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National Human Rights Commission
(PRP&P Division; Research Unit-I)

Visit Report of Dr Jayashree Gupta, Special Monitor (Consumer Affairs and Food), NHRC to Gujarat (Ahmedabad) from 08th March to 12th March 2021

Dr Jayashree Gupta, Special Monitor for issues related to Consumer Affairs and Food, NHRC visited Ahmedabad from 08th March 2021 to 12th March 2021. She visited District Consumer Commissions and State Consumer Commission of Gujarat State and PDS and ICDS centres in Ahmedabad District.

The following are the key observations and recommendations emanated out of the visit report:

Observations

All Consumer Commissions Functional in the State

Visits to District Consumer Commissions of Ahmedabad and State Consumer Commission of Gujarat State revealed that all the Consumer Commissions have been established and are functional

Mediation Centres are, however, yet to be established.

Visit to State Commission, Gujarat

A total of 5238 cases have been filed in the State Commission during last 3 years (2017-2019), while 5048 were disposed off. 31876 cases have been disposed off within a period of three months, since inception, which is about 55.2% of total cases (57754) filed so far. 5402 cases are pending in this commission, as in January, 2021. 2197 of these cases are pending for over 2 years.

E-filing of consumer cases has been started and 46 cases have been filed in the State in this mode. None of these cases have, however, been disposed off because of paper requirements and skills issues. The action is being taken to solve the problem.

Mediation Cell has not, however, been established as yet. This will be done after new Rules are notified by the State Govt.

District Consumer Forums in the State of Gujarat

Overall 33113 cases have been filed in District Commissions of the State during last 3 years (2017-2019), while 21598 were disposed off. 79935 cases have been disposed off within a period of three months, since inception, which is about 32.3% of total cases (2,47,577) filed so far. 29790 cases are pending in these District Commissions of the State, as in January, 2021. 7042 of these cases are pending for over 2 years.

Landmark Cases of the State Commission and District Commissions

There have been several cases of medical negligence in which, pro-consumer approach has been adopted and compensation upto Rs 5 lakh has been awarded.

State and District Consumer Protection Councils: Not Established

Major Consumer Concerns emanating from Meeting with NGOs and Others

CERC has a well established Food Testing Lab. Over the years more than 100 products have been tested in this lab. Some of the recent test findings, relating to food products are not very encouraging.

Food and Nutrition

It was observed that the **PDS** system has been fully computerized.

The **ICDS Centres** as also schools have been closed since March, 2020 due to Covid19; therefore, they could not be visited. But detailed discussions were held with all concerned officers of Ahmedabad and Gandhinagar Districts, as also with Officers of Gujarat Govt. The position is summed up in the following paragraphs.

Mid-day Meal Scheme, Schools are closed since 16 March, 2020 due to Covid-19 but students enrolled in schools are being provided with food grains and cooking cost as per prescribed rates. Cooking Cost amount is being deposited in the Bank Account of Student/Parents.

Some of the initiatives taken by the State Govt to deal with problem of malnutrition at the school level are given below

- Two Time Meal as part of Mid Day Meal
- Dudh Sanjivani Yojana
- Tithi Bhojan
- NGOs like Akshayapatra, Stree Shakti etc have been involved for serving hot meals as per weekly menu. Centralized Modern kitchen concept takes care of quality of food, hygiene of food and uniformity of food.
- Kitchen gardens

Activities under Drugs & Cosmetics Act 1940 and Food Safety and Standard Act 2006

Special Drives to Combat Adulteration in Food

Special Drives to combat adulteration in Food was started during the year 2020. Samples of common food items like milk, jiggery, iodized salt, spices and condiments etc are drawn and tested. In March, 2020, for example, 510 samples of milk were tested. 47 of them were found of substandard quality, while 2 were misbranded, but none unsafe. Similarly out of 327 samples of spices and condiments, tested in June, 2020, 20 were found of substandard quality, while 6 were misbranded and 6 unsafe.

Special Drives to Combat Adulteration in Drugs

10,000-14000 drugs samples are being tested every year to ascertain the quality of drugs. During 2016-17 4.60 % samples were “NOT OF STANDARD QUALITY” (NSQ), while during 2019-21, only 1.66% was in NSQ category.

Recommendations

Following suggestions and recommendations are made to address various concerns arising from this visit:

- i. The “Consumer Protection (Administrative Control over the State Commission and the District Commission) Regulations, 2020” issued on 24th July, 2020 should be implemented by following ground reality checks and time-bound compliance with certain minimum standards.
- ii. Though all the Consumer Commissions have been established and are functional as per Consumer Protection Act 1986/2019, vacancies of Presidents and Members need to be filled up on priority.
- iii. The requirement of setting up of a consumer mediation cell to be attached to each of the District Commissions and the State Commissions of the State, as per 74.(1) of CP Act, 2019 needs to be implemented in a time bound manner.
- iv. The system for online filing of complaints, though introduced, needs to be streamlined by regular monitoring and training.
- v. State and District Consumer Protection Councils should be constituted and should meet regularly as per provisions of the act to proactively address concerns of the consumers of the State/ Districts.
- vi. Consumers need to be encouraged to file cases on their own, without help from advocates. It is unfortunate that even in Gujarat advocates are being engaged in over 90% cases. Proactive Helplines with friendly volunteers need to be established in every Consumer Commission. They also need to be publicised.
- vii. As regards food and nutrition, various activities being undertaken by the State need to be monitored closely so that benefits of these programmes reach the remotest corners of the State and SDG targets to end all forms of malnutrition are achieved by 2025.
- viii. Alongside malnutrition concerns relating to overweight, obesity and consumption of tobacco etc also need to be addressed so that people adopt healthy eating habits.

