

## Implementation of Consumers' Right Protection Act, 2009: The Role of Mobile Court in Rajshahi

Md. Humayoun Kabir<sup>1</sup>, Md. Abu Sayeed Munna<sup>2\*</sup>, Ehshan Mazid Mustafa<sup>3</sup>

### ABSTRACT

*There is an ever existing relationship between purchaser and the Seller or manufacturer. The purchasers are always deprived of reasonable products they want. The constitution of Mobile Courts under the Mobile Court Act, 2009 has added a remarkable change in the arena of Consumers' Rights Protection. It has re-enforced the rights of the consumer across the country. Gradually, manufacturers and shopkeepers are getting aware of this. The role of Mobile Court in Rajshahi has been an example of this endeavor. It has been working for re-establishing the rights of the consumers. It has come with the legal actions, minimizing the crime rate, and the effective remedy available within the scope of this Act. It has given the chance to have easier access for justice to the court saving the time and money of the courts and the victims. This initiative has given the government to save a huge amount of wealth which our government is deprived for deceptive and unfair trade practices. The most important thing about it is the consciousness among the people regarding their rights. The tasks are done by this Act in Rajshahi has become popular.*

**Keywords:** consumers' rights, easy access, effective remedy, mobile courts, time and wealth.

### 1. INTRODUCTION

The aims and objectives of the Mobile Court are to provide legal services to people in remote areas. The mobile courts also work to create awareness among people. The mobile court system has been expanding there. In Bangladesh, the mobile courts are run under the supervision of the higher judiciary [1]. As a part of implementation of the system of consumer rights, two institutions are working, Mobile Court under the Mobile Court Act 2009 and partly the Directorate of Consumers' Right Protection.

### 2. CONSUMER

A consumer is a person who is not directly involved in a trade, but receives goods and services from a person who is engaged in the business. "Consumer" means any individual who in relation to a commercial practice is acting for purposes which are outside his business.

Section-2(19) of the Consumers' Protection Act, 2009

in Bangladesh states the definition of consumer. "Consumer" means such type of person:

- a) Who except for the purpose of resale and commercial intention.
  - i. Purchases or agrees to purchase any product by payment of a price.
  - ii. Purchases or agrees to purchases by part payment of price.
  - iii. Purchases with the promise of paying price in extended term or by installments.
- b) Who uses the product purchased under clause (a) with the consent of the purchaser.
- c) Who, after purchasing a product, uses it commercially for the purpose of making a living self-employed.
- d) Who,
  - i) Hires or receives otherwise any service by payment or promises to pay the price.

<sup>1</sup> Assistant Professor & Head, Department of Law, Khwaja Yunus Ali University, Sirajgong-6751, Bangladesh.

<sup>2</sup> Lecturer, Department of Law, Khwaja Yunus Ali University, Sirajgong-6751, Bangladesh.

<sup>3</sup> Department of Law, University of Rajshahi, Bangladesh.

\* Correspondence to: abusayeedmunna@gmail.com

- ii) Hires or receives otherwise any service by part payment or promises to pay partly the price.
- iii) Hires or receives otherwise any service by paying the price in an extended term or by installments.
- e) Who consumes the service received under clause (d) with the consent of the service consumer [2].

### 3. ENFORCEMENT OF RIGHTS

The consumer has certain rights which are guaranteed both nationally and internationally through different instruments, conventions, customs, guidelines etc. The Consumer Protection Act, 2009 ensures certain rights [3]. The Mobile Courts in Rajshahi are working to establish these by providing remedy of the violation these rights.

The rights include-

- Obtaining commodities or services at a price fixed by the authority or at a reasonable price;
- Right to have safe and pure products;
- Right to have necessary and correct information about products;
- Right to be informed of the qualities or defects (if any) of a particular product;
- Right to know the quantity of the product;
- Right to know the utility, purity and price of the product;
- Right to have products or services in right quantity and quality;
- Right to have choice among product offerings;
- Right to have defense against activities relating to purchase or sale of products by which life or property may be in danger;
- Right to education about consumer rights and protection;
- Right to have access to remedy in relation to violations of consumer rights [4, 5].

