

# Advantage Consumer

Monthly News Letter of Consumer Protection Council, Rourkela

“ An aware consumer is an asset to the nation”

Website : [www.advantageconsumer.com](http://www.advantageconsumer.com)

VOLUME – XXXVII

MARCH 2025

ADVANTAGE - III

## Queries & Answers through the Web

([www.advantageconsumer.com](http://www.advantageconsumer.com)) is the website of Consumer Protection Council, Rourkela. One of the major attractions of the website is that a visitor can ask queries on issues relating to consumer protection. Answers to these queries are made free of cost, by the Chief Mentor of the Council, Sri B. Vaidyanathan.)



Consumer Protection Rourkela observed World Consumer Rights Day 2025

CPC Rourkela observed the “**World Consumer Rights Day**” on **Saturday, 15<sup>th</sup> March 2025** at Panthanivas, Sector-5, Rourkela. **Dr. Mohit Lal Sahu, Asst Professor, Industrial Design Department of NIT Rourkela** attended as **Chief Guest** of the function and **Shri Hiralal Mohapatra, CGM (Utilities & Environment), RSP** as **Guest of Honour**. Members of Press electronic media were present on this occasion.

The programme was inaugurated with lighting up the ceremonial lamp by the guests. Subsequently council president, Mr. P. Ravi Krishnan delivered a welcome address with a brief introduction of the council. Jt. secretary Mr. Rajib Kumar Nayak presented secretarial report. Dr. Mohit Lal Sahu and Shri Hiralal Mohapatra addressed the audience consisting of Council members, newly enrolled members, members of press and other invitees. They elaborated the consumer movement in the country and gave some tips about the new challenges faced by the Consumer. The theme of this year World Consumer Rights Day is “**A Just Transition to Sustainable Life Styles**” The theme reminds consumers about the importance of making sustainable and healthy lifestyle choices accessible, available, and affordable for everyone. It followed by prize distribution to winners of Drawing Competition which conducted on the 9<sup>th</sup> March 2025 (Sunday).

Later, members and audience participated in an open session with quiz competition and suggestion relating to solution of day-to-day activities against present advance technological challenges through CPC, Rourkela. At the end, Vice President Mr. Bharat Kumar Behera proposed a formal vote of thanks. Executive Committee Member Mr. Amitav Thakur was the *master of ceremony*. Approximately eighty persons including members, Council committee members, prize winners, guardians and guests were present during the function. Our special thanks to Our **Chief Mentor Shri Vaidyanathan** and our **Council Honorary Secretary, Shri Bhimasen Pradhan** for their kind guidance.

## Let us realise our dream to become a developed nation by 2047.

- B.Vaidyanathan

Even the most passionate and sincere vision to make India, a developed nation by 2047 will only remain on paper, if the people behind the government and its agencies fail to measure up to the expectations and the demands of delivering results. **Obviously, laws and devising systems alone cannot make a country great, unless those are translated to tangible results expected of them.** It needs to be borne in mind that only a miniscule minority of the population, who are aware of the laws and their rights and are also resilient enough to take up the issue with the authorities concerned, of the government. Any failure or lackadaisical approach on the part of such machinery needs to be viewed seriously and appropriate action taken. Only then, the ordinary citizen, the consumer will be able to experience a responsive government, which is the hallmark of a welfare State, a developed India.

Now, let me come to the real story. On 20<sup>th</sup> Dec. 2024, I had ordered some grocery items through M/s **amazon.in**, claiming itself as **"Most Customer Centric Organisation on the earth"**. The same evening when the items were delivered, it was found that one of the items, KLF Tilnad Sesame Oil, 200 ml PET with a MRP of Rs. 88/-, had been billed at Rs. 99/- each. Thus with 7 nos. supplied, the item had been billed at Rs. 693/- (99 x 7), instead of Rs. 616/- (88 x 7), in excess of Rs. 77/-. The matter was immediately reported through chat and telephonic calls to several in the hierarchy, of **Amazon**, ending with one Mr. Guru Sevak Singh, introduced as Specialist in that area (pricing or whatever). He sought 3 days' time and assured me that someone would call by 24<sup>th</sup> Dec. 2024. But no one called. As per my Standard Operating Procedure, I took the next step of escalating the matter to the concerned authorities.