{From Recomm. No. i to viii, Action by: Food, Civil Supplies and Consumer Affairs Department, Gujarat}

- ix. Proactive measures need to be taken to check spurious/ adulterated/ counterfeit food and drugs. Whether it is sanitizer or milk or medicines, consumers have right to unadulterated products. The Consumer Protection Act 2019 has laid down appropriate penalties and sentences, depending upon the degree of hurt caused by such products.

{Action by: Food and Drugs Control Administration (FDCA), Gujarat}

**Tour Report of Dr Jayashree Gupta, Special Monitor
for issues related to Consumer Affairs and Food, NHRC
regarding visit to Gujarat for the period March 8 to 12, 2021**

As approved by the Commission, I visited District Consumer Commissions and State Consumer Commission of Gujarat State and held detailed discussions with officers, staff members and Consumer Organisations of the State to get first hand knowledge regarding the functioning of consumer protection machinery and programmes related to food and nutrition in the State during March 8 to 12, 2021. I also visited PDS Centre in Ahmedabad District and held detailed discussions with officials as also some beneficiaries of these schemes. Overall status of food and nutrition in the State was reviewed, particularly with reference to initiatives taken by the State Govt to deal with problems of malnutrition, as reflected in NFHS Reports. Concerns relating to fake/spurious/counterfeit drugs and vaccines in the State were also discussed with concerned officers. The visit was rounded off with meeting with Distt Collector of Ahmedabad Distt and Secretary, Food, Civil Supplies and Consumer Affairs of the State of Gujarat.

Major observations and concerns emanating from this visit are given below:

All Consumer Commissions Functional in the State

Visits to District Consumer Commissions of Ahmedabad and State Consumer Commission of Gujarat State revealed that all the Consumer Commissions have been established and are functional as per Consumer Protection Act 1986/2019. Several provisions of the new Consumer Protection Act 1986/2019 have also been implemented.

Visit to District Consumer Commissions of Ahmedabad

Ahmedabad has 3 District Commissions, namely, Ahmedabad City, Ahmedabad Rural and Ahmedabad Addl. These three District Commissions as also State Commission are located in the same premises. Discussions with **Shri H J Dholakia**, President (Incharge), Ahmedabad City, **Shri JJ Pandya**, President, Ahmedabad Rural and **Ms Kalpana Mehta**, Member, Ahmedabad Addl. and other Members present in these 3 District Commissions at the time of the visit indicated that even though there are critical vacancies of Presidents and Members, they have ensured that all the District Commissions remain functional by utilizing the provisions for giving additional charge, as available under the Consumer Protection Act. The post of President in District Commission, Ahmedabad City, for example, is vacant for more than a year but **Shri H J Dholakia**, has been made President (Incharge), so that work does not get disrupted.

A review of filing and disposal of cases in these District Commissions indicates the following position:

In **District Commission of Ahmedabad City**, a total of 1933 cases were filed in last 3 years, while 1207 were disposed off. 4295 cases have been disposed off within a period of three months since inception, which is about 14.2% of total cases (30161) filed so far. 2204 cases are pending in this commission, as in January, 2021. 513 of these cases are pending for over 2 years.

In **District Commission of Ahmedabad Rural**, a total of 1111 cases were filed in last 3 years, while 825 were disposed off. 5984 cases have been disposed off within a period of three months, which is about 59.4% of total cases (10065) filed so far. 1359 cases are pending in this commission, as in January, 2021. 559 of these cases are pending for over 2 years.

In **District Commission of Ahmedabad Additional**, a total of 3098 cases were filed in last 3 years, while 1055 were disposed off. 2537 cases have been disposed off within a period of three months, which is about 21% of total cases (12024) filed so far. 3159 cases are pending in this commission, as in January, 2021. 1172 of these cases are pending for over 2 years.

It was observed that these District Commissions have been organizing **online hearings since March, 2020** due to Covid-19 induced lock down. Disposal has, therefore, been slow during this period. Total cases disposed during last one year are 174, 211 and 221 in District Commissions of Ahmedabad City, Ahmedabad Rural and Ahmedabad Addl respectively.

Consumer Protection Act 2019 has brought about several improvements over its preceding Act of 1986, which has been repealed with the enactment of CP Act, 2019. As per Section 28.(1) of the new Act, it is named as 'District Consumer Disputes Redressal **Commission**', as against its earlier name of 'Consumer Disputes Redressal **Forum**'. And more important than the change in nomenclature is the fact that its financial jurisdiction has been increased substantially. While erstwhile District Forums were empowered to entertain complaints upto a total value of Rs 20 Lakh only, as per **34.(1)** of the new Act 'District Consumer Disputes Redressal Commissions', to be known as District Commissions, are empowered to entertain complaints upto a total value of **Rs 1 crore**.