### 4. MAINTAINING LAW AND ORDER

Mobile court is an unparalleled and distinctive place to protect and preserve consumer protection, sound public health, law & order situation and ultimately justice through the proper enforcing of existing commitment of rights by the laws. From the month June 2015 to February 2017 the mobile court under Rajshahi District operated 144 mobile court operations, filed 344 cases, convicted 342 persons [6].

Table 1

District's Name	Name of the Month	Number of Mobile Court Operations	Number of Cases	Number of Convicted Persons	Amount of Collected Fines	Number of Imprisonments
Rajshahi	July/15	17	52	53	7,14,500/=	03
	August/15	03	13	13	20,700/=	01
	Sept./15	05	13	13	1,23,000/=	00
	Oct./15	04	09	12	52,100/=	04
	Nov./15	05	13	17	1,39,500/=	09
	Dec./15	05	11	11	89,700/=	00
	Jan./16	04	12	14	1,92,000/=	00
	Feb./16	03	16	16	16,400/=	00
	Mar./16	09	20	20	1,00,500/=	00
	Apr./16	05	09	08	38,500/=	01
	May/16	10	09	09	28,200/=	00
	June/16	22	74	74	2,90,100/=	00
	July/16	08	11	11	37,400/=	00
	August/16	01	01	01	5,000/=	00
	Sept./16	04	04	04	16,500/=	00
	Oct./16	07	18	18	4,47,000/=	00
	Nov./16	04	08	08	1,41,200/=	00
Dec./16	04	07	07	1,25,000/=	00	
Jan./17	10	13	13	72,000/=	00	
Feb./17	14	16	20	1,15,500/=	00	
In Total	July/15 – Feb/17	144	329	342	27,63,800/=	18

Source: Register of Judicial Munshikhana, Deputy Comissioner's Office, Rajshahi, 06/03/2017.

### 5. LEGAL ACTION FOR VIOLATION OF RIGHTS

The mobile court can take action in the issues which are described in the Chapter IV of the Consumers' Rights Protection Act, 2009 committing of which are punishable offence. The Mobile Court captures the accused, verifies the crime and his or their involvements in that, tries to find out degree of the crime and the jurisdiction of the court to provide punishment for

the crime, whether imprisonment or fine or both on the evidence. The offences are mentioned in the Consumers' Rights Protection Act, 2009 in chapter IV from sections- 37 to 56 [7].

Though under the Ordinary jurisdiction of a MM/1st Class Judicial Magistrate is 5 years imprisonment and 10 thousand Taka fine [8], but under the Consumer Rights Protection Act, 2009 is 3 years imprisonment and 2 lakh Taka fine [9].

On the other hand, Bangladesh Standards and Testing Institution also recommends 4 years imprisonment and 1 lakh taka [10].

### 6. MINIMIZING THE CRIME

The core object of awarding punishment is to minimize, control and eradicate the crime by making an example for an offence. This is possible when the miscreants can be taken under the supervision of the court and render justice to the victim thereby. But there are various problems e.g. a little loss to a consumer not so interested to sue but that may provide a huge profit to the seller. A contemporary example can be given by a call drop of a user of a particular mobile network. If per call drop a consumers' loss is only 0.10 taka and the mobile network company has ten million subscribers, and they faced once this problem in a month, the consumers are not willing to file a case only for 0.10 taka but in the meantime the benefit is one million Taka to the company. So simply, an offence is petty that does not mean it is ignorable. So, to minimize the offence, for which the victims are not conscious e.g. less weighted goods than described, uses of food colour, etc. should be eradicated. In these cases, the importance of the mobile court comes out.