In Tamil Nadu where I reside presently, after searching the web, to my pleasant surprise, found a web page **"Complaint tracking system of Legal Metrology"**, where an individual could lodge a complaint regarding **Weights & Measure** issues. All the pleasantness experienced by me vanished within a few minutes, as there was no way to lodge a complaint as the OTP verification system, which is an integral part of this complaint lodging system, to verify the identity of the individual lodging the complaint, was **dysfunctional**. After exhausting this option, after continuously trying for a week, at different times of the day, gathered the relevant e-mail ids of the concerned officials, lodged the complaint along with the copy of the Tax Invoice and photo of the PET bottle, on 31<sup>st</sup> Dec. 2024. The addressees include the highest in the hierarchy, i.e., Principal Secretary to the Government, Co-operation, Food and Consumer Protection Department. Since there was no response from any quarter, even after a reminder sent on the 20<sup>th</sup> Jan. 2025, forwarded the complaint to the Secretary, Department of Consumer Affairs, **Government of India**, on 2<sup>nd</sup> Feb. Till date the response has been conspicuous by its absence. All these mundane details have been shared herein only to highlight the effectiveness with which our bureaucracy, the people behind the government at the State and Central levels, have been so lethally silent even on actionable complaints. Herein, proper Invoice supporting the transaction, photo of the item clearly indicating the MRP, and last but not the least, the dysfunctional **Legal Metrology Portal (Complaint tracking system)** of the **Government of Tamil Nadu** had all been systematically brought to light. In spite of all this, the violation of a very important and simple **Packaged Commodities Rules**, which affects each and every citizen of this country, is being taken lightly, highlighting the indifference of people who are supposed to deliver.

Government can introduce all the latest technologies, harp on innovation and digitization, invest and encourage AI and so on, but unless the delivery is ensured in totality, by all means, I am afraid the dream to achieve a developed nation by 2047 could become all the more daunting.

-----\*\*\*-----

Continued from February,2025 issue.....

**The rate of interest charged by the banks, is determined by the financial wisdom & directives issued by the Reserve Bank of India and is duly communicated to the credit card holders from time to time, cannot be in any manner considered unfair and the Order of the NCDRC is set aside. (*Shortened Judgment, for want of space, is reproduced below.*)**

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5273 OF 2008

HONGKONG AND SHANGHAI  
BANKING CORP. LTD.

...APPELLANT(S)

VERSUS

AWAZ & ORS.

...RESPONDENT(S)

**J U D G M E N T**

**SATISH CHANDRA SHARMA, J.**

**41** Section 12(1)(b) also permits a “any recognised consumer association whether the consumer to whom the goods sold or delivered or agreed to be sold or delivered or service provided or agreed to be provided is a member of such association or not” to file a complaint, in terms of the procedure prescribed under section 13 of the Act. The Respondent nos. 1 and 2 herein, have taken refuge under this provision claiming themselves to be a voluntary consumer association, to approach the National Commission.

**42** The Complaint however, failed to meet the threshold of section 12(1) and 13 of the Act. The original Complaint before the Commission, which is said to have been filed in a representative capacity, by the Trust, representing all consumers who have been purportedly aggrieved owing to the exorbitant rates of interest charged by the banks, was filed without complying with the mandate of Order I Rule 8, prescribed under Section 13(6) of the Act. No order has been passed by the National Commission permitting the Respondent nos.1 and 2 to represent the interest or act on behalf of any consumer. An application under section 13(6) of the Act seeking permission to act “on behalf of consumers” was only filed by the Complainants, at the stage of conclusion of arguments, and judgment being reserved.

**43** Since, this Court has held that the requirement of Order I Rule 8, prescribed in Section 13(6) is to be read into section 12(1) of the 1986 Act, the requirement of obtaining prior permission from the Commission, for any consumer to act in a representative capacity, can in no way be dispensed with.

**44.** The Respondent nos.1 and 2 have also handed over the Trust Deed dt 06.06.1994 only during the course of arguments, to demonstrate that the Complainants are a registered association representing consumer rights, does not help the cause insofar as a trust, whether registered under the Indian Trust Act, or the State Trust Registration Act, is not a “person” as defined under Section 2(1)(m) of the Consumer Protection Act, 1986. The decision in ***Pratibha Pratisthan Vs Canara Bank*** by this Hon’ble Court that a trust is not a person & therefore not a consumer and consequently cannot invoke provisions or file a consumer dispute under the provisions of this Act. The issue whether a Trust would come within the purview of consumer has been referred to a larger bench in ***Administrator Smt. Tata Bai Desai Charitable Ophthalmic Trust Hospital, Jodhpur Vs Managing Director, Supreme Elevators India Pvt. Ltd. & Ors.*** vide judgment dated 04.10.2019; however, the ratio in ***Pratibha Pratisthan Vs Canara Bank (supra)***, is the position of law in force.

**45.** We are further of the considered view that the consumer Complainant fails to disclose any deficiency in service or violation and is in fact a public interest litigation in guise of a purported consumer dispute. We also agree with the contention of the Appellants, that the Respondents had approached the National Commission at the behest

of the Respondent no. 3, a credit card holder with Citibank, purportedly claiming an amount of Rs. 90,000/- against excess interest charged by the bank, which is barred by the pecuniary jurisdiction of the Commission.

