

Chapter – I

Performance audit of Implementation of Acts and Rules relating to Consumer Protection in Delhi

Highlights

A performance audit of the implementation of the Consumer Protection Act 1986 in the NCT of Delhi together with the enforcement of the Prevention of Food Adulteration Act 1954 and the Standards of Weights and Measures (Enforcement) Act 1985 which together aim at safeguarding consumer interests and providing speedy and inexpensive redressal mechanism revealed gaps and deficiencies in implementation which resulted in frustrating to a significant extent the objectives of the legislations and in depriving the consumers of their rights as well as avenues of redressal. The performance audit which covered the period from 2000-01 to 2004-05 and involved scrutiny of the records of the nodal department viz. the Department of Food, Civil Supplies and Consumer Affairs of the Government of Delhi, the Delhi State Commission and of three selected districts brought out inter alia the following:

The department did not make adequate efforts to disseminate knowledge about consumer rights and the protections available under the Act. Grants were given to NGOs/VCOs in an ad hoc manner which served no purpose. A survey commissioned by audit revealed that barely 2.9 per cent of those surveyed reported to have gained any knowledge about the Act from the NGOs.

(Paragraph 1.6)

No real initiative had been taken by the Government to improve consumer awareness and empowerment. A survey of general consumers revealed that 76 per cent of those surveyed were not aware of their rights while an overwhelming 83 per cent were unaware of even the Consumer Protection Act itself.

(Paragraph 1.6)

There were delays ranging from over one year to nearly 12 years in creation of the State Commission and the district forums thereby denying the consumers the means to redress their grievances during this prolonged period.

(Paragraph 1.7.1)

The State Consumer Protection Council was not re-constituted after September 2002 while the District Consumer Protection Councils were yet to be constituted ab initio by the department. Thus, the objective of the councils to promote and protect consumers' rights as envisaged in the Act was not fulfilled.

(Paragraphs 1.7.4 & 1.7.5)

Though one of the fundamental objectives of the Act was to provide for speedy redressal of consumer grievances, the department did not evolve any mechanism to monitor the implementation of the Act. There were delays ranging from one month to more than six months in issue of notices/admission of appeals while delays in final disposal of cases ranged from six months to above five years.

(Paragraph 1.7.7)

In the Directorate of Prevention of Food Adulteration, provisions relating to licensing of food establishments under the Delhi PFA Rules had not yet been brought into force. Consequently, activities like grant and renewal of licenses were not being done. During 2002-05, there was a shortfall of 71 per cent in lifting of samples for testing with only 6,601 samples being lifted against the over-all target of 22,620 samples.

(Paragraph 1.8.1)

In the Department of Weights and Measures, no norms or targets were fixed for verification/re-verification of weights and measures items. The number of inspections sharply declined from 68,906 in 2000-01 to 13,751 in 2004-05.

(Paragraph 1.8.2)

Summary of main recommendations

- *The procedure and practice for giving of grants to NGOs/VCOs should be reviewed so that they are such that the purposes for which they are given are achieved.*
- *Government should review the space requirements in consultation with the State Commission and ensure provision of infrastructure necessary for smooth functioning of the adjudication machinery.*
- *State Consumer Protection Council and District Consumer Protection Councils should be constituted without delay so that the consumers are not denied the opportunities and avenues envisaged under the Act for the promotion and protection of their rights.*
- *Since one of the primary objectives of the Act is speedy and inexpensive redressal of consumer grievances, Government should review the reasons for delays in issue of notices and in disposal of complaint and appeal cases and take remedial action as may be necessary in consultation with the State Commission to eliminate or minimize them.*
- *Government needs to take urgent steps to ensure that the target fixed by it of lifting of samples for checking of adulteration is adhered to. It should also fix targets for verification and re-verification of weights and measures keeping in view the statutory requirement of them being done at least once every 12 months.*

1.1 Introduction

The Government of India enacted the Consumer Protection Act 1986 (Act) to protect the interests of consumers and provide a system of speedy and inexpensive redressal of consumer grievances. The Act came into force with effect from 1 July 1987. The Act was followed by the Consumer Protection Rules 1987 framed by the Government of India. The Act provides for establishment of a three-tier quasi-judicial consumer dispute redressal machinery at the national, state and district levels (otherwise called consumer court). The courts have been empowered to give relief of specific nature and to award compensation to the consumers. In addition to the Act, consumer protection is also ensured through the Prevention of Food Adulteration Act 1954 and the Standards of Weights and Measures (Enforcement) Act 1985.

1.2 Organizational set up

The Acts and Rules relating to consumer protection are implemented through the National Consumer Disputes Redressal Commission called the “National Commission” at the central level, a Consumer Disputes Redressal

Commission called the “State Commission” at the state level and a Consumer Disputes Redressal Forum called “District Forum” in each district. The jurisdiction of each of the forums is prescribed in the Act in terms of monetary value of the goods.

In Delhi, the Act and rules relating to consumer protection are administered by the Department of Food, Civil Supplies and Consumer Affairs through the Delhi State Commission and nine district forums. While the department is headed by the Secretary, the State Commission is headed by a judge who is of the rank of a judge of the High Court. Each district forum is headed by a judge of the rank of a District Judge. There are nine district forums in NCT of Delhi.

1.3 Scope and methodology of audit

A performance audit was conducted to assess the implementation of the Act and Rules during the period 2000-01 to 2004-05 in the National Capital Territory (NCT) of Delhi. The audit exercise included scrutiny of the records of the Department of Consumer Affairs of the Government of Delhi, the State Commission and three districts (New Delhi, South West and West Districts) selected on random sampling basis. A primary field survey was also carried out by the ORG Center for Social Research to assess the impact and awareness levels of consumers regarding their rights and the grievance redressal machinery.