Another good development is the requirement of setting up of a **consumer mediation cell** to be attached to each of the District Commissions and the State Commissions of the State, as per **74.(1)** of CP Act, 2019. **Provisions for online filing** of complaints have also been made.

It was heartening to see that several of these clauses have been implemented in Gujarat. District Forums have been renamed as District Commissions. Their financial jurisdiction has also been enhanced. Online filing of consumer complaints has also been started.

Mediation Centres are, however, yet to be established.

Discussions with officials indicated that the new CP Act of 2019 has been implemented in the State wef 20 July, 2020, the date on which it came into force as per Notification issued by GOI. However, for filling up of vacancies and setting up of Mediation Centres, new Rules have to be notified, which are currently under process.

Visit to State Commission, Gujarat

Status of functioning of State Commission was reviewed with **Shri VP Desai**, President, State Commission and Judicial and Non-judicial Members of the Commission. **Shri BS Modi**, Deputy Registrar was also present during the visit and the discussions.

A total of 5238 cases have been filed in the State Commission during last 3 years (2017-2019), while 5048 were disposed off. 31876 cases have been disposed off within a period of three months, since inception, which is about 55.2% of total cases (57754) filed so far. 5402 cases are pending in this commission, as in January, 2021. 2197 of these cases are pending for over 2 years.

It was heartening to see the State Commission well staffed at apex level, with 2 Judicial Members and 4 non-judicial Members in position, in addition to the President of the Commission. There are vacancies of 1 Judicial Member and 1 non-judicial Member, in addition to several vacancies of stenographers and clerks etc. but with a contingent of one president and 6 members, they are able to hold several benches and decide cases.

As per Section **42.(3)** of the new Act, the State Commission shall consist of a President and not less than 4 Members. More important is the fact that its financial jurisdiction has been increased substantially. The erstwhile State Commissions were empowered to entertain complaints upto a total value of Rs 1 crore only, in addition to appellate jurisdiction. Now, as per **47.(1)** of the new Act State Commissions are empowered to entertain complaints for goods and services in the range of **Rs 1 crore to Rs 10 crores**. It continues having appellate jurisdiction against the orders of the Distt Commissions within the State.

As mentioned above, the requirement of setting up of a **consumer mediation cell** to be attached to each of the District Commissions and the State Commission of the State has also been introduced as per **74.(1)** of CP Act, 2019. Provisions for **online filing** of complaints have also been made.

Most of the above clauses have been implemented.

E-filing of consumer cases has been started and 46 cases have been filed in the State in this mode. None of these cases have, however, been disposed off. Discussions with Members of State Commission indicated that some more papers are required in each such case, which will be sought when physical hearing takes place. This may be due to **initial teething troubles** as also lack of training about how to handle cases filed on-line.

Mediation Cell has not, however, been established as yet. I was informed that this will be done after new Rules are notified by the State Govt.

Review of Functioning of District Consumer Forums in the State of Gujarat

Status of functioning of District Commissions was reviewed with the President and Members of the State Commission and officers of the State Govt. it was seen that out of 33 revenue Districts in Gujarat, 21 Districts have full-fledged District Consumer Disputes Redressal Commissions (DCDRC), some having more than one, as in the case of Ahmedabad, the total being 26. In 12 districts District Commissions are yet to be established. However in these districts also District Commissions have been made functional by clubbing them with nearby districts. Thus, at present there are 38 District Commissions functioning in the State of Gujarat.

Overall 33113 cases have been filed in District Commissions of the State during last 3 years (2017-2019), while 21598 were disposed off. 79935 cases have been disposed off within a period of three months, since inception, which is about 32.3% of total cases (2,47,577) filed so far. 29790 cases are pending in these District Commissions of the State, as in January, 2021. 7042 of these cases are pending for over 2 years.

More Consumers Getting Speedy Justice in Gujarat as Compared to National Average

Consumer Protection Act was enacted to provide speedy justice to consumers. As per **Section 38.(7) of Consumer Protection Act 2019** 'every complaint shall be disposed of as expeditiously as possible and endeavour shall be made to **decide the complaint within a period of three months** from the date of receipt of notice by opposite party where the complaint does not require analysis or testing of commodities and within five months if it requires analysis or testing of commodities'. Similar provisions were there in the erstwhile **Consumer Protection Act 1986 as well.**

If it functions properly, consumers can take up their cases on their own, as per the spirit of the Act. However, due to delayed disposal of cases, involving several adjournments, it was observed that advocates are being engaged in over 90% cases.

Despite such concerns, speed of disposal of consumer cases is much better in Gujarat as compared to other states or national average. As per information available on the website of National Consumer Commission, over 55 lakh cases have been filed in Consumer Commissions across country since inception and around 91% of them have been disposed off. However only around **10 % cases are being disposed off within the mandated period of three months in the country as a whole!**

Position is **Gujarat is much better** with overall **32.3%** cases being disposed within three months in District Commissions of the State as a whole. The performance of State Commission is really commendable with **55.2%** of total cases disposed within three months.