48. The Reserve Bank of India is the prime banking institution of the country, and a statutory authority entrusted with the supervisory role over banking and conferred with the authority of issuing binding directions, having statutory force<sup>1</sup>. No other entity or banking institution has been conferred by the legislature, the power of subordinate legislation to formulate and enact new directives/guidelines in public interest and for the growth of the Indian economy.

49. The Reserve Bank of India has time & time again acted on its salient duty and issued master directions/circulars which are clear, unambiguous and specific instructions to banking institutions to carry out their operations in a transparent and fair manner, and the banks across the country are bound to follow. It is the Reserve Bank of India alone which enacts the mandate for the banks. In this sphere, the only function of the Courts is to examine that the lawful authority is not abused, and not to appropriate itself the task entrusted to that authority. However, the National Commission has done just that.

50. The National Commission has assumed jurisdiction and expertise over the Reserve Bank of India, whilst observing that a ceiling on the rates of interest, is the purported solution to the alleged exploitation of credit card holders. It has made observations, that are contrary to the legislative intent of Section 21A of the Banking Regulation Act, 1949 that provides for a statutory bar on any court/tribunal to re-open transactions, that the rate of interest charged by the banking company in respect of such transaction is excessive.

51. Although, the National Commission has recorded that by virtue of its decision, it is not re-opening any transaction between the banking company and its debtor on the ground that the rate of interest is excessive, as barred under section 21A; and has only decided the limited question on “*whether a bank has adopted any unfair trade practice, as defined under section 2(1)(r)(I)*”; we do not subscribe to this rationale. The decision of the National Commission to unilaterally hold that any interest above 30% p.a. is usurious, is in contrary to the legislative intent of section 21A and is an encroachment upon the domain of the Reserve Bank of India.

.....  
.....

54. We have also considered all the circulars/notifications on credit card operations, up till 2022, issued by the RBI, which provide a comprehensive compendium of guidelines for Banks to carry out operations with respect to credit cards. This Court is certainly not going into the actuarial principles adopted by the Reserve Bank of India, as the basis to formulate its directives, but we are of the considered opinion that the RBI must have acted with prudence while giving the apparent discretion to the banks to decide the rates of interest. One of the directions in the annexures also includes “*educating customers on the implication of paying only the minimum amount due*” on credit cards. It has been carefully opined under the RBI instructions, for issue and action to be taken by banks, that “Banks should step up their efforts on educating the cardholders on the implications of paying only the ‘minimum amount due’. The MITC should specifically explain that the ‘free credit period’ is lost, if any balance of the previous month’s billing is outstanding. For this purpose, they could work out illustrative examples and include the same in the Welcome Kit sent to cardholders as also place it on their websites.

55. One such endeavour is also apparent from the fact that the same 2003 Circular, also enunciates the enabling clauses in a loan agreement, which reads herein as under:

*“2.7.1 Banks should invariably incorporate the following proviso in the loan agreements in the case of all advances, including the term loans, thereby enabling banks to charge the applicable interest rate in conformity with the directives issued by RBI from time to time.*

*“Provided that the interest payable by the borrower shall be subject to the changes in the interest rates by the Reserve Bank from time to time.”*

56. We are thus, of the considered opinion that the challenge by the complainants that the guidelines issued by the RBI are arbitrary and not in public interest, is wholly without basis. It is no more *res integra* that any direction or

guideline, issued by a statutory authority, is an extension of the statute itself. Rules made under a statute must be treated, for all purposes of construction or obligations, exactly as if they were in that Act<sup>1</sup>. The notifications, circulars and directions of the RBI are nothing but the legislative expression of the 'statement of object & reasons' encapsulated in the preamble of the Reserve Bank of India Act, 1934. Hence, the statutory presumption that the legislature whilst formulating laws has inserted every part thereunder for a purpose and that legislative intention, which should be given effect to, would be applicable to the present guidelines as well.

57 In this respect alone, the National Commission had no jurisdiction to either entertain a Complaint, having vague, ambiguous allegations & no cause of action, and further also had no jurisdiction to assume the jurisdiction of the Reserve Bank of India, or act/decide or regulate on its behalf, any monetary decision or policy. This Hon'ble Court has also answered the question of want of judicial review of directions, within the specific domain of an expert body in the case of *Shri Sitaram Sugar Company Ltd. Vs Union of India*<sup>1</sup> and was pleased to observe as under:

*“Judicial review is not concerned with matters of economic policy. The Court does not substitute its judgement for that of the legislature or its agents as to matters within its province of either. The Court does not supplant the feel of expert by its own views. When the legislature acts, within the sphere of its authority and delegates power to an agent, it may empower the agent to make findings of fact which are conclusive provided such findings satisfy the test of reasonableness. In all such cases, judicial inquiry is confined to the question whether the findings of fact, are reasonably based on evidence and whether such findings are consistent with the laws of the land.”*

58. The RBI is the prime regulator and the decision-making authority for the economic/financial decisions of the Indian economy, any endeavour by the National Commission or any other Court/Tribunal to decide at the behest of the RBI cannot be termed to be just, fair and equitable. ....

