to the State Commission, as may be deemed appropriate by him, to improve the functioning of the State Commission and to achieve the objects and purposes of the Act, without interfering with its quasi-judicial freedom.

(3) The State Commission shall expeditiously comply with the directions issued under sub-regulation (2).

1. *Vide* G.S.R. 335(E), dated 23rd March, 2018, published in the Gazette of India, Extra., Pt. II, Sec. 3(i), No. 214, dated 5th April, 2018.

2. Came into force on 5-4-2018.

5. Inspection of the District Forum.—(1) The President or a Member of the State Commission duly authorised by him shall inspect each District Forum under its administrative control, at least once in a calendar year and prepare a report of such an inspection and submit the same to the State Commission within fifteen days of such inspection.

(2) On receipt of the inspection report, the President of the State Commission may issue such administrative direction to the District Forum, as may be deemed appropriate by him to improve the functioning of the District Forum and to achieve the objects and purposes of the Act without interfering with its quasi-judicial freedom.

(3) The District Forum shall expeditiously comply with the directions issued under sub-regulation (2).

(4) A copy of the directions issued by the President of the State Commission under sub-regulation (2) shall also be forwarded to the President of the National Commission.

6. Recommendation to State Government for Administrative Action.—(1) The President of the National Commission, may, on receipt of a complaint against the President or a Member of a State Commission, after making such inquiry, if any, as he may deem appropriate, recommend to the concerned State Government for taking suitable administrative action against such President or member, as the case may be.

(2) The President of a State Commission, may, on receipt of a complaint against the President or a Member of the District Forum, after making such inquiry, if any, as he may deem appropriate, recommend to the concerned State Government for taking suitable administrative action against such President or member, as the case may be, and a copy of such recommendation shall also be forwarded to the National Commission.

7. Admission of a Complaint.—Within fourteen days of the registration of a complaint, it shall be heard by the State Commission or the District Forum, as the case may be, and within twenty-one days of such registration, shall either be admitted or rejected by such State Commission or District Forum and if the complaint cannot be admitted or rejected within twenty-one days of its registration, the State Commission or the District Forum, as the case may be, shall record reasons for such delay.

8. Uploading of orders.—The State Commission and the District Forum shall upload final orders pronounced by them, on their respective websites, within seven days of the pronouncement of such order.

9. Uploading of pending matters.—The State Commission and the District Forum shall upload, on their respective websites by the 7th day of each month, the particulars of the pending matters, in which arguments have been heard, but the order has not been pronounced for more than forty-five days.

MODEL SPECIMENS

NOTICE BEFORE FILING A COMPLAINT

Name and address.....

(of the trader, dealer, firm, company, etc.)

IN RE: (Mention the goods/services complained of giving details)

Dear Sir,

This is to bring to your kind notice that I had purchased from
your for a consideration of Rs..... paid in cash *vide* your
Cash Memo/Receipt/Invoice No..... paid through cheque
No..... dated..... drawn on..... bank

The said goods are suffering from the following defects:—

- (i).....
- (ii).....etc.

I have reported the above matter to you several times (give reference of earlier letters, if any) but despite all my pleadings you have not made good the defect in the goods (or deficiency in services) which is indeed regrettable and highly unbusiness like. On account of your aforesaid dereliction of duty and failure and neglect to rectify the same I have suffered losses/incurred expenses.....

(give details)

which you are liable to compensate to me.

You are hereby finally called upon to

- (i) remove the said defects in the goods, and/or
- (ii) replace the goods with new goods, and/or
- (iii) return the price/charges paid
- (iv) pay compensation for financial loss/injury/interest suffered due to your

negligence

(give details)

in the sum of Rs.....with interest @..... % per annum
within.....days of the receipt of this notice failing which I shall be
constrained to initiate against you for redressal of my aforesaid grievances and recovery of the
aforesaid amount such proceedings, both civil and criminal as are warranted by law, besides
filing a complaint under the statutory provisions of The Consumer Protection Act, 1986
exclusively at your own risk, cost, responsibility and consequences which please note.

Place.....

Dated.....

.....
(Signature)

COMPLAINT

BEFORE THE HON'BLE DISTRICT CONSUMER DISPUTES
REDRESSAL FORUM AT.....

OR

BEFORE THE HON'BLE STATE CONSUMER DISPUTES
REDRESSAL COMMISSION AT.....

OR

BEFORE THE HON'BLE NATIONAL CONSUMER DISPUTES REDRESSAL
COMMISSION AT NEW DELHI

IN RE: COMPLAINT NO.....OF 20..... IN THE MATTER OF:
(FULL NAME) (DESCRIPTION) (COMPLETE ADDRESS)

.....Complainant

Versus

(FULL NAME) (DESCRIPTION) (COMPLETE ADDRESS)

.....Opposite Party/Parties

**COMPLAINT UNDER SECTION 12/SECTION 17/SECTION 21 OF
THE CONSUMER PROTECTION ACT, 1986.**

RESPECTFULLY SHOWETH:

(1) INTRODUCTION

(In this opening paragraph the complainant should give his introduction as well as that of the opposite party/parties.

