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Role of Banking Ombudsman in Banking Reforms

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Abstract

The Banking Ombudsman is a senior officer appointed by the Reserve Bank of India to resolve the grievance of banking customers. The Banking Ombudsman Scheme is introduced under Section 35A of the Banking Regulation Act, 1949. Any person aggrieved by the decision of the bank can file a complaint, either himself or through his representative other than through an advocate. A Banking Ombudsman can receive a complaint on grounds specified under the Ombudsman Scheme, 2006. All Scheduled Commercial Banks, Regional Rural Banks and Scheduled Primary Co-operative Banks are covered under the Scheme. A banking Ombudsman is a senior officer who is appointed for a period not exceeding three years by the Reserve Bank of India to redress customer complaints against banks for certain grounds provided under the scheme.

Keywords - Banking Ombudsman, Banking Ombudsman Scheme, 2006, Reserve Bank of India

Introduction

The term ‘Ombudsman’ is defined as “a government official who hears and investigates complaints by private citizens against other officials”¹ It is generally understood that the Ombudsman is a person or employee who investigates complaints.² The Banking Ombudsman Scheme, 1995³ was notified by the Reserve Bank of India, on June 14, 1995 under Section 35A of the Banking Regulation Act, 1949⁴ to reform banking sector and to resolve complaints of the banking customer against errant banks. The scheme was introduced to commercial banks,

¹ <http://www.dictionary.com/browse/ombudsman>

² <http://www.merriam-webster.com/dictionary/ombudsman>

³ <https://www.rbi.org.in/scripts/PublicationsView.aspx?Id=1848>

⁴ 35A. Power of the Reserve Bank to give directions

(1) Where the Reserve Bank is satisfied that- (a) in the public interest; or (aa) in the interest of banking policy; or (b) to prevent the affairs of any banking company being conducted in a manner detrimental to the interests of the depositors or in a manner prejudicial to the interests of the banking company; or (c) to secure the proper management of any banking company generally, it is necessary to issue directions to banking companies generally or to any banking company in particular, it may, from time to time, issue such directions as it deems fit, and the banking companies or the banking company, as the case may be, shall be bound to comply with such directions.

(2) The Reserve Bank may, on representation made to it or on its own motion, modify or cancel any direction issued under sub-section (1), and in so modifying or cancelling any direction may impose such conditions as it thinks fit, subject to which the modification or cancellation shall have effect.

Scheduled Primary Co-operative Bank, having a place of business in India, whether such bank is incorporated in India or outside India.⁵

The object of the Banking Ombudsman Scheme, 1995 was,

To enable resolution of complaints relating to provision of banking services and to facilitate the satisfaction, or settlement of such complaints.

Thus the first Banking Ombudsman institution was established in India in the year 1995 by the Reserve Bank of India. The Banking Ombudsman Scheme, 1995 was amended in the year 2002⁶ which enlarged the scope of the Banking Ombudsman Scheme, 1995 by amending the object to the scheme. The object of the Banking Ombudsman Scheme, 2002 says,

1) Enabling resolution of complaints relating to provision of banking services and to facilitate the satisfaction or settlement of such complaints; and

(2) Resolving disputes between a bank and its constituent as well as between one bank and another bank through the process of conciliation, mediation and arbitration.

Thus, from the 2002, the Banking Ombudsman Scheme was also made applicable to banks to resolve their dispute with another bank through the process of conciliation, mediation and arbitration. The Banking Ombudsman Scheme saw another important amendment in the year 2006⁷ and is currently applicable with amending notification of 2007⁸ and 2009.⁹ The object of the Banking Ombudsman Scheme, 2006 is,

“The Scheme is introduced with the object of enabling resolution of complaints relating to certain services rendered by banks and to facilitate the satisfaction or settlement of such complaints.”

Appointment of Banking Ombudsman

A banking Ombudsman is a senior officer¹⁰ who is appointed for a period¹¹ not exceeding three years¹² by the Reserve Bank of India to redress customer complaints¹³ against banks for certain grounds provided under the scheme.¹⁴

⁵ <https://www.rbi.org.in/scripts/PublicationsView.aspx?Id=1848>

⁶ The amended scheme came into effect from June 14, 2002

⁷ <https://rbidocs.rbi.org.in/rdocs/Content/PDFs/67933.pdf>

⁸ CSD. BOS. 4638 /13.01.01/2006-07

⁹ CSD.BOS.No.4736 /13.01.01/2008-09

¹⁰ Officers in the rank of Chief General Manager or General Manager, Rule 4 (1) of the Banking Ombudsman Scheme, 2006.

¹¹ At a time

¹² Clause 4(1)(2) of the Banking Ombudsman Scheme, 2006

¹³ ‘complaint’ means a representation in writing or through electronic means containing a grievance alleging deficiency in banking service as mentioned in clause 8 of the Scheme.

¹⁴ Grounds of complaints under clause 8(1) and 8(2) of the Banking Ombudsman Scheme, 2006

Jurisdiction of Banking Ombudsman

The Banking Ombudsman Scheme, 2006 is applicable¹⁵ to the whole of India¹⁶ covering all scheduled Commercial Banks, Regional Rural Banks and Scheduled Primary Co-operative Banks.¹⁷ The Reserve Bank of India specifies the location of the office,¹⁸ however a Banking Ombudsman for the speedy disposal of the matter may hold sitting in suitable places within its jurisdiction which it may consider it as necessary.¹⁹ There are fifteen Offices of Banking Ombudsman with specific State-wise jurisdiction covering 29 States and 7 Union Territories.²⁰ These offices are located in Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Chandigarh, Chennai, Guwahati, Hyderabad, Jaipur, Kanpur, Kolkata, Mumbai, New Delhi, Patna, Thiruvananthapuram.²¹ Each center has its area of operational jurisdiction. For example, the Mumbai center has area of operation over Maharashtra and Goa.