59. In addition, we are also of the considered view, that an endeavour to cap the rate of interest charged by banks and dictating the need for a Benchmark Prime Lending Rate, drawing parallels with other economies across the world, whilst failing to trust the prudence of the Reserve Bank of India which has been entrusted with the fundamental responsibility of regulation of the monetary system and banking business is unwarranted. ....

62. It is a well-settled principle that the terms of a contract executed between two parties, are not open to judicial scrutiny unless the same is arbitrary, discriminatory, mala fide or actuated by bias. The courts cannot strike down the terms of a contract, because it feels that some other terms would have been fair, wiser or logical.

63. The credit card holders in the present case are well informed and educated & had agreed to be bound by the express stipulation by the terms issued by the respective banks. The banks in the most important terms and conditions, as provided by the Banks have provided all necessary information with regard to fees, and charges applicable to credit cards, credit and cash withdrawal limits. We are of the considered opinion that once the terms of the credit card operations were known to the complainants and disclosed by the banking institutions before the issuance of the credit cards, the National Commission could not have scrutinized the terms or conditions, including the rate of interest. *More-so*, the Respondent has not approached the statutory authority, the Reserve Bank of India, for any objection against the rate of interest, or the high Benchmark Prime Lending Rate.

-----  
-----  
70. It is correct to say that the National Commission has been duly empowered under the statute to set aside unfair contracts, which may symbolise a single will or are unilaterally dominant or incorporate terms which are unfair and unconscionable. However, the rate of interest, charged by the banks, determined by the financial wisdom & directives issued by the Reserve Bank of India, and is duly communicated to the credit card holders from time to time, cannot be in any manner unconscionable or unilateral. The credit card holders are duly educated and made aware of

their privileges and obligations, including timely payment & levying of penalty on delay.

71. Thus, we agree with the submissions made by the Reserve Bank of India, that the question of directing the RBI to act against any bank does not arise, in the facts and circumstances of the present case and that there is no question of the RBI being directed to impose any cap on the rate of interest, either on the banking sector as a whole, or in respect of any one particular bank, contrary to the provisions contained in the Banking Regulation Act, and the circulars/directions issued thereunder.

## CONCLUSION

In light of the aforesaid, the appeals bearing C.A. No. 5273 of 2008, C.A. No. 5294 of 2008, C.A. No. 5627 of 2008, C.A. 5278 of 2008 and C.A. No. 6679 of 2008 are allowed and the final Judgment/Order dated 07.07.2008 passed by the National Commission in "*Awaz & Ors. Vs Reserve Bank of India*"<sup>1</sup> is set aside.

No order as to costs.

.....J.

-----

[BELA M. TRIVEDI]

.....J.

[SATISH CHANDRA SHARMA]

NEW DELHI

DECEMBER 20, 2024

\*\*\*\*\*

### Support Your Cause

Consumer Protection Council, Rourkela is a registered voluntary organization, espousing the cause of the consumer. To a great extent, for its sustenance it depends on the good will of its donors like you. We solicit your support for sustaining the multifarious activities of the council. Donation to the council is eligible for tax exemption under Section : 80-G(5) (iv) of the IT Act. Donation may please be contributed through cash or crossed cheque / DD, drawn in favour of "**Consumer Protection Council, Rourkela**".

Editor : **Sri Bhimasen Pradhan**

Editorial Committee : Sri P.Ravi Krishnan  
Sri Rajib Ku. Nayak  
Sri A. Samantaray  
Sri Sanjay Kumar Pradhan

Circulation Manager : Sri Amitava Thakur

Remittance for subscription may be sent to the Secretary, Consumer Protection Council, B/90, Sector-7, Rourkela-769003, through crossed D.D/M.O or Cheque (local only), payable in favour of

**'CONSUMER PROTECTION COUNCIL, ROURKELA'**.

For tariff and other details regarding advertisement, contact Editor.

Printed & Published by Sri B Pradhan, Consumer Protection Council, Rourkela at B/90, Sector-7, Rourkela – 769003  
E.mail : [bpradhan.cprkl@gmail.com](mailto:bpradhan.cprkl@gmail.com)  
(or) [vaidya@advantageconsumer.com](mailto:vaidya@advantageconsumer.com)

**ADVANTAGE CONSUMER  
ENGLISH MONTHLY**



**MARCH 2025**

To

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If undelivered, please return to :  
Consumer Protection Council, Rourkela  
B/90, Sector-7, Rourkela -769003. Odisha