Review of Landmark Cases of the State Commission and District Commissions

Discussions with **Shri VP Desai**, President, State Commission and Judicial and Non-judicial Members of the State Commission as also with President and Members of Ahmedabad City, Ahmedabad Rural and Ahmedabad Addl revealed that there have been several cases of **medical negligence** in which, pro-consumer approach has been adopted and **compensation upto Rs 5 lakh** has been awarded.

However, in general cases amount of compensation is within the range of Rs 10,000 to 25000/- only. For example, in a case regarding 20% less quantity than claimed, in a packet of biscuit, compensation within the range of Rs 10,000 to 25000/- only was awarded, though the Commission could have taken a proactive stand and awarded punitive damages, commensurate with undue enrichment of the manufacturer and pecuniary loss suffered by large no of consumers. Needless to say, the company must have manufactured lakhs of packets of biscuits having less than claimed quantity and large number of consumers would have suffered the pecuniary loss.

Since cases were not being heard in physical mode, it was not possible to talk to consumers, who have filed cases, to know their first hand experience. However, it was clear from the discussions that the **powers vested in Consumer Commissions under the provisions of Consumer Protect Act, 1986/2019 are not being used.**

As per **Section 39. (1)** of CP Act, 2019, the District Commission has been vested with the **power to grant punitive damages**, including withdrawal of the hazardous goods from being offered for sale; to cease manufacture of hazardous goods and to desist from offering services which are hazardous in nature and to pay such sum as may be determined by it, if it is of the opinion that loss or injury has been suffered by a large number of consumers who are not identifiable conveniently.

In cases of misleading advertisements, it is also empowered to **issue corrective advertisement** to neutralize the effect of misleading advertisement at the cost of the opposite party responsible for issuing such misleading advertisement.

There are many more such provisions, which provide sufficient teeth to Consumer Commissions to proactively safeguard interests of consumers. For example, **Chapter VI of the CP Act, 2019 has introduced the concept of Product Liability** to hold the product manufacturer, service provider or product seller responsible for compensation for any harm - physical injury, mental distress, emotional agony, or damage - caused to a consumer by such defective or deficient goods/services manufactured, provided and sold.

There is either **lack of awareness or lack of will to exercise the powers** vested in them. This needs to be specifically included in the training schedule of Presidents and Members of State/District Commissions.

The example of hefty damages imposed by the Federal Trade Commission (FTC), a United States agency to protect consumers from the onslaughts of misleading ads etc was shared. For example, they imposed fine of **\$ 25 million (US Dollars) on Rebook** for their shoe brand claiming “Better legs and better butt with every step”, as the claim could not be substantiated. Such hefty penalties also act as a deterrent, not only for the company penalized but also other companies indulging in unfair trade practices.

State and District Consumer Protection Councils Not Established

As per section **6.(1) of CP Act, 2019** ‘Every State Government shall, by notification, establish with effect from such date as it may specify in such notification, a **State Consumer Protection Council** for such State to be known as the State Council.’ It has further been mentioned that the State Council is an advisory council with the Minister-in-charge of Consumer Affairs in the State Government as the Chairperson and official or non-official members representing various consumer interests, as may be prescribed. The State Council is required to have **not less than two meetings every year**. The objects of every State Council shall be to **render advice on promotion and protection of consumer rights** under this Act within the State.

Similarly, as per **section 8. (1) of CP Act, 2019** ‘The State Government shall, by notification, establish for every District with effect from such date as it may specify in such notification, a **District Consumer Protection Council** to be known as the District Council.’ It has further been mentioned that the District Council is an advisory council with the District Collector as the Chairperson and official or non-official members representing various consumer interests, as may be prescribed. The District Council is required to have **not less than two meetings every year**. As in the case of State

Council, the District Councils are also expected to render advice on promotion and protection of consumer rights under this Act within the district.

Similar provisions were in existence as per erstwhile Consumer Protection Act, 1986 as well.

Discussions with officials indicated that **these Councils have not yet been set up** in the State. **Sectoral analysis** of cases filed in the State Commission and District Forums in Gujarat reveals that majority of cases relate to insurance, banking, medical, telephone, housing, electricity, railways, airlines, postal services etc. Most of these issued could have been proactively addressed by the State and District level Councils, if they were set up!

Major Consumer Concerns emanating from Meeting with NGOs and Others

Meeting with a few Consumer Organisations of the State gave a new insight into the underlying consumer concerns in the State. Following issues were highlighted by **Ms Anindita Mehta**, Chief General Manager, CERC, **Ms Purnima Mehta**, Banaskantha Grahak Suraksha, Shikshan and Sanshodhan Centre, **Dr Ashwin G Modi**, Jagrut Grahak Mandal, Patan, **Ms Rama Ben Manavi** and **Mr Ramji Bhai Manavi** from Rajkot:

CERC has a well established Food Testing Lab. Over the years more than 100 products have been tested in this lab. Some of the recent test findings, relating to food products are not very encouraging, as can be seen below:

- Of the 10 loose ice cream samples tested, 7 had very high Coliform count, much above the limit.
- Of the four gola samples, two had synthetic food colours above the maximum limit.
- Five out of ten samples (50%) of ghee were found to be adulterated with Vanaspati [vegetable fat]. Also, around 40% of the samples were of poor quality, with offensive odour or other problems.
- Five out of ten samples of khoya were adulterated with Vanaspati. Two samples showed adulteration with starch. Also, 70% of the samples were of poor quality. All the samples showed presence of foreign matter in them. Two samples had green fungal growth.
- Testing of Butter showed alarming results. According to the BIS Standards the limit for Coliform count is 5/m. Six samples had Coliform count at alarmingly high levels in the range of 46/ml to 240/ml. Similarly, the limit for Total Yeast and Mould count is 20/ml. Eight samples had Total Yeast and Mould count much above the permissible limit - in the range of 23/ml to 2100/ml!