The draft performance audit report was referred to the Government in October 2005 and discussed at a meeting held in November 2005 with Principal Secretary (Consumer Affairs) along with representatives of the Department of Weights and Measures and the Directorate of Prevention of Food Adulteration. The views expressed at the meeting and comments subsequently received from the Government in November/December 2005 have been incorporated in the review.

1.4 Audit objective

The primary objectives of the performance audit were to assess:

- whether the government had succeeded in creating awareness among the consumers;
- whether the redressal mechanism under the Act was effective; and
- whether the allied Acts relating to prevention of food adulteration and weights and measures were being enforced to ensure maximum consumer protection.

1.5 Financial outlay

The year-wise position of the budget allocation of the Consumer Affairs Branch and State Commission along with its nine districts and actual expenditure during 2000-01 to 2004-05 was as under:

Table 1.1: Budget Estimates/ Actual Expenditure during 2000-01 to 2004-05

Non-Plan

(Rs. in lakh)

Year		B.E.	Actual Exp.	Excess(+)/ Saving(-)	Excess/ Savings (as percentage of of budget)
2000-01	CA Branch	42.75	33.92	(-)8.83	(-)20.65
	(SC+DFs)	110.70	69.89	(-)40.81	(-)36.87
	Total	153.45	103.81	(-)49.64	(-)32.35
2001-02	CA	49.39	63.58	(+)14.19	(+)28.73
	(SC+DFs)	108.30	84.86	(-)23.44	(-)21.64
	Total	157.69	148.44	(-)9.25	(-)5.87
2002-03	CA	45.52	52.43	(+)6.91	(+)15.18
	(SC+DFs)	101.12	148.55	(+)47.43	(+)46.90
	Total	146.64	200.98	(+)54.34	(+)37.06
2003-04	CA	57.25	48.35	(-)8.90	(-)15.55
	(SC+DFs)	170.00	158.71	(-)11.29	(-)6.64
	Total	227.25	207.06	(-)20.19	(-)8.88
2004-05	CA	58.75	56.31	(-)2.44	(-)4.15
	(SC+DFs)	181.25	185.29	(+)4.04	(+)2.23
	Total	240.00	241.60	(+)1.60	(+)0.67
Total	CA	253.66	254.59	(+)0.93	(+)0.37
	(SC+DFs)	671.37	647.30	(-)24.07	(-)3.59

Plan

(Rs. in lakh)

Year		B.E.	Actual Exp.	Excess(+)/ Saving(-)	Excess/ Savings (as percentage of budget)
2000-01	CA Branch	28.00	21.57	(-)6.43	(-)22.96
	(SC+DFs)	60.00	68.40	(+)8.40	(+)14.00
	Total	88.00	89.97	(+)1.97	(+)2.24
2001-02	CA	40.00	16.47	(-)23.53	(-)58.83
	(SC+DFs)	60.00	65.19	(+)5.19	(+)8.65
	Total	100.00	81.66	(-)18.34	(-)18.34
2002-03	CA	42.00	2.00	(-)40.00	(-)95.24
	(SC+DFs)	30.00	15.00	(-)15.00	(-)50.00
	Total	72.00	17.00	(-)55.00	(-)76.39
2003-04	CA	25.00	1.90	(-)23.10	(-)92.40
	(SC+DFs)	40.00	23.81	(-)16.19	(-)40.48
	Total	65.00	25.71	(-)39.29	(-)60.45
2004-05	CA	2.00	2.00	-	-
	(SC+DFs)	-	-	-	-
	Total	2.00	2.00	-	-
Total	CA	137.00	43.94	(-)93.06	(-)67.93
	(SC+DFs)	190.00	172.40	(-)17.60	(-)9.26

CA = Consumer Affairs Branch ; SC = State Commission; DFs = District Forums (Nine)

There were substantial savings of plan funds ranging from 22.96 to 95.24 per cent in the Consumer Affairs Branch during 2000-01 to 2003-04 and 50 and 40.48 per cent in the State Commission and district forums in 2002-03 and 2003-04 respectively.

The Government attributed (November 2005) the savings under Non-Plan/Plan schemes to belated start of computerisation and networking in the State Commission and District Forum, the failure of the District Consumer Protection Councils to hold its meetings/seminars which were to be convened at least twice in a calendar year and to the failure of the PWD to submit estimates for repair and renovation of premises occupied by the State Commission and the district forums.

1.6 Awareness and empowerment of consumers

In order to create awareness regarding consumer rights, the department was to organize programmes for creation of consumer awareness and empowerment. An audit appraisal of the efforts of the department to generate consumer awareness revealed as under:-

No initiatives taken to promote consumer awareness or disseminate information about consumer rights.