(2) TRANSACTION

(In this paragraph complainant should describe the transaction complained of, i.e., particulars and details of goods/services availed; items of goods/kind and nature of service; date of purchase of goods/availing of service; amount paid as price/consideration, full or in part towards the goods/service; Photocopies of the bill/cash memo/voucher or receipt should be attached and properly marked as Annexure - A,B,C and so forth or 1,2,3 and so forth.)

(3) DEFECT/DEFICIENCY

(In this paragraph complainant should explain the grievance, i.e., whether the loss or damage has been caused by some unfair trade practice or restrictive trade practice adopted by any trader or there is some defect in the goods or there has been deficiency in service or the trader has charged excessive price for the goods. One should elucidate the nature of unfair trade practice adopted by the trader, i.e., relating to the quality of goods/services; sponsorship; warranty or guarantee for such period promised. The nature and extent of defects in goods should be explained and so should the deficiency in service. In case of excessive price one should specify the details of actual price fixed by or under any law for the time being in force or as set out on goods and their packing *vis-a-vis* the price charged by the trader. Complaint can also be filed against offer for sale of goods hazardous to life and safety when used. You should narrate your grievance and rest assured it is being read/heard by compassionate and pragmatic judges. Photocopies of relevant documents must be attached.)

(4) RECTIFICATION

(In this paragraph complainant should highlight what attempts were made by him to set things right, i.e., personal visits or negotiations; communication in writing if any; whether any legal notice was got served and/or whether he has approached any other agency for redressal like M.R.T.P. Commission, Civil or Criminal Court of competent jurisdiction; the stage of its proceedings, its outcome, if any, alongwith copies (certified preferably) of such proceedings. The nature of response got from the trader when irregularities were brought to his notice, should also be disclosed here).

(5) OTHER PROVISIONS

(In this paragraph reference may be made to any other law or rules or regulations of particular procedure which is applicable to the case and/or which has been violated by the trader and consumer's rights under the same. There are incidental statutory obligations, which traders must fulfil and in case of their failure to do so the case in *prima facie* made out and Forum would take cognizance).

(6) EVIDENCE

(In this paragraph complainant should give details of documents and/or witnesses he will rely upon to substantiate his case. The documents attached as Annexures as stated above may be incorporated in a proper list and a list of witnesses (if any) may be filed similarly). The annexures should be attested as "True Copy".

(7) JURISDICTION

(In this paragraph complainant should liquidate the claim in the complaint i.e. upto 20 lacs; 20 lacs to 1 crore; or above and set out the pecuniary jurisdiction of the Forum/ State Commission/National Commission, as the case may be. The territorial Jurisdiction should be highlighted to obviate any formal objection).

(8) LIMITATION

That the present complaint is being filed within the period prescribed under section 24A of the Act.

(9) RELIEF CLAIMED

(In this paragraph complainant should describe the nature of relief he wants to claim, i.e., for removal of defects in goods or deficiency in service; replacement with new goods; return of the price or charges, etc., paid and/or compensation on account of financial loss or injury or detriment to his interest occasioned by negligence of the opposite party and elucidate how you have calculated the amount of compensation claimed).

(10) PRAYER CLAUSE

It is, therefore, most respectfully prayed that this Hon'ble Forum/Commission may kindly be pleased to

(Details of reliefs which complainant wants the Court to grant)

Place.....

Dated.....

Complainant

Through.....

(Advocate or Consumer Association, Etc.)

Verification

I.....the complainant above named. Do hereby solemnly verify that the contents of my above complaint are true and correct to my knowledge, no part of it is false and nothing material has been concealed therein.

Verified thisday of.....20.....at.....

Complainant

Note.—Although it is not compulsory, complainant may file an affidavit in support of the complaint which adds to the truth and veracity of allegations and gives credibility to the cause. It need not be on a Stamp paper but one should get it attested from an Oath Commissioner appointed by a High Court. The format is just as simple.

AFFIDAVIT IN SUPPORT OF COMPLAINT

BEFORE THE HON'BLE.....IN RE: COMPLAINT NO.....OF 20.....

IN THE MATTER OF:

.....Complainant

Versus

.....Opposite Party

AFFIDAVIT

Affidavit of Shri.....s/o. Shri.....
aged.....years, resident of

I, the above named deponent do hereby solemnly affirm and declare as under:—

- (1) That I am complainant in the above case, thoroughly conversant with the facts and circumstances of the present case and am competent to swear this affidavit.
- (2) That the facts contained in my accompanying complaint, the contents of which have not been repeated herein for the sake of brevity may be read as an integral part of this affidavit and are true and correct to my knowledge.

Deponent

Verification

I, the above named deponent do hereby solemnly verify that the contents of my above affidavit are true and correct to my knowledge, no part of it is false and nothing material has been concealed therein.

Verified this day of20.....at.....