Dr Ashwin G Modi of Jagrut Grahak Mandal, Patan highlighted the increasing menace of cyber-crimes and expertise developed by his organization to deal with such crimes, while Ms Purnima Mehta from Banaskantha Grahak Suraksha, Shikshan and Sanshodhan Centre mentioned about the problems faced by poor tribal consumers. Defective/substandard goods, less weight, poor quality shoes or clothes are the common problems faced by these tribals. Their organisation is able to resolve most of the complaints by calling both the parties together and talking to them.

Ms Rama Ben Manavi and Mr Ramji Bhai Manavi from Rajkot highlighted the problems faced by consumers in the State due to large number of vacancies in Consumer Commissions. Though theoretically all Consumer Commissions have been made functional by giving additional charge, in many cases, consumers have to face undue delays and harassment due to lack of full time members and presidents. Issues relating to road safety and increasing consumption of tobacco were also raised by them.

All the consumer organizations were appreciative of the proactive measures taken by the Govt of Gujarat to deal with corona induced crisis. It was ensured, with proper coordination of Govt functionaries with consumer organizations that consumers do not face shortage of essential food items and medicines.

State Govt Sensitive to issues relating to Food and Nutrition

Visits to PDS shop being run by **Mr Sunil Kumar Jain** in Ahmedabad District and discussion with the functionaries and beneficiaries of this centre, as also with other concerned officials revealed that State Govt is sensitive to issues relating to food and nutrition and has been trying to rise to the challenges posed by Covid-19, as also malnutrition. Overall, the position is summed up as under:

The PDS shop of Mr Sunil Kumar Jain is being run since 1996. It has 850 ration card holders. Discussions with **Mr Soni B Bhai, Ms Sonal H Jani** and few other beneficiaries present there indicated that ration is being given as per entitlement and Mr Sunil Kumar Jain, proprietor of the PDS shop is responsive to the needs of beneficiaries.

It was observed that the PDS system has been fully computerized.

The ICDS Centres as also schools have been closed since March, 2020 due to Covid-19, therefore, they could not be visited. But detailed discussions were held with all concerned officers of Ahmedabad and Gandhinagar Distts, as also with Officers of Gujarat Govt. The position is summed up in the following paragraphs.

Overview of Food and Nutrition Programmes being implemented in the State

Shri Tushal Dholakia, Director, **Shri Sanjay Modi**, Executive Director, **Shri DL Parmar**, Controller, Legal Metrology and Director Consumer Affairs and others in the State familiarized me with the overall status of Food and Nutrition related Programmes being implemented in the State. Prior to that, officers of Districts Ahmedabad and Gandhinagar had also familiarized me with their food and nutrition programmes.

National Food Security Act (NFSA) - 2013 has been implemented in the State on 1st April 2016. 99.50% of Ration Cards have completed Aadhar Seeding, covering about 95% of eligible population.

The state has a network of over 17000 Fair Price Shops with 71.44 lakh Ration Cards and **3.47 Crore NFSA Beneficiaries**. 68% of rural population and 40 % of urban population is covered under NFSA. As per this Act, beneficiaries of the Public Distribution System (PDS) are being given 5 kilograms per person per month of cereals at the following prices:

Rice at ₹3 per kg

Wheat at ₹2 per kg

In addition, State Govt has its own schemes, under which sugar, salt and edible oil is being given at subsidized rates to about 1.8 crore beneficiaries.

Systems for Public Grievance Redressal (PGRS) and Beneficiary Feedback have been established.

One Nation One Ration Card Scheme has been implemented in the state from August, 2019 onwards.

With a view to address Corona related concerns, the State Govt not only complied with Pradhan Mantri Garib Kalyan Anna Yojana (PMGKAY), but also introduced **Ann Brahma Scheme**, under which free of cost “Food Basket” of 3.5 kg Wheat & 1.5 kg Rice (Per Person) and 1 kg Sugar, 1 kg Dal, 1 kg Salt per Family to migrant labours and homeless poor were distributed. 6.36 Lakh Beneficiaries have been covered under this scheme.

As regards **Mid-day Meal Scheme**, Schools are closed since 16 March, 2020 due to Covid-19 but students enrolled in schools are being provided with food grains and cooking cost as per prescribed rates. Cooking Cost amount is being deposited in the Bank Account of Student/Parents.