- The department neither fixed any targets for holding of awareness generation camps nor conducted any survey to ascertain the level of awareness of consumers as to their rights.
- The department had not established any District Consumer Information Centre in NCT of Delhi nor had it sought any grant from Government of India for this purpose.
- The department did not formulate any media policy for dissemination of information pertaining to awareness about the Act, the mechanism for filing of complaints and the procedure of adjudication including location of the district forums and the State Commission.
- The department did not implement the “Jagrik Shivir Yojana” launched by the Government of India for generating awareness amongst the people. The department did not send any proposal for financial assistance to Government of India for the implementation of the above scheme and accordingly no funds were received.
- The department did not formulate any specific schemes for involvement of NGOs for furthering the objectives of the Act including generation of awareness. It, however, allotted an annual amount of Rs.2.00 lakh for providing financial assistance to the voluntary consumer organisations (VCOs)/NGOs for the purpose of creating and strengthening the consumer movement. The details of the financial assistance released to various VCOs/NGOs during 2000-01 to 2004-05 were as under:

Table 1.2: Position of release of grants to VCOs/NGOs

Sl. No.	Year	No. of VCOs/NGOs to whom grant released	Total amount of grant released (Rs. in lakh)
1.	2000-01	Records not available	
2.	2001-02	11	1.00 (includes Rs.12,500/- utilised by the department on printing of pamphlets and posters for various voluntary consumer organizations).
3.	2002-03	18	2.00
4.	2003-04	17	1.90
5.	2004-05	14	2.00

Test check of the records of the above NGOs revealed the following:

- Meetings of the screening committee for recommending grants to the VCOs/NGOs were being held in the last quarter of the financial year and the grants were released at the fag end of the respective financial year.
- As per the conditions of the sanction of the grants-in-aid, the VCOs/NGOs are required to submit the utilisation certificate of the grants released to them (along with a statement of Income and Expenditure Account signed by a chartered accountant) to the department within three months of the close of the financial year i.e. 30 June. Eleven NGOs (Annexure A) had not so far submitted the utilisation certificates and statement of Income and Expenditure Account for the period 2002-03 to 2004-05. In nine cases, the VCOs/NGOs submitted their UCs/Accounts with delays ranging from one month to over two years as detailed in Annexure B.

Inadequate and ad hoc release of grants to NGOs failed to serve the intended purpose of increasing consumer awareness as only 2.9 per cent of people surveyed learnt about the Act through NGOs.

It was observed in audit that the department released grants of only Rs.5000 to Rs.25000 to various VCOs/NGOs which was highly inadequate. It was also noticed that 14 out of 60 NGOs were released grant in two or three years and the remaining NGOs were released grant only in one year during the period 2001-02 to 2004-05. Given the meagre amounts and ad hoc release of grants-in-aid, it was highly improbable that these NGOs could have organised any meaningful massive consumer awareness programme or other related activities. The findings of the survey team also revealed that the impact of NGOs as a source of consumer awareness was negligible with only 2.9 per cent of the respondents reported to have learnt about the Consumer Protection Act from the NGOs.

The survey commissioned by audit also pointed out that 76 per cent were unaware of their rights and 83 per cent were unaware of the Consumer Protection Act itself. The Act envisaged a simple procedure for addressing

the complaints so that all consumers irrespective of their status were able to approach the redressal agencies and demand their right to seek redressal. However, 87 per cent of the respondents were not aware of any redressal agency for addressing their complaints and even those aware of the redressal agencies were not fully aware of its procedure with the result that 62 per cent of the respondents reported that they had to hire an advocate for arguing their complaints. Thus, the intended objective of the Act of spreading awareness amongst the consumers about the dispute redressal machinery including procedure for filing of complaints had not been achieved.

The Government stated (November 2005) that they had not set up any District Consumer Information Centre in Delhi as the Government of India had established two such information centers for providing information to the masses and that they did not have sufficient financial resources for setting up their own centers. However, a provision would be made in the 11th Five Year Plan. Government added that while there was no media policy as such, the department had released advertisements on the occasion of National Consumer Day on 24 December and World Consumer Rights Day on 15 March for the awareness of the general public. They added that the “Jagrak Shivir Yojna” was not implemented by the department since this campaign was launched by Government of India and it received publicity in Delhi. Hence, a separate launch by the Delhi government would not have served any purpose. The reply is not tenable in view of the findings of the survey that 76 per cent of the consumers in Delhi were not even aware of their rights and 83 per cent were unaware of the Act itself. The department should also have implemented the “Jagrak Shivir Yojna” and undertaken a consumer awareness campaign which would have supplemented the campaign launched separately by the Government of India.

Regarding holding of meetings of the screening committee in the last quarter of the financial year and release of grant to NGOs/VCOs at the fag end of the year, the Government stated (November 2005) that the procedure and practice for giving of grants to NGOs/VCOs would be reviewed so as to ensure that NGOs/VCOs are able to utilise this grant before the end of the financial year and also submit their utilisation certificates within a reasonable period. As regards release of meagre amounts of grant-in-aid to NGOs/VCOs, the Government stated that they proposed to seek larger amount of funds for this campaign during the XI Plan period.

Recommendations

- *Government of Delhi should undertake a concerted and sustained exercise to increase consumer awareness about their rights and avenues for redressal of grievances.*

- *The procedure and practice for giving of grants to NGOs/VCOs should be reviewed so that they are such that the purposes for which they are given are achieved.*

1.7 Redressal mechanism under the Consumer Protection Act

Section 9 of the Act provides for the establishment of a Consumer Disputes Redressal Forum known as the “District Forum” in each district and a Consumer Disputes Redressal Commission known as the “State Commission” in the State. Under the provisions of the Act, a complaint can be filed in the district forum where the cause of action has partly or fully arisen or where the opposite party resides or where the opposite party carries on his business or where the branch office of the opposite party is located. The Act also stipulates time frames for issue of notices and disposal of complaint and appeal cases.

1.7.1 Creation of adjudication mechanism as envisaged in the Act

There were delays ranging from over one to nearly 12 years in creation of State Commission and District Forums.

Audit appraisal of the efforts to establish the adjudication mechanism in the NCT revealed a delay of 28 months in establishing the State Commission and delays ranging from 14 to 141 months in creation of the district forums from the date the Act came into force, i.e. 1 July 1987.