### 7. CONCURRENT AND EFFECTIVE REMEDY

The remedy under the Consumers' Protection Act, 2009 through the mobile court is concurrent and very much effective. The mobile court can convict the person on the basis of evidence of committing crime on spot. The acts which are punishable as described under Section

37 to 56 and the limit of imprisonment or fine or both as punishment are followings:

**Table 2**

Offence	Punishment
Not using cover etc. of products	Imprisonment which may extend to 1 year or fine which may extend to 50,000/= or both
Not displaying price list	Imprisonment which may extend to 1 year or fine which may extend to 50,000/= or both
Not preserving and displaying price list of services	Imprisonment which may extend to 1 year or fine which may extend to 50,000/= or both
Selling products, service or medicine at a higher price	Imprisonment which may extend to 1 year or fine which may extend to 50,000/= or both
Selling adulterated product or medicine	Imprisonment which may extend to 3 years or fine which may extend to 2,00,000/= or both
Mixing forbidden ingredients in food	Imprisonment which may extend to 3 years or fine which may extend to 2,00,000/= or both
Manufacturing or processing in illegal way	Imprisonment which may extend to 2 years or fine which may extend to 1,00,000/= or both
Deceiving customers by false advertisements	Imprisonment which may extend to 1 year or fine which may extend to 2,00,000/= or both
Not selling or supplying promised product or service	Imprisonment which may extend to 1 year or fine which may extend to 50,000/= or both
Deceiving in weight	Imprisonment which may extend to 1 year or fine which may extend to 50,000/= or both
Deceiving in weight stone or weight measuring instrument	Imprisonment which may extend to 1 year or fine which may extend to 50,000/= or both
Committing fraud in measurement	Imprisonment which may extend to 1 year or fine which may extend to 50,000/= or both
Committing fraud in scale need measuring length	Imprisonment which may extend to 1 year or fine which may extend to 50,000/= or both
Making or manufacturing counterfeit product	Imprisonment which may extend to 3 years or fine which may extend to 2,00,000/= or both
Selling expired product or medicine	Imprisonment which may extend to 1 year or fine which may extend to 50,000/= or both
Acts endangering life and safety of consumers	Imprisonment which may extend to 3 years or fine which may extend to 2,00,000/= or both
Causing loss of money, health, life by negligence etc.	Imprisonment which may extend to 3 years or fine which may extend to 2,00,000/= or both
Filing false or vexatious suits	Imprisonment which may extend to 3 years or fine which may extend to 50,000/= or both
Reoccurring offence the same offence	Twice the maximum punishment provided for that offence
Confiscation, etc.	If the court thinks fit, it may, in addition to the Punishment, pass an order to forfeit the illegal goods of manufacturing ingredients, materials etc.

**Source: Section 37 to 56, the Consumers' Right Protection Act, 2009**

### 8. SUMMARY TRIAL

The trial procedure is not like formal trial under ordinary courts rather it follows summary trial

procedure. The mobile court consists of Magistrates, along with a Peshkar to record which is directed to do so by the Magistrate, accompanied by experts of specific field e.g. when operations are conducted to find out adulterated food in Bazar, there may be member of BSTI to justify the food whether is adulterated or not and always accompanied by Law and Order maintaining force like Police, BGB, Ansar etc. The Mobile Court moves place to place whether all the things and workings are in order under the law. This trial does not need to bear the cost of lawyer, does not need to follow the formality of ordinary court, does not create backlog of cases and very often it is completed in a single day except the cases which is appealed [11].

### 9. SCOPE OF APPEAL

The order given by the Mobile court is appealable for the sake of justice. If any party to a case is aggrieved by the decision of the mobile court, he can file appeal to the District Magistrate or Session Judge or Metropolitan Session Judge as the case may be under Section 13 of the Mobile Court Act, 2009 [12].

### 10. SAVING CONSUMER RIGHTS

The rights of the consumer which are guaranteed by the Consumers' Protection Act, 2009 are ensured by the Mobile Court. If any right is infringed, and the Mobile Court is informed or finds out by regular operation, the infringement is remedied by the Mobile Court. Some initiatives of the Mobile Court in Rajshahi are reported in table 3.