Grounds or Subject matter of Complaint

A complaint can be filed before the Banking Ombudsman having jurisdiction on any of the following grounds,

- a) Non payment or delay in the payment of bills, draft, cheques etc.²²
- b) Non acceptance without sufficient cause small denomination notes or coins.²³
- c) Non payment or delay in payment of inward remittance.²⁴
- d) Delay or failure to issue pay orders, draft etc.²⁵
- e) Non adherence of working hours.²⁶
- f) Delay or failure in providing a banking facility other than loans and advances.²⁷
- g) Non adherence to rules of Reserve Bank of India with regard rate of interest on saving accounts etc.²⁸

¹⁵ Clause 1(4) of the Banking Ombudsman Scheme, 2006, The Scheme shall apply to the business in India of a bank as defined under the Scheme.

¹⁶ Clause 1(3) of the Banking Ombudsman Scheme, 2006.

¹⁷ The scheme is applicable to all banks defined under the clause 3(5). 'bank' means a 'banking company', a 'corresponding new bank', a 'Regional Rural Bank', 'State Bank of India' a 'Subsidiary Bank' as defined in Section 5 of the Banking Regulation Act, 1949 (Act 10 of 1949), or a 'Primary Co-operative Bank' as defined in clause (c) of Section 56 of that Act and included in the Second Schedule of the Reserve Bank of India Act, 1934 (Act 2 of 1934), having a place of business in India, whether such bank is incorporated in India or outside India.

¹⁸ Clause 5(1) of the Banking Ombudsman Scheme, 2006

¹⁹ Clause 5(2) of the Banking Ombudsman Scheme, 2006

²⁰ <https://rbidocs.rbi.org.in/rdocs/Publications/PDFs/BO201415264C25BFB88547F783CA0B8E12A6B9B3.PDF>

²¹ https://www.rbi.org.in/SCRIPTS/bs_viewcontent.aspx?Id=164

²² Clause 8(1)(a) of the Banking Ombudsman Scheme, 2006

²³ Clause 8(1)(c) of the Banking Ombudsman Scheme, 2006

²⁴ Clause 8(1)(d) of the Banking Ombudsman Scheme, 2006

²⁵ Clause 8(1)(e) of the Banking Ombudsman Scheme, 2006

²⁶ Clause 8(1)(f) of the Banking Ombudsman Scheme, 2006

²⁷ Clause 8(1)(g) of the Banking Ombudsman Scheme, 2006

- h) A complaint from Non Resident Indian regarding remittance.²⁹
- i) Refusal to open a deposit account without sufficient cause.³⁰
- j) Levying of charges without prior intimation.³¹
- k) Failure to follow Reserve Bank's guidelines on ATM/Debit card operations.³²
- l) Closure of deposit accounts without sufficient cause or notice.³³
- m) Delay or refusal to close accounts.³⁴
- n) Non adherence to the fair practices code of banks³⁵ or Code of Bank's Commitments to Customers issued by Banking Codes and Standards Board of India.³⁶
- o) Failure to follow guidelines of Reserve Bank of India on recovery agents.³⁷
- p) Failure to follow guidelines of Reserve Bank of India on banking services.³⁸

A complaint in respect of loan and advances can be filed before the Banking Ombudsman having jurisdiction on any of the following grounds,

- a) Failure to follow Reserve Bank of India's guidelines on interest rate.³⁹
- b) Delay in disbursement of loans.⁴⁰
- c) Non acceptance of application without sufficient cause.⁴¹
- d) Non adherence to the fair practices code of for lender or Code of Bank's Commitments to Customers.⁴²
- e) Failure to follow guidelines of Reserve Bank of India on recovery agents.⁴³
- f) Failure to follow guidelines of Reserve Bank of India on related issues.⁴⁴

²⁸ Clause 8(1)(h) of the Banking Ombudsman Scheme, 2006

²⁹ Clause 8(1)(i) of the Banking Ombudsman Scheme, 2006

³⁰ Clause 8(1)(j) of the Banking Ombudsman Scheme, 2006

³¹ Clause 8(1)(k) of the Banking Ombudsman Scheme, 2006

³² Clause 8(1)(L) of the Banking Ombudsman Scheme, 2006

³³ Clause 8(1)(p) of the Banking Ombudsman Scheme, 2006

³⁴ Clause 8(1)(q) of the Banking Ombudsman Scheme, 2006

³⁵ Clause 8(1)(r) of the Banking Ombudsman Scheme, 2006

³⁶ Clause 8(1)(s) of the Banking Ombudsman Scheme, 2006

³⁷ Clause 8(1)(t) of the Banking Ombudsman Scheme, 2006

³⁸ Clause 8(1)(u) of the Banking Ombudsman Scheme, 2006

³⁹ Clause 2(a) of the Banking Ombudsman Scheme, 2006

⁴⁰ Clause 2(b) of the Banking Ombudsman Scheme, 2006

⁴¹ Clause 2(c) of the Banking Ombudsman Scheme, 2006

⁴² Clause 2(d) of the Banking Ombudsman Scheme, 2006

⁴³ Clause 2(e) of the Banking Ombudsman Scheme, 2006

Procedure for filling a complaint

Any person aggrieved by the decision of the bank can file a complaint,⁴⁵ either himself or through his representative other than through an advocate. The complaint shall be filled to a Banking Ombudsman in whose jurisdiction the branch