The Government attributed (December 2005) the delay in creation of the State Commission and district forums to the time required for arranging finances, obtaining sanctions and creation of infrastructure and posting of manpower.

The reply is not tenable in view of the huge delays ranging up to almost 12 years. Such delay in setting up of the adjudication mechanism envisaged under the Act inevitably resulted in denying the consumers the means to redress their grievances during this prolonged period.

1.7.2 Adequacy of infrastructure

Building space and supporting infrastructure stated to be inadequate.

The department was required to ensure adequate infrastructure to State Commission and district forums. Audit scrutiny of the State Commission and three selected district forums revealed the following:

- The State Commission stated in July 2005 that they lacked adequate building space for the disposal of complaints. While the State Commission and the two district forums (West and New Delhi) were centrally located, the South West District forum was not.
- In the South West District forum, facility of drinking water for consumers was not provided in the premises of the forum.

- Supporting infrastructure like fax machines, record room and library was not available in all the three district forums.
- In the State Commission, the books purchased for the President and members for reference purposes were kept in an almirah in the court room itself. There was no separate library for the consumers in the Commission.

It was also noticed that the State Commission and two district forums (West and New Delhi) did not maintain any asset register in respect of the items supplied by the department. The asset registers were maintained only in respect of the items procured by the State Commission and the district forums. The State Commission and all the three district forums stated in September 2005 that all the equipment and machines were fully operational and were being utilized to their maximum capacity. However, the State Commission and West district forums did not maintain any record showing utilisation of equipment while they could not be made available to audit by the other two district forums (New Delhi and South West). Consequently, the actual operation and proper utilisation of the equipment could not be ascertained in audit.

The Government stated (November 2005) that there was sufficient space in the State Commission complex and that drinking water facilities in the South West district forum were available from the adjoining Food and Civil Supplies Office. It was added that the South West District Forum could not be set up within its area of jurisdiction due to lack of available space. Efforts were being made to provide the supporting infrastructure like fax machines, record room, library etc. in the next financial year. Further, the State Commission had been advised to prepare and maintain an Asset Register for all items provided to them by the department. They had also been advised to set up the record rooms within the premises of the district forums and the State Commission for retaining the old records.

Recommendations

- *Government should review the space requirements in consultation with the State Commission and ensure provision of infrastructure necessary for smooth functioning of the adjudication machinery.*
- *The State Commission as well as all the district forums should maintain proper asset registers as well as records of utilization of equipment such as photocopiers etc.*

State as well as District Consumer Protection Councils not constituted.

1.7.3 *Functioning of Consumer Protection Councils*

The Act provides for establishment of a State Consumer Protection Council at the state level and District Consumer Protection Councils in every district. The purpose of these councils is to promote and protect the right of the consumers against the marketing of goods and services which are hazardous to life and property and against unfair trade practices and seek to expeditious redressal against such unfair or restrictive trade practices or unscrupulous exploitation.

1.7.4 *State Consumer Protection Council*

The first State Consumer Protection Council was formed in the NCT of Delhi on 9 October 1987 which was re-constituted on 9 September 1999. The term of the Council expired on 8 September 2002. The State Council was yet to be re-constituted even after a passage of over three years.

During its tenure, the Council held only two meetings in February 2001 and September 2001 as against the requirement of holding at least two meetings every year. The reasons for not holding of the remaining four meetings were not furnished by the department.

The Government stated (November 2005) that the Council could not be constituted due to administrative reasons. However, a fresh notification for re-constitution of the Council had again been moved and it would be re-constituted shortly.

1.7.5 *District Consumer Protection Councils*

No District Consumer Protection Council had been constituted by the department till date.

The Government stated (November 2005) that the proposal for notification of the Councils was underway.

It was evident that a lackadaisical approach of the department to the constitution of these councils frustrated their objectives of promotion and protection of consumer rights.

Recommendation

State Consumer Protection Council and District Consumer Protection Councils should be constituted without further delay so that the consumers are not denied the opportunities and avenues envisaged under the Act for the promotion and protection of their rights.

1.7.6 Adequacy of staffing and funding of the Commission/forums

Test check of records of the State Commission and the selected district forums revealed as under:

Post of President and members remained vacant for up to seven and 20 months respectively.

- There was excess administrative staff ranging from 12 (133 per cent) to 17 (213 per cent) over its sanctioned strength in the State Commission while there was a shortage of only eight posts in the three selected districts. Evidently, there were no staff constraints to the effective implementation of the provisions of the Act.
- While there was no shortage at the staff level, senior positions often remained vacant. In the State Commission and the New Delhi district forum, the sanctioned post of the President remained vacant for seven months during 2003-05 and for one month during 2000-01 respectively. Against the sanctioned strength of two members (one male and one female) in the State Commission and each district forum, the post of the member was vacant for six months during 2000-01 and 6.5 months during 2002-04 in the State Commission. The post of the members was vacant for 5.5 months during 2001-03, 1.5 months during 2002-03 and 20.5 months during 2003-05 in West, New Delhi and South West district forums respectively.

The Government stated (December 2005) that the quorum was nevertheless complete and the President and one member were continuously working in the districts. The reply is not tenable as vacancies continuing for such prolonged periods would adversely affect the number of cases that could be handled by the Commission and the district forums.

1.7.7 Implementation of redressal mechanism

The department was required to evolve an effective mechanism for registration, investigation and timely disposal of the complaint cases.

As of March 2005, pending complaint cases ranged from 1.47 to 20 per cent in the district forums.