### 11. MINIMIZING FORMAL LITIGATION

The Mobile Court is minimizing the formal litigation process. In the year 2016 in Rajshahi District, Mobile Court dissolved 189 cases successfully [14]. The major problems of the formal litigation are as follows;

- Delay in process;

- Increasing of high expenditure of the litigation;
- Under stuffing of the court;
- Complexities;
- Scarcity of legal aid;
- Positions of the lawyer;
- Rotation and the transfer of the judges;
- Corruption [15,16];
- Politicization of the legal sector;
- Dual role of the judges in civil and criminal justice system;
- Uneasy access to justice;
- Case management system;
- Working environment of the court;
- Ineffective law enforcement authority [17, 18].

The summary of statuses of cases in Appellate Division of Supreme Court by year is reported in table 4.

### 12. EASY ACCESS TO JUSTICE

As Mobile Court goes to person, places instead of only sitting in the court room in the traditional system. However, the route to justice is very much easier to the people. They seek their remedy to the Mobile Court instantly and the miscreants can be punished thereby and thus access to justice is ensured.

### 13. SAVING GOVERNMENT EXPENDITURE

In case of formal court system there needed to bear the cost of lawyer, staffs, judges etc. over the years. But in case of the trial system of Mobile Court this expenditure is unnecessary. Not only that, the hazard faced by the person seeking justice does not need to be present in the courtroom date by date over the months, years or bear the other regular costs. So, saving government expenditure is one of the important things ensured by the Mobile Court. From June/2015 to February/2017, 144 Mobile Court operations have been conducted under The Mobile Court Act, 2009 to ensure the protection of rights ensured by The Consumers' Right Protection Act, 2009 and 329 cases have been disposed by the Mobile Court in Rajshahi District.