Some of the initiatives taken by the State Govt to deal with problem of malnutrition at the school level are given below:

1. School children are being given **Two Time Meal** as part of Mid Day Meal so that additional calories and nutrition could be provided.
2. Under '**Dudh Sanjivani Yojana**' 200 ml. flavored milk is served 5 days in a week to primary school children. Currently 26 Talukas of 12 Districts get the benefit of this scheme. No of beneficiary Students is around 3.15 Lakh.
3. '**Tithi Bhojan**' is being implemented with Community participation. The Villagers sponsor the food with sweets, namkeen, fruits etc for children on various occasions for MDM centers. It is customary in Gujarat to host public meals on festival days or social occasions like Marriage anniversary, Birth Anniversary, Death anniversary and other special occasions. 85.12 lakhs school children have benefited from this scheme in 2019-20.
4. NGOs like **Akshayapatra, Stree Shakti** etc have been involved for serving hot meals as per weekly menu. **Centralized Modern kitchen** concept takes care of quality of food, hygiene of food and uniformity of food.
5. Open areas of schools have been converted into **kitchen gardens** and vegetables & fruits grown in the kitchen gardens are used in the preparation of MDM, providing an opportunity to children to eat freshly grown vegetables. In the year 2019-20, a total of 10,212 Kitchen Garden were made In schools.

Officers of Women and Child Development Department of Govt. of Gujarat presented details of Supplementary Nutrition Program being implemented in the State. Brief details are as under:

For 6 months to 3 years old children Take Home Ration (THR)-'**Balshakti**' is being provided. In addition, 100ml Fortified Flavoured milk is being given five days a week under "**Doodh Sanjeevani Yojna**".

For 3-6 years old children morning snacks and hot cooked meal is being provided. In addition, 100ml Fortified Flavoured milk is being given five days a week under "Doodh Sanjeevani Yojna". Fruits are given twice a week. Take Home Ration (THR)-'**Balshakti**' is also being provided to malnourished children.

Adolescent Girls get Take Home Ration (THR)-'**Purnashakti**' and **Pregnant and Lactating Women** get Take Home Ration (THR)-'**Matrushakti**'. Pregnant and Lactating Women are also covered under 'Doodh Sanjeevani Yojna' - 200ml Fortified Flavoured Milk is being given to them twice a week.

These schemes are being managed through **digital platform** for Supply Chain Management. Live tracking is being done through Online Portal (wcd.gipl.in).

‘POSHAN ABHIYAAN 2020-22’ has been started since February 2020. Under this program all severe underweight children of Aanganwadi were allotted with one **‘Palak vali’ (foster parent)**. These foster parents visit the child at their home, talk with their parents regarding nutrition, aanganwadi service, and if possible, give them fruits or some nutritious food items. This scheme is showing good results.

‘UMBRE AANGANWADI’ (AANGANWADI AT YOUR DOORSTEPS) is another programme started since April, 2020, during the time of corona. Under this a special episode is telecast on every Monday on Vande Gujrat channel of DD Gujrat. It is also uploaded on social media. Importance of nutritious foods in growth of children, preschool activities etc are covered.

Officers of Food and Drugs Control Administration (FDCA), Gujarat shared their activities under Drugs & Cosmetics Act 1940 and Food Safety and Standard Act 2006. Some of the highlights of their presentation are as under:

Special Drives to Combat Adulteration in Food

Special Drives to combat adulteration in Food was started during the year 2020. Samples of common food items like milk, jiggery, iodized salt, spices and condiments etc are drawn and tested. In March, 2020, for example, 510 samples of milk were tested. 47 of them were found of substandard quality, while 2 were misbranded, but none unsafe. Similarly out of 327 samples of spices and condiments, tested in June, 2020, 20 were found of substandard quality, while 6 were misbranded, and 6 unsafe.

Overall failure ratio of food samples has been reduced from 11.20% in year 2014-15 to 7.41% in year 2019-20.

During COVID-19 pandemic 298 social community kitchens have been inspected. Almost 54,833 kg. rotten /perishable food products worth Rs.64,90,565/- were destroyed in total 3464 firms in lockdown periods which were not fit for human consumption.

Total 814 Hotels/Restaurants were checked on 08/06/2020 (on the opening in Unlock-1 period) and approx. 1750 kgs. of rotten/ perishable food products worth Rs.89,727/- were destroyed due to not being fit for human consumption.

Eat Right challenge has been initiated in a big way. 28 Districts of Gujarat have been registered for Eat Right Challenge and Rs. 5 lacs is being provided by FSSAI for the same.

Total 28 Eat Right Campuses are certified in India till now by FSSAI. 8 of them are in Gujarat. 5 additional Campuses are under certification process.

Total 34 Religious Places have been inspected under Blissful hygienic Offering to God BHOG initiative and 20 of them are certified.

50 sweets shops and 50 meat shops were audited for Hygiene rating under the guidance of FSSAI.

In Food Safety Index 2019-20-Gujarat stands at top with a score of 78.25, followed by Tamil Nadu and Maharashtra.

Special Drives to Combat Adulteration in Drugs

10,000-14000 drugs samples are being tested every year to ascertain the quality of drugs. During 2016-17 4.60 % samples were 'NOT OF STANDARD QUALITY' (NSQ), while during 2019-21, only 1.66% were in NSQ category.

During Covid-19 time, Gujarat Govt took extra care to grant **Fast Track Approvals** for manufacturing of generic versions of Remdesivir Injection etc to pharma companies like M/s Cipla, Glenmark etc located in Gujarat.

Adequate and constant supply of medical oxygen was ensured to dedicated COVID hospitals.