1.7.8 Position of complaints and appeal cases

As of March 2005, out of 1,50,643 complaint and 17,435 appeal cases filed, the Commission/district forums had disposed of 1,39,885 complaint and 14,798 appeal cases leaving a balance of 10,758 complaint cases (7.14 per cent) and 2,637 appeal cases (15.12 per cent) pending. During the period January 2000 to March 2005, the overall percentage of pending complaint cases in the nine district forums ranged from 1.47 per cent in North district to 20 per cent in North-West district. In the State Commission, the overall pendency was 19.11 and 15.12 per cent in respect of complaint and appeal cases respectively. The overall position of the complaint/appeal cases

filed/disposed/pending during January 2000 to March 2005 are given in Annexure 'C'.

In the three selected district forums and the State Commission, the position of pending complaints and appeal cases during January 2000 to March 2005 was as under:

Table 1.3: Position of pending complaints and appeal cases

Sl. No	Name of the district/State Commission	Percentage of pendency ranged from	
		January 2000 to December 2000	January 2004 to March 2005
1.	West District	8.89	2.66
2.	New Delhi District	45.57	12.11
3.	South West District	28.03	3.00
4.	State Commission		
	(i) Complaint cases	35.14	19.11
	(ii) Appeal cases	31.55	15.12

The position of pending complaints shows an improvement over 2000 to 2005.

The Government stated (December 2005) that the South-West District had made concerted efforts to expedite the disposal of cases within time while the delay in disposal of cases in New Delhi District was due to non furnishing of accurate addresses of the opposite parties and non filing of evidence and documents on time by the complainants.

1.7.9 Delay in issuance of notice/admission of the appeal

Section 13 of the Act prescribes that the district forum shall, if it relates to any goods, refer a copy of the complaint to the opposite party within twenty-one days from the date of its admission. The State Commission stated in July 2005 that dates for hearing in appeal cases are to be given to the consumers on the third day from the date of filing of the appeal.

Test-check of the records of the selected districts forums and the State Commission for the period January 2000 to March 2005 revealed that there was delay in issue of the notice to the opposite party and fixing of the date of first hearing vis-à-vis the above time frames as detailed below:

Table 1.4: Delay in issuance of notice/ fixing date for first hearing

Delay in issuance of notice/ fixing of date of first hearing ranged from one month to more than six months.

Sl. No.	Name of the District / State Commission	No. of Cases test checked	Cases where delay in serving notices was noticed		No. of cases where notice was served with delay				
			No. of cases	Percentage	Upto one month	Above one month upto three month	Above 3 month upto 6 month	Above 6 month upto 1 year	Above 1 year
1	South West	309	117	38	106 (91%)	10 (9%)	--	01	--
2	New Delhi	602	424	70	72 (17%)	160 (38%)	169 (40%)	21 (5%)	02
3	State Commission								
	i) Complaints cases	170	75	44	18 (24%)	28 (37%)	22 (29%)	7 (10%)	--
	ii) Appeal Cases	566	157	28	138 (88%)	13 (8%)	4 (3%)	2 (1%)	--

Delay in issue of notice and fixing of the date for first hearing aggravated delay in final disposal of the cases. It was also noticed in audit that the delay ranged from one month to more than six months in issue of notice to the opposite parties.

The Government stated in December 2005 that the delay in issue of notices to opposite parties in New Delhi district was due to incomplete documents filed by the complainants and shortage of funds for purchase of postal stamps while there was no delay in case of South-West District district. It attributed the delays in issue of notices generally to non-furnishing of accurate addresses of opposite parties.

The reply in respect of South-West district was not tenable as there was delay in issue of notices ranging from one month to three months in 117 (38 per cent) out of the 309 cases test checked in audit.

1.7.10 Details of hearings

One of the primary objectives of the Act is speedy and inexpensive redressal of consumer grievances. In the three selected districts, the position of the average number of hearings held during January 2000 to March 2005 till final

disposal of the cases was as under:

Table 1.5: Position of average number of hearings

Sl. No.	Name of the District	Total number of cases test -checked	Total no. of hearings held	Average No. of hearings held
1	West	500	2367	5
2	South West	309	1628	5

3	New Delhi	602	3047	5
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The average number of hearings held in a case in the selected districts during January 2000 to March 2005 was five. The findings of the survey team also indicated that eight hearings on an average were held till the final disposal of the cases.

The Government stated in December 2005 that the number of hearings increased when the complainant failed to file evidence or produce documents.

1.7.11 Delay in disposal of complaint /appeal cases

Delay in disposal of cases ranged from six months to above five years.

Section 13 (3A) of the Act provides that an effort shall be made to decide the complaint within a period of three months from the date of receipt of notice by the opposite party where it did not require testing of commodities and within five months if it required testing of commodities. Section 19(A) of the Act provides that an endeavor shall be made to finally dispose of the appeal within a period of ninety days from the date of its admission.

A test check of the records of the selected districts and the State Commission as to the delay in disposal of the complaints/appeal cases during January 2000 to March 2005 indicated the following:

Table 1.6: Position showing delay in disposal of cases

Sl. No.	Name of the District/State Commission	No. of cases test checked	No. of cases where delay* was noticed	No. of cases disposed with delay				
				Upto 6 month	Above 6 months up to one year	Above one year up to 3 years	Above 3 year upto 5 years	Above 5 years
1	West District	500	290 (58%)	213 (73%)	72 (25%)	05 (2%)	-	-
2	New Delhi	602	410 (68%)	91 (22%)	127 (31%)	138 (34%)	46 (11%)	8 (2%)
3	South West	309	137 (44%)	98 (72%)	33 (24%)	6 (4%)	-	-
4	State Commission							
	(i) Complaint cases	170	112 (66%)	03 (3%)	10 (9%)	36 (32%)	27 (24%)	36(32%)
	(ii) Appeal cases	566	400(71%)	84 (21%)	46 (12%)	142 (36%)	90 (23%)	38(10%)

* delay in disposal of complaint/appeal cases after date of receipt of notice/admission.