**Table 3: initiatives of the Mobile Court in Rajshahi [13];**

Serial No.	Case No.	Name and address of Accused Person/ Persons	Nature of Crime	Legal Provision	Punishment
01	Case no. 01C/16 Boalia	Md. Abdul Khaleque (45), Supervisor of Hanif Enterprise, Bus No: B-14-6922	For selling ticket in higher price than fixed	Section 40 of Mobile Court Act, 2009	Fine of 10,000/=
02	Case no. 06C/16 Boalia	Nobo Kumar Ghosh (51), Proprietor of NoborupaMistannoBhander, Saheb Bazar, Rajshahi	For illegally manufacturing or processing goods	Section 43 of Mobile Court Act, 2009	Fine of 50,000/=
03	Case no. 07C/16 Boalia	Md. AmzadHussain (60), Proprietor of AmzadHossainMistannoBhander, Saheb Bazar, Rajshahi	For not showing price list of goods	Section 38 of Mobile Court Act, 2009	Fine of 10,000/=
04	Case no. 18C/16 Boalia	M. A. Hannan, Md. MujiburRahman, Md. Ariful Islam Abdul Baki; All are booking assistant of Bangladesh Railway Hasanuzzaman,R.N.B. Asaduzzaman, R. N. B. Md. Mehedi C.N.B	For blackmailing ticket of Train	Mobile Court Act, 2009	Bond
05	Case no. 39C/16 Poba	Md. Rabiul Islam (30), proprietor of a confectionary	For damaging consumer's money, health or life etc. by negligence	Section 53 of Mobile Court Act, 2009	Fine of 70,000/=
06	Case no. 40C/16 Mohanpur	Md. DulalUddin (36), Proprietor of RahmanBekari, Mougachi Bazar	For damaging consumer's money, health or life etc. by negligence	Section 53 of Mobile Court Act, 2009	Fine of 1,00,000/=
07	Case no. 46C/16 Boalia	Md. ShahinAlam (26), On behalf of the owner of Top That, Chinese and fast food, Zamal Super Market, Rajshahi	For damaging consumer's money, health or life etc. by negligence	Section 53 of Mobile Court Act, 2009	Fine of 30,000/=
08	Case no. 47C/16 Boalia	Md. Azad Ali (53), Manager of Warishan Chinese Restaurant, Saheb Bazar, Rajshahi	For damaging consumer's money, health or life etc. by negligence	Section 53 of Mobile Court Act, 2009	Fine of 50,000/=
09	Case no. 48C/16 Boalia	Abul Kalam Azad (46), Manager of Bindu Hotel and Restaurant, Railgate, Rajshahi	For not showing price list of goods	Section 38 of Mobile Court Act, 2009	Fine of 20,000/=
10	Case no. 49C/16 Boalia	Md. SurrapShikdar (56), Proprietor of Shikdar Hotel and Restaurant	For not showing price list of goods	Section 38 of Mobile Court Act, 2009	Fine of 15,000/=
11	Case no. 50C/16 Boalia	Md. Shafiqul Islam (43), Manager in charge of Al-Madina Hotel and Restaurant, Shiroil, Rajshahi	For not showing price list of goods	Section 38 of Mobile Court Act, 2009	Fine of 15,000/=
12	Case no. 31C/15 Boalia	AsifHossainBabu, Counter Master, Hanif Enterprise	For not showing price list of goods	Section 38 of Mobile Court Act, 2009	Fine of 1,000/=
13	Case no. 108C/15 Boalia	Md. Majharul Islam, Manger, S. R. Industries, Heir Oil Co. Rajshahi	For illegally manufacturing or processing goods	Section 43 of Mobile Court Act, 2009	Fine of 30,000/=
14	Case no. 109C/15 Boalia	Md. MasumSarkar(35), Proprietor Rangapori Active Mehedi	For illegally manufacturing or processing goods	Section 43 of Mobile Court Act, 2009	Fine of 1,00,000/=
15	Case no. 28C/15 Poba	Amzad, Father-Islmail, Boalia, Rajshahi	For illegally manufacturing or processing goods	Section 43 of Mobile Court Act, 2009	Fine of 2,000/=
16	Case no. 22C/16 Puthia	Md. ZamalUddin (55), Puthia, Rajshahi	For mixing prohibited materials in foods is injurious to life or health	Section 42 of Mobile Court Act, 2009	Fine of 5,000/=
17	Case no. 42C/16 Boalia	MithuGhosh, Saheb Bazar, Boalia, Rajshahi	For mixing prohibited materials in foods is injurious to life or health	Section 42 of Mobile Court Act, 2009	Fine of 3,000/=
18	Case no. 43C/16 Boalia	Md. S. M. Solim, Saheb Bazar, Boalia, Rajshahi	For mixing prohibited materials in	Section 42 of Mobile Court Act, 2009	Fine of 5,000/=
19	Case no. 44C/16 Boalia	Nahid (34), Proprietor of Meat log, Warishan, Saheb Bazar, Rajshahi	For mixing prohibited materials in foods which is injurious for consumer's life or health	Section 42 of Mobile Court Act, 2009	Fine of 5,000/=
20	Case no. 48C/16 Boalia	Md. MozammelHaque (53), Manager of Popular Food Industries, Sapura, Boalia, Rajshahi	For mixing prohibited materials in foods	Section 42 of Mobile Court Act, 2009	Fine of 20,000/=
21	Case no. 50C/16 Boalia	Ashok Kumar Ghosh and Vidyut Kumar Ghosh, Proprietor of Beauty Dairy Firm, Ghoramara, Boalia, Rajshahi	For mixing prohibited materials in foods	Section 42 of Mobile Court Act, 2009	Fine of 40,000/=
22	Case no. 76C/16 Boalia	AjmirRahman (20), Proprietor of Ma Cosmetix, RDA Market, Saheb Bazar, Rajshahi	For mixing prohibited materials in foods	Section 42 of Mobile Court Act, 2009	Fine of 1,000/=
23	Case no. 17C/17 Boalia	Md. Tushar (21), Manager, Rubania Sweets, KatakhalNichu Bazar, Rajshahi	For mixing prohibited materials in foods	Section 42 of Mobile Court Act, 2009	Fine of 3,000/=
24		Md. Masum, Father- Mohiruddin, Kathalbaria, Rajpara, Rajshahi	For selling adulterated goods or medicine	Section 41 of Mobile Court Act, 2009	