Deponent

REPLY TO THE COMPLAINT

BEFORE THE HON'BLE THE CONSUMER

DISPUTES REDRESSAL FORUM/COMMISSION AT.....

IN RE: COMPLAINT NO.....OF 20.....

IN THE MATTER OF:

.....Complainant

Versus

.....Opposite Party

DATE OF HEARING

WRITTEN STATEMENT ON BEHALF OF RESPONDENTS TO THE COMPLAINT OF THE COMPLAINANT

RESPECTFULLY SHOWETH:

Preliminary Objections:

1. That the present complaint is wholly misconceived, groundless and unsustainable in law and is liable to be dismissed as such. The transaction in question was without any consideration and free of charge.
2. That this Hon'ble Court has no jurisdiction to entertain and adjudicate upon the dispute involved in the complaint in as much as it is not a consumer dispute and does not fall within the ambit of the provisions of the Consumer Protection Act, 1986, hereinafter called the said Act and is exclusively triable by a Civil Court and as such the complaint is liable to be dismissed summarily on this score alone.
3. That the dispute raised by the complainant in the present complaint is manifestly outside the purview of the said Act and in any event, the Act is in addition to and not in derogation of the provisions of theAct. The proceedings initiated by the complainant under the Act are *non est*, null and void and without jurisdiction.
4. That the definitions of 'Complainant', 'Complaint' 'Consumer Dispute' and 'Service', as defined in section 2(1) of the said Act do not cover the claims arising under the present dispute and that from the aforesaid definitions, the complainant is not 'consumer' and the controversy involved in the complaint is not a 'consumer dispute'.
5. That the present complaint is baseless and flagrant abuse of process of law to harass and blackmail the answering respondent.
6. That the complainant has no *locus standi* to initiate the present proceedings.
7. That the complaint is bad for non-joinder of necessary and proper party and is liable to be dismissed on this score alone.
8. That the complainant has already filed a Civil Suit forin a court of competent jurisdiction which is pending disposal in the Court ofand the present complaint has become infructuous.
9. That the present complaint is hopelessly barred by limitation.
10. That this Hon'ble Forum/Commission has no territorial or pecuniary jurisdiction in as much as the amount involved in the subject-matter exceeds/is less than the limit prescribed by section 11(1) section 17(1)(a)(i)/section 21(a)(i) of the Act.
11. That the present complaint is frivolous and vexatious and liable to be dismissed under section 26 of the Act.
12. That the present complaint has not been verified in accordance with law.

On Merits:

In these paragraphs respondent must reply each and every allegation made and contention raised by the complainant, factual and legal as well. In case one has already made good the defect or deficiency, elucidate steps taken. One may have, *inter alia*, following good defences as well:—

1. That the transaction entered between the parties to the above dispute is a commercial one and the complainant cannot claim any relief from this authority in as much as.....
(give details)
2. That the complainant had purchased the goods as a *seller/retailer/distributor, etc.*, for consideration of resale and as such is barred from moving this Hon'ble Court for the alleged defect/deficiency, etc., in as much as.....
(give details)
3. That the complainant has already availed the warranty period during which the answering respondent has repaired/replaced the goods in question. The complainant is thus legally estopped from enforcing this complaint or to take benefit of his own wrong.
4. That the present complaint is an exaggeration beyond proportion despite the fact that the complainant is himself responsible for delay and laches in as much as he has on several occasions changed his option for class of goods/type of allotment scheme of flats/model of vehicle, etc.....
(give details)
5. That the answering respondent is well within his rights to charge extra price for the subject-matter of the above dispute in as much as time was not the essence of delivery thereof. The complainant is liable to pay the increased price w.e.f.

on account of escalation due to excise duty/budgetary provisions, etc., in as much as.....

(give details)

6. That the complainant has accepted the goods and/or service towards repair/replacement, etc., without protest and the present complaint is merely an after thought.
7. That without prejudice the answering respondent as a gesture of goodwill is prepared to *(give details of rectification, if any, which can be done in case of minor or tolerable problems to avoid harassment to consumer and litigation problems)*

The allegations of defect/default/negligence and/or deficiency in service are wholly misconceived, groundless, false, untenable in law besides being extraneous and irrelevant having regard to the facts and circumstances of the matter under reference.

Prayer clause with all the submissions made therein is absolutely wrong and is emphatically denied. Complainant is not entitled to any relief whatsoever and is not entitled to claim and recover any thing from the answering respondent in the light of what is stated above. The complaint itself is not maintainable and is beyond the jurisdiction of this Hon'ble Court and is liable to be dismissed summarily on this score alone and more fully set out in the preliminary objections. It is prayed that the complaint may kindly be dismissed with costs.

Place.....

(Opposite party)

Dated.....

through
(Advocate)

Verification

I,, the above named respondent do hereby verify that the contents of paras to of the written statement on merits are true and correct to my knowledge. While paras.....to.....of preliminary objections and.....to..... of reply on merits are true to my information, belief and legal advice received by me and believed to be true while the last para is prayer to this Hon'ble Court.

Verified atthisday of20....

(Opposite party)

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