Year wise delay in disposal of complaint/appeal cases in selected district forums and State Commission during the period January 2000 to March 2005 was as follows:

Table 1.7: Yearwise delay in disposal of cases

Sl. No.	Name of the district/State Commission	Percentage of cases where delay ranged from
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1	West District	35 to 93 per cent
2	New Delhi	44 to 90 per cent
3	South West	21 to 85 per cent
4	State Commission	
	(i) Complaint cases	48 to 92 per cent
	(ii) Appeal cases	58 to 82 per cent

The State Commission and the selected district forums attributed the delay in disposal of cases to lack of infrastructure, shortage of staff, shortage of funds for purchase of postal stamps, shortage of competent stenographers, failure of the parties in filing evidence and documents, non-appearance of the parties and seeking of time by the parties for arriving at a compromise. The reason of shortage of staff furnished by the State Commission was not tenable as there was shortage of only one post each of UDC and steno during 2001-02. In fact, the staff was in excess to the extent of 12 to 17 against the sanctioned post of 8 to 9 during 2000-05.

It was also noticed in audit that there was a delay ranging from six months to above five years in the final disposal of the cases. Overall 79 per cent of the complainants in the ORG survey found that the entire process of redressal was very time consuming. The cost of transportation during the entire process was Rs.1163 and the overall average cost incurred by the complainant was reported to be Rs.3964. In some cases, the cost incurred by the complainants in resolving the case was considerably high as compared to their monthly household income. Thus, the very purpose of the Act which is supposed to provide speedy and inexpensive mechanism for redressal of consumer grievances was defeated.

The Government attributed (December 2005) the delays to heavy pendencies and institution of a large number of cases as well as to non furnishing of accurate addresses of opposite parties or time taken in producing evidence.

1.7.12 Receipt of compensation

It was noticed by the survey team that only 84 per cent of the complainants who had been awarded decrees in their favour had actually received the compensation and that the mean time taken in receiving the compensation was nearly two months. In the remaining 16 per cent of the cases, the compensation was awaited for an average of about 24 months.

The State Commission stated that no records were required to be maintained by them or by the district forums for monitoring the actual execution of the awards to the consumers. However, in the absence of maintenance of such records, the department could not ensure as to whether the compensation

given by the Commission and the district forums were actually received by the consumers from the respondents.

The Government admitted (December 2005) delay in compliance with the orders as the opposite parties had closed down their offices or went into liquidation. It added that the State Commission and district forums would be advised to avoid such delays in future.

1.7.13 Other monitoring aspects

No mechanism was evolved by the department to monitor the achievement/implementation of the various aspects of the Act. The department informed that the State Commission was empowered to monitor the institution, disposal and pendency of cases by the district forums. The department had not created any computer networking project for inter-linking the department, State Commission and district forums. As regards fixation of target for disposal of cases, the State Commission and the selected district forums stated that no targets for the disposal of the cases had been prescribed by the department.

The Government stated in November 2005 that a Memorandum of Understanding had since been signed between the Government of Delhi, the Government of India and the National Informatics Center for computer networking of the State Commission and the district forums.

Recommendations

- *Since one of the primary objectives of the Act is speedy and inexpensive redressal of consumer grievances, Government should review the reasons for delays in issue of notices and in disposal of complaint and appeal cases and take remedial action as may be necessary in consultation with the State Commission to eliminate or minimize them.*
- *Government should consider setting up a centralized monitoring cell to watch the receipt and expeditious disposal of the complaint/ appeal cases.*

1.8 Prevention of food adulteration and enforcement of weights and measures

Activities and functions of allied departments have a bearing on consumer welfare, either directly or indirectly. In NCT of Delhi, the Directorate of Prevention of Food Adulteration and the Department of Weights and Measures are responsible for the effective enforcement of the Prevention of Food Adulteration Act (PFA) 1954 and the Standards of Weights and Measures (Enforcement) Act 1985 which together with the Consumer

Protection Act constitute the legal frame work for safeguarding consumer interests.

1.8.1 Directorate of Prevention of Food Adulteration

Rules relating to licensing of food establishments not brought into force.

Section 10(2) of the PFA Act stipulates that any food inspector may enter and inspect any place where any article of food is manufactured, or stored for sale, or stored for the manufacture of any other article of food for sale, or exposed or exhibited for sale or where any adulterant is manufactured or kept, and take samples of such article of food or adulterant for analysis. Further, Rule 5(1) of the PFA Rules 2002 provides that anyone desiring to manufacture or distribute or deal in any food article shall make an application to the appropriate licensing authority for grant of a license to run his business. These provisions are enforced through periodic inspections by food inspectors.

However, the provisions pertaining to licensing of food establishments under the Delhi Prevention of Food Adulteration Rules have yet to be brought into force in the national capital and as such there were no activities for grant/renewal of certificates in the Directorate.

Shortfall in lifting of samples ranged from 68 to 75 per cent.