With close monitoring, fast track approvals and monitoring of stocks, supply of masks, sanitizers, PPE Kits, HCQS, Azithromycin, Paracetamol etc was ensured.

To control Black Marketing and check sale of spurious/counterfeit products, the authorities increased their vigil and conducted several raids. For example, the culprits M/s Sarthak Pharma, Surat were raided and nabbed for selling Tocilizumab Injection-400 mg at more than Rs. 80,000/-. Similarly, spurious Tocilizumab Inj (Actemra) was caught at Ahmedabad and Surat and culprits were handed over to the crime branch. It was found that actual content was Testosteron Enanthate and there was no valid license.

For Quality Monitoring of Hand Sanitizers 362 samples were drawn, out of which 38 were found substandard.

Activities under The Legal Metrology Act, 2009

Shri DL Parmar, Controller Legal Metrology & Director Consumer Affairs of Gujarat presented activities under The Legal Metrology Act, 2009. I was informed that all the services of Legal Metrology Department are available on Investor Facilitation Portal (IFP) of Gujarat State and are part of Ease Of Doing Business (EODB). Since all the services are available online the traders and the industries associated with Legal Metrology can avail hassle free online service without visiting government offices.

It was later ascertained that when State-wise ranking of Indian States in **Ease Of Doing Business (EODB)** was initiated in 2015, Gujarat had obtained the first rank. However in 2019 it has slipped to 11th position.

Miles to go in Fight against Malnutrition

Goal 2 of Sustainable Development Goals (SDGs) states that by 2030 we should end hunger and all forms of malnutrition. More specifically, it seeks to end all forms of malnutrition, including achieving, by 2025, the internationally agreed targets on stunting and wasting in children under 5 years of age and address the nutritional needs of adolescent girls, pregnant and lactating women and older persons.

As per **SDG-India-Index and Dashboard-2019-20**, brought out by NITI Aayog, **Gujarat's overall score for SDG 2 is just 39**, against the target of 100!

NFHS-5 (2019-20) has also highlighted the need for a strong fight against malnutrition. As per this report nutritional status of children and women is quite **alarming**, as seen from the following:

Children under 5 years who are stunted:	39% (38.5 in NFHS-4-2015-16)
Children under 5 years who are wasted:	25.1% (26.4 in NFHS-4-2015-16)
Children under 5 years who are underweight:	39.7% (39.3 in NFHS-4-2015-16)
Children under 5 years who are overweight:	3.9% (1.9 in NFHS-4-2015-16)
Children age 6-59 months who are anaemic:	79.7% (62.6 in NFHS-4-2015-16)
Women age 15-49 years who are anaemic:	69% (56.5 in NFHS-4-2015-16)

NFHS-5 has also flagged the concerns relating to **overweight, obesity and consumption of tobacco**. As per this report, besides anaemia and underweight, 22.6% women and 19.9% men are overweight or obese. 41.1% men and 8.7% women (both above 15 year of age) were consuming tobacco in some form.

These figures tell a lot about the growing **popularity of Junk Food**, with high levels of sugar, fat and salt! Rural areas are fast catching up with junk food culture. Even those who can afford, are spending more on fast food and tobacco and less on fruits and vegetables.

Most of the initiatives taken by the State Govt for battling malnutrition have been launched recently. Their impact would be visible in couple of years if they are implemented in letter and spirit and reach the remotest corners of the State.

Concerns shared with DC, Ahmedabad and Secretary, Food, Civil Supplies and Consumer Affairs

The observations and concerns emanating from the visits and discussions held by me in the State, as per details above, were shared with **Shri M Shahid**, Secretary, Food, Civil Supplies and Consumer Affairs, Govt of Gujarat and **Shri Sandeep Sanghale**, DC, Ahmedabad. Concerns relating to malnutrition, emerging from SDG-India-Index and Dashboard-2019-20, brought out by NITI Aayog and NFHS-5 were also shared, with the request to take remedial measures.

Shri Sandeep Sanghale, DC, Ahmedabad assured that he will review the functioning of Distt Commission in his Review Meetings held periodically even if District Consumer Protection Councils are not set up under CP Act. He also assured to pay special attention to the issues relating to food and nutrition.

Shri M Shahid, Secretary, Food, Civil Supplies and Consumer Affairs, Govt of Gujarat informed me that Rules under CP Act, 2019 are under active process and are expected to be notified within a month. Action to set up Mediation Cells and District and State Consumer Protection Councils will be initiated thereafter. Vacancies of Presidents and Members in State and District Commissions will also be filled up thereafter.

Meeting with Chief Secretary, Govt of Gujarat could not be organized as he was preoccupied with preparations relating to Prime Minister's visit to the State on 12 March, 2021.

Conclusion

The Consumer Protection Act, 1986 was a recognition of the rights of consumers and provided three tier mechanism for speedy disposal of consumer complaints, in addition to Consumer Protection Councils at District, State and National levels.

The new Consumer Protection Act, 2019 is an improvement of the earlier Act and incorporates some of the best international practices for protection of consumer interests, including a provision for setting up of the 'Central Consumer Protection Authority' to proactively safeguard interests of consumers from the increasing menace of misleading advertising and other unethical and unfair trade practices. It takes into consideration, the modern methods of selling goods and services such as online sales, teleshopping, direct selling and multi-level marketing alongside the traditional methods. It also enables online filing of consumer complaints. It has come into force on 20 July, 2020.