**Source: Judicial Munshikhana, DeputyComissioner's Office, Rajshahi, 04/07/2017.**

**Table 4 [19]**

Type of case by year		Pending cases at the beginning of the year	New cases filed	Total Cases pending	Total cases disposed	Total pending at the end of the year	Percent of cases disposed
2010	Civil	4116	4133	8249	1327	6922	32.1
	Criminal	1138	12	2415	246	2169	19.3
	Other	6	54	60	10	50	18.5
	Total	5260	5464	10724	1583	9141	29.0
	Average	1753.3	1821.3	3574.7	527.7	3047.0	9.7
2011	Civil	6922	3639	10561	1040	9521	28.6
	Criminal	2169	1101	3270	365	2905	33.2
	Other	50	19	69	54	15	284.2
	Total	9141	4759	13900	1459	12441	30.7
	Average	3047.0	1586.3	4633.3	486.3	4147.0	10.2
2012	Civil	9521	4597	14118	1239	12879	27.0
	Criminal	2905	1423	4328	588	3740	41.3
	Other	15	16	31	3	28	18.8
	Total	12441	6036	18477	1830	16647	30.3
	Average	4147.0	2012.0	6159.0	610.0	5549	10.1
2013	Civil	12879	4753	17632	3708	13924	78.0
	Criminal	3740	1212	4952	1321	3631	109.0
	Other	28	24	52	7	45	29.2
	Total	16647	5989	22636	5036	17600	84.1
	Average	5549	1996.3	7545.3	1678.7	5866.7	28.0
Average on grand total		10872.3	5562.0	16434.3	2477.0	13957.3	43.5

**14. RAISING GOVERNMENT REVENUE**

The Mobile Court in Rajshahi is not only minimizing the government expenditure but also raising government revenue. From June/2015 to February/2017, through 144 Mobile Court operations conducted under The Mobile Court Act, 2009 to ensure the protection of rights ensured by The Consumers’ Right Protection Act, 2009 raises 27,63,800/- and Directorate of Consumers’ Right protection, Rajshahi District raises 4,96,000/-.

The activities of the Directorate of Consumers’ Right protection, Rajshahi District are following [20];

**Table 5**

Name of the District	Month and year	Number of Operations	Amount of Conviction
Rajshahi	June/2015	05	13,000/-
	July/2015	12	42,000/-
	August/2015	09	30,000/-
	September/2015	04	38,000/-
	October/2015	05	30,000/-
	November/2015	06	29,000/-
	December/2015	05	15,000/-
	January/2016	12	32,000/-
	February/2016	02	6,000/-
	March/2016	08	31,000/-
	April/2016	07	22,000/-
	May/2016	01	10,000/-
	November/2016	15	44,000/-
	December/2017	09	72,500/-
January/2017	16	48,500/-	
February/2017	12	33,000/-	
In Total	June/15-Feb/17	128	4,96,000/-

**Source: The table is the Outcome of the Information from the Register of Directorate of Consumers’ Right Protection, Rajshahi District.**

**15. CREATING AWARENESS AND PREVENTION OF DECEPTIVE AND UNFAIR TRADE PRACTICES**

The role of Mobile Court in Rajshahi is also indirectly creating awareness to the public through the active running by the Mobile Court. The people are being aware of their rights as they came to know about the operations and punishing the convicts through in person, friends, local or national newspaper and other media. As only operations cannot protect the rights of the consumers totally, the people are fully aware of their rights. Moreover, the businessmen, agents, traders, manufacturers are fully aware of the conviction of the person committed the offence. It is an example before them not to repeat the offence as it is not only punishable through fine, imprisonment but also disgraceful to their honour and social respect.

## 16. CONCLUSION

From the very beginning, despite few limitations Mobile Court has succeeded to win the trust of the common people. Especially, its role in preventing food and drug adulteration is profoundly admired by all. The citizens' expectation from mobile court day by day is increasing at a large scale. In the implementation of consumers' right in Rajshahi under the Consumers' Right Protection Act, 2009, the Mobile Courts' activities are very much appreciated by the citizens and also civil society.

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