No targets or periodicity of inspections had been fixed till April 2002. A target of lifting of 20 samples per month per inspector was fixed with effect from 1 May 2002. During 2002-05, there were huge shortfall every year ranging from 68 per cent to 75 per cent with only 6,601 samples being lifted against the target of 22,620 samples as detailed below:-

Table 1.8: Position showing shortfall in lifting of samples

Sl. No.	Year	Target fixed @ 20 samples per inspector in a month	Total no of samples lifted	Short fall	Percentage of shortfall
1	2002-03	7260*	1840	5420	75
2	2003-04	7680	2451	5229	68
3.	2004-05	7680	2310	5370	70
Total		22620	6601	16019	71%

* proportionate figures for 11 months w.e.f 1.5.02 to 31.3.2003 as the targets were fixed from 1.5.2002.

The Government stated (December 2005) that the provisions relating to licensing were proposed to be notified after putting the necessary infrastructure arrangement in position. They were now under the consideration of the Committee on Delegated Legislation of the Delhi Legislative Assembly. Regarding the shortfall in lifting of number of samples, it was stated that the food inspectors could lift the samples only under the supervision of Sub-Divisional Magistrates (SDM) who had been delegated the powers of Local Health Authority who had various other statutory/non-statutory functions to

perform. However, with regular monitoring and review from time to time, the lifting of number of samples had shown an upward trend.

The reply is not tenable as it was incumbent upon the Directorate to ensure necessary co-ordination with the SDMs and find time to discharge their primary function of safeguarding consumer protection and safety through periodic testing of samples.

Out of a total of 10,535 samples lifted during the period 2000-05, 1,069 (10 per cent) samples were found to be adulterated as below:-

Table 1.9: Position regarding adulterated samples

Sl. No	Year	No. of samples lifted during the year	No. of samples found adulterated	Percentage of adulterated samples to the samples lifted
1	2000-01	1694	168	10
2	2001-02	2073	289	14
3	2002-03	2007	256	13
4	2003-04	2451	168	7
5	2004-05	2310	188	8
Total		10535	1069	

Against the number of cases sent to courts for prosecution, the details of cases decided by the court during the period January 2000 to December 2004 was as under:

Table: 1.10: Position of cases sent for prosecution

Sl. No.	Year	No. of cases launched in the courts	No. of cases decided	No. of cases convicted	No. of cases Acquitted	No. of cases discharged
1.	2000	183	155	48	22	70
2	2001	168	107	35	03	62
3	2002	280	92	36	05	47
4	2003	404	164	27	12	119
5	2004	252	187	109	11	37
	Total	1287	705	255	53	335

Only 36 per cent of decided cases ended with conviction.

Out of 1287 cases where prosecution was launched, 705 (55 per cent) cases were decided by the court and only 255 (36 per cent) cases ended with conviction. The details regarding number of cases not launched in the court and number of cases pending with the court could not be furnished by the Directorate.

Government stated (December 2005) that the department had filed appeals in the High Court in as many as 32 out of the 53 cases of acquittals mentioned above.

Failure to bring into effect the provisions relating to licensing of food establishments, gross shortfall in lifting of samples and poor success rate of prosecution was indicative of the lack of seriousness with which the PFA Act was being enforced in the national capital thereby endangering public health and safety.

1.8.2 Department of Weights and Measures

Section 27(1) of the Standards of Weights and Measures (Enforcement) Act, 1985, provides that an inspector may, within the local limits of his jurisdiction, inspect and test at all reasonable times, any weights or measures which is in possession, custody, control of any person or is in any premises. However, no norms or targets had been fixed for inspections by the inspectors. In addition, there were considerable vacancies in the posts of inspectors during 2000-05. Against the sanctioned strength of 57 posts, there were vacancies of 20 to 27 posts which inhibited the ability of the department to enforce the provisions of the Act. The number of inspections declined sharply from 68,906 during 2000-01 to just 13,751 during 2004-05 as under:-

Number of inspections declined from 68,906 in 2000-01 to 13,751 in 2004-05.

Table 1.11: Position regarding inspections

Sl.No.	Year	No. of inspections made
1	2000-01	68906
2	2001-02	70682
3	2002-03	28143
4	2003-04	12481
5	2004-05	13751
	Total	193963

Prosecution is based on inspections. Some cases are compounded while others are referred to the courts for prosecution. Details regarding the number of inspections and prosecutions made and the number of cases compounded or sent to courts during 2000-05 is given below:

Table 1.12: Position regarding cases prosecuted/ compounded

Sl. No.	Year	No. of cases where inspections were made	No. of cases where prosecutions made	No. of cases compounded	No. of cases sent to court
1	2000-01	68906	12189	Not available	
2	2001-02	70682	10953		

3	2002-03	28143	6718		
4	2003-04	12481	4945		
5	2004-05	13751	5200	2462	1397
	Total	1,93,963	40,005		

It was observed that prosecution was launched in 40,005 cases out of 1,93,963 inspections carried out during 2000-05. However, no details as to number of cases compounded, cases sent to court and decided by the court were available with the department for the period 2000-04. During the year 2004-05, 2,462 (47 per cent) out of 5,200 prosecution cases were compounded by the department by imposing compounding fees of Rs.45.67 lakh. Out of the remaining 2,738 cases, 842 (31 per cent) Taxi Scooter Riskshaw (TSR) cases were sent to Transport department, 1,397 (51 per cent) cases were sent to the courts and 499 (18 per cent) cases were pending with the department. Further, 543 out of 1,397 cases sent to court were decided with 23 acquittals. Penalties of Rs.6.42 lakh were imposed in the remaining 520 cases. The department was not aware of the final outcome of the TSR cases sent to the Transport department. Failure of the department to even properly maintain the records of prosecutions launched on the basis of the inspections or of cases referred to other departments displayed a lack of seriousness in enforcing the statutory provisions.

No target fixed for verification or re-verification of weights and measures.