The pecuniary jurisdiction of Consumer Commissions has been substantially increased at District, State as well as National levels. With District Commissions having pecuniary jurisdiction upto Rs 1 crore, practically, most cases can now be heard by the District Commission, which are easier to reach considering they need to be set up in each and every district of the country. The provision of a Consumer Mediation Cell, to be attached to every District Commission, State Commission as well as the National Commission further aims at facilitating speedy justice to consumers.

It is heartening to see that new Act has been implemented in the State and all the Consumer Commissions are in position and functioning. It is expected that most of the concerns mentioned above will soon be taken care.

As regards food and nutrition, most of the initiatives taken by the State Govt for battling malnutrition have been launched recently. They need to be monitored closely so that benefits of these programmes reach the remotest corners of the State and SDG targets to end all forms of malnutrition are achieved by 2025. Govt of India (Ministry of Women and Child Development) seems to be aware of the challenges in this area and has launched a **National Nutrition Mission** in 2017. A **National Council on India's Nutritional Challenges** has also been constituted under the **Chairmanship of the Vice Chairman of Niti Aayog**.

Alongside malnutrition, concerns relating to **overweight, obesity and consumption of tobacco** also need to be addressed so that people adopt healthy eating habits.

Recommendations

Following suggestions and recommendations are made to address various concerns arising from this visit:

1. As per Section 70.(1) of CP Act, 2019, '**the National Commission** shall have the authority to lay down such **adequate standards** in consultation with the

Central Government from time to time, for better protection of the interests of consumers and for that purpose, shall have **administrative control** over all the State Commissions....' The erstwhile Act had also vested this responsibility on the National Commission. The monitoring mechanism has also been detailed in the subsequent clauses of the Act as also in the 'Consumer Protection (Administrative Control over the State Commission and the District Commission) Regulations, 2020' issued on 24th July, 2020. It is necessary that they do not remain on paper and are actually implemented by following ground reality checks and time-bound compliance with certain minimum standards.

2. Though all the Consumer Commissions have been established and are functional as per Consumer Protection Act 1986/2019, vacancies of Presidents and Members need to be filled up on priority so that all Consumer Commissions become fully functional and could focus on speedy disposal of cases, within the mandated period of three months/five months as per Section 38.(7) of Consumer Protection Act 2019.
3. The requirement of setting up of a **consumer mediation cell** to be attached to each of the District Commissions and the State Commissions of the State, as per **74.(1)** of CP Act, 2019 needs to be implemented in a time bound manner.
4. **The system for online filing** of complaints, though introduced, needs to be streamlined by regular monitoring and training.
5. The powers vested in Consumer Commissions under the provisions of Consumer Protection Act, 1986/2019 are not being used. Presidents and Members of all Consumer Commissions need to be properly sensitized and trained to use their office effectively for the well being of consumers. Their orders should have some deterring value as well.
6. State and District Consumer Protection Councils should be constituted and should meet regularly as per provisions of the act to proactively address concerns of the consumers of the State/ Districts.
7. The training programme of Presidents and Members of Consumer Commissions should include exercises around best international practices, so that they get over their inhibition and start awarding punitive damages, which also act as a deterrent.
8. Consumers need to be encouraged to file cases on their own, without help from advocates. It is unfortunate that even in Gujarat advocates are being engaged in over 90% cases. Proactive Helplines with friendly volunteers need to be established in every Consumer Commission. They also need to be publicised.
9. Proactive measures need to be taken to check spurious/ adulterated/ counterfeit food and drugs. Whether it is sanitizer or milk or medicines, consumers have right to unadulterated products. The Consumer Protection Act 2019 has laid

down appropriate penalties and sentences, depending upon the degree of hurt caused by such products.

10. Above all, highest functionaries of the State need to be sensitized about the importance of Consumer Protection Act so that they appreciate the urgency and give their priority attention to its proper implementation.
11. As regards food and nutrition, various activities being undertaken by the State need to be monitored closely so that benefits of these programmes reach the remotest corners of the State and SDG targets to end all forms of malnutrition are achieved by 2025.
12. Alongside malnutrition concerns relating to overweight, obesity and consumption of tobacco etc also need to be addressed so that people adopt healthy eating habits.

In the end I would like to profusely thank Shri JV Desai, Dy Food Controller, Ahmedabad and all other concerned officers of the State, who facilitated my visit with untiring zeal.

It is suggested that this report may be shared at GOI level with Deptt of Consumer Affairs, Deptt of Food and Public Distribution, Ministry of Women and Child Development and Niti Aayog in Govt of India. National Consumer Grievance Redressal Commission (NCDRC) may also be kept in the loop.

At the State level, this may be shared with the Chief Secretary, as also with Secretary, Food, Civil Supplies and Consumer Affairs, Govt of Gujarat and President of the State Consumer Grievance Redressal Commission. They may also be asked to send action taken report on the issues highlighted in this report.

Dr Jayashree Gupta,

NHRC Special Monitor for Consumer Affairs and Food

23.3.21