



CONSUMER PROTECTION ACT AND BANKING SECTOR: WITH SPECIAL REFERENCE TO OMBUDSMAN SCHEME

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ABSTRACT

Consumer protection act 1986 is the act which takes care of consumer's rights and it also tells about their duties as a consumer. This act covers various sectors. One of these sectors is a Banking Sector. One of the most vast and continuously growing sector. Banking sector helps general public in the financial matters. It helps them to make savings, in getting loans and also in making various types of investments apart from these it also revised many other value added services to general public. Bank is an institution which provides finance also to the government to run the nation. So it is one of the most trusted, loved and relied sector in India. But as banks act as service providers, people using their services are their consumers. Banks provide services to huge number of customers and various services are provided by the banks at a time, so there are always some conflicts between banks and their customers. These conflicts are regarding the services provided by the bank. When there is conflict between consumer and service provider Consumer Protection Act take care of these conflicts. This act provide for easy and fast redressal of the complaint of the customers. For fast redressal of the complaints RBI is running Ombudsman scheme under its governance. This article gives more information about this scheme.

INTRODUCTION

Consumer is a person who consumes the goods and services i.e. directly utilizes the goods or services produced by the manufacturer. Before 1986 various services were governed by various acts to safeguard consumers to some extent. But after big revolution in consumer protection sector in 1985 Consumer Protection Act came in force in 1986. This act safeguards the rights of the customers. This act helped in bringing transparency, for fair competition and

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for preventing the business to indulge in unfair practices or fraud. This act covers various services. Banking is one of the service which comes under the ambit of this act. Banking sector have gone through many reforms till today. From manual record keeping to electronic operations, from cash counters to ATM machines bank system has changed in many ways. Due to changing technology the working system of banks is also changing. They are becoming more high tech, but with this progress bank's customers are also becoming more aware of their rights. Consumer protection act helps consumer to protect their rights. If banks are not providing their services properly or if there is deficiency in the services provided by the banks then they are liable under this act.

Consumer protection act 1986

Whenever any service provider do not provide his service as per the norms or if there is any deficiency in the service then the service provider is liable under Consumer Protection Act. As per act deficiency means "Deficiency means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service". As per act consumer is a person who avails or hires a service for consideration. So any person who owns an account in the bank or takes a service from bank becomes it's customer and he can file a complaint for deficiency or regarding unfair practices by the banks. Some of the examples of deficiency in the banking services are holding back the amount due on fixed deposits after maturity, delay in payment of amount on term deposits after maturity, dishonor of cheque due to mistake of bank etc.

Consumer protection act gives right to the customer to ask for rehearsal against such deficiencies. The various rights provided by the act to the customer are -

- Rights to Safety
- Right to be informed
- Right to choose
- Right to be heard
- Right to seek Redressal
- Right to consumer education

Till 1995 this act was safeguarding the interest of the customers but in 1995 in addition to the act mechanism called Ombudsman Scheme was introduced by the government. This scheme was modified by the RBI to bring under its ambit the governance system.



Banking Ombudsman Scheme

Banking ombudsman is basically a senior person appointed by the RBI. Ombudsman is used as a primary forum for dispute resolution. It is not bound by any specific condition or procedural law so the decisions taken are as per the specific cases. Ombudsman scheme works on 27 different grounds related to banking sector but still many grounds are untouched by the scheme so it needs expansion of scope. This scheme is govern by RBI through 15 different offices through out the country. The main objective of the scheme is to resolve complaints of deficiency in the services rendered by the bank. All scheduled commercial banks, Regional Rural Banks and Scheduled Primary Co-operative banks are covered under this scheme.

Grounds for complaint under Ombudsman Scheme

The Banking Ombudsman can receive and consider any complaint relating to the following deficiency in banking services:

- non-payment or inordinate delay in the payment or collection of cheques, drafts, bills etc.;
- non-acceptance, without sufficient cause, of small denomination notes tendered for any purpose, and for charging of commission in respect thereof;
- non-acceptance, without sufficient cause, of coins tendered and for charging of commission in respect thereof;
- non-payment or delay in payment of inward remittances ; failure to issue or delay in issue of drafts, pay orders or bankers' cheques;
- non-adherence to prescribed working hours ; failure to provide or delay in providing a banking facility (other than loans and advances) promised in writing by a bank or its direct selling. agents.
- delays, non-credit of proceeds to parties' accounts, non-payment of deposit or non-observance of the Reserve Bank directives, if any, applicable to rate of interest on deposits in any savings, current or other account maintained with a bank ;
- complaints from Non-Resident Indians having accounts in India in relation to their remittances from abroad, deposits and other bank related matters;
- refusal to open deposit accounts without any valid reason for refusal; levying of charges without adequate prior notice to the customer;
- Non-adherence to the instructions of Reserve Bank on ATM / Debit Card and Prepaid Card operations in India by the bank or its subsidiaries
- Non-adherence by the bank or its subsidiaries to the instructions of Reserve Bank on credit card operations

- Non-adherence to the instructions of Reserve Bank with regard to Mobile Banking / Electronic Banking service in India by the bank
- Non-disbursement or delay in disbursement of pension (to the extent the grievance can be attributed to the action on the part of the bank concerned, but not with regard to its employees);
- Refusal to accept or delay in accepting payment towards taxes, as required by Reserve Bank/Government;
- Refusal to issue or delay in issuing, or failure to service or delay in servicing or redemption of Government securities;
- Forced closure of deposit accounts without due notice or without sufficient reason;
- Refusal to close or delay in closing the accounts;
- Non-adherence to the fair practices code as adopted by the bank;
- Non-adherence to the provisions of the Code of Bank's Commitments to Customers issued by Banking Codes and Standards Board of India and as adopted by the bank ;
- Non-observance of Reserve Bank guidelines on engagement of recovery agents by banks;
- Non-adherence to Reserve Bank guidelines on para-banking activities like sale of insurance / mutual fund /other third party investment products by banks
- Any other matter relating to the violation of the directives issued by the Reserve Bank in relation to banking or other services.

A customer can also lodge a complaint on the following grounds of deficiency in service with respect to loans and advances

- non-observance of Reserve Bank Directives on interest rates;
- delays in sanction, disbursement or non-observance of prescribed time schedule. for disposal of loan applications;
- non-acceptance of application for loans without furnishing valid reasons to the applicant; and
- non-adherence to the provisions of the fair practices code for lenders as adopted by the bank or Code of Bank's Commitment to Customers, as the case may be;
- non-observance of any other direction or instruction of the Reserve Bank as may be specified by the Reserve Bank for this purpose from time to time.
- The Banking Ombudsman may also deal with such other matter as may be specified by the Reserve Bank from time to time.

One can file a complaint before the banking Ombudsman if the reply is not received from the bank within a period of one month after the bank concerned has received one's complaint or

the bank rejects the complaint or if the complainant is not satisfied with the reply given by the bank.

Situations under which complaint will not be considered by the Ombudsman

One's complaint will not be considered if:

- One has not approached his bank for redressal of his grievance first.
- One has not made the complaint within one year from the date of receipt of the reply of the bank or if no reply is received, and the complaint to Banking Ombudsman is made after the lapse of more than one year and one month from the date of complaint made to the bank.
- The subject matter of the complaint is pending for disposal / has already been dealt with at any other forum like court of law, consumer court etc.
- Frivolous or vexatious complaints.
- The institution complained against is not covered under the scheme.
- The subject matter of the complaint is not pertaining to the grounds of complaint specified under Clause 8 of the Banking Ombudsman Scheme. If the complaint is for the same subject matter that was settled through the office of the Banking Ombudsman in any previous proceedings.

The procedure for filing the complaint before the Banking Ombudsman?

One can file a complaint with the Banking Ombudsman simply by writing on a plain paper. One can also file it online at ("click here to lodge a complaint") or by sending an email to the Banking Ombudsman. There is a form along with details of the scheme in our website. However, it is not mandatory to use this format.

CONCLUSION

Banking Ombudsman is a scheme which truly implements the main objective of the Consumer Protection Act that is relieving the consumers from the problems faced by them due to deficiency in the services provided by them. RBI implements this scheme very efficiently. The complaints lodged under the scheme get final decision by ombudsman in very small period of time. It is a third eye kept on the working of banks by the RBI. It has made working of banks more efficient and consumer friendly. Other service rendering sectors should also undertake such type of scheme for faster redressal of the consumer complaints.



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