Rule 14 of the Standards of Weight and Measures Enforcement Rules, 1988, prescribes that every weight or measures used or intended to be used in any transaction or for industrial production or for protection shall be verified or re-verified and stamped at least once in 12 months. The department did not fix any targets for verification/re-verification of weights and measures items. In the absence of any targets fixed for such verification/re-verification of cases against the number of such cases due, the adequacy or extent of shortfall, if any, could not be ascertained in audit.

The department did not maintain any data base of wholesalers and retailers for exercising an effective check against the use of sub-standard weights and measures and inspections were being carried out on a random basis.

Acute shortage of inspectors coupled with non-fixing of any targets for inspections and verification/re-verification of weights and measures items and non maintenance of any data base of wholesalers/retailers for exercising check against the use of sub-standard weights and measures items seriously undermined the ability of the department to meaningfully enforce the provisions of the Weights and Measures Act.

The Government stated (December 2005) that efforts were being made to fill up the vacancies of inspectors and that they regretted not fixing targets for verification/re-verification of weights and measures by inspectors. Targets

were now being fixed from this financial year 2005-06. Efforts were on to computerise the data base which would enable the department to know the status of a case at any point of time. It was added that cases sent to the Transport department were booked by them under the Motor Vehicles Act while the cases booked under Weights and Measures (Enforcement) Act 1985 were being monitored by them. However, the prosecution mechanism would be strengthened as a deterrent to traders against violation of the Acts and Rules.

Recommendation

Government needs to take urgent steps to ensure that the target fixed by it for lifting of samples is adhered to. It should also fix targets for verification and re-verification of weights and measures keeping in view the statutory requirement of them being done at least once every 12 months.

1.9 Impact evaluation

The department had not undertaken any exercise to evaluate the impact of the steps taken by it to implement the provisions of the Act and to assess as to whether its objectives were being achieved.

Annexure - A
(Referred to in Paragraph 1.6)

Sl. No.	Name of N.G.O.	Date of release of Grant	Amount of grant released	Year for which U.C./Accounts not submitted	Remarks
(1)	(2)	(3)	(4)	(5)	(6)
01	All India Women's Conference	31.3.2003	10,000	2002-03	
02	Akhil Bhartiya Upbhokta Utthan Sansthan	-do-	25,000	-do-	
03	Concern for Humanity	12.3.04	10,000	2003-04	
04	Vinama Educational and Charitable Society	-do-	10,000	-do-	
05	Progressive Thinkers Society	-do-	10,000	-do-	
06	Sky-life	-do-	10,000	-do-	
07	Consumer co-ordination Council	-do-	25,000	-do-	
08	Delit Samaj Sewa Ekta March	18.03.2005	10,000	2004-05	
09	Ganesh Scientific Research Foundation	-do-	15,000	-do-	
10	South Delhi House-wives Association	18.3.2005	25,000	-do-	
11	G.D.S. Society	-do-	10,000	-do-	

Annexure - B
(Referred to in Paragraph 1.6)

Sl. No.	Name of N.G.O.	Date of release of Grant	Amount of grant released	Due date of submission of U.C.	Actual Date of submission of U.C.	Period of delay in submission
1	Dalit Samaj Sewa, Ekta March	26.3.02	5,000	30.6.02	10.9.02	2 months
2	Social Association for welfare education and Rural awareness	26.3.02	10,000	-do-	28.11.02	5 months
3	Skylife Research and Welfare Trust	31.3.03	10,000	-do-	20.9.03	2 months
4	Sahyog Charitable Trust	31.3.03	10,000	30.06.2003	02.09.05	26 months
5	BINTY	-do-	25,000	-do-	23.06.04	11 months
6	Maa Ratni Harput Memorial Public School	12.3.04	10,000	-do-	16.5.05	10 months
7	National Federation of Labour Corp. Ltd.	-do-	10,000	30.06.2004	19.07.04	1 month
8	The Oases	18.3.2005	25,000	30.06.05	24.08.05	1 month
9	Kumayan Technical Education and Social Welfare Society of India	-do-	10,000	-do-	14.08.05	1 month

Annexure – C
(Referred to in Paragraph 1.7.5 (i))

Overall position of cases filed/disposed/pending in the state during January 2000 to March 2005

Receipts					Disposal				
Sl. No.	Name of Distt./State commission	No. of cases			No. of cases			Pending	Percentage of pending cases
		O.B. as on Jan 2000 (since inception)	Filed during Jan 2000 to March 05	Total	O.B. on Jan 2000 (since inception)	Disposed during Jan 2000 to March 2005	Total		
1.	North	26618	4676	31294	25726	5107	30833	461	1.47
2.	South	28881	12971	41852	22882	16769	39651	2201	5.25
3.	West	11646	6630	18276	7935	9854	17789	487	2.66
4.	North East	3397	3835	7232	2578	4249	6827	405	5.60
5.	North West	2128	5791	7919	1355	4975	6330	1589	20.00
6.	New Delhi	5903	9268	15171	2020	11314	13334	1837	12.11
7.	South West	1261	3894	5155	98	4902	5000	155	3.00
8.	Central	3401	8622	12023	NIL	9815	9815	2208	18.36
9.	East	643	5530	6173	140	5678	5818	355	5.75
10.	State Commission	4054	1494	5548	2521	1967	4488	1060	19.11
A.	Total Complaint Cases	87932	62711	150643	65255	74630	139885	10758	7.14
B.	Appeals (State Commission)	7403	10032	17435	4444	10354	14798	2637	15.12
A + B	Grand Total	95335	72743	168078	69699	84,984	154683	13395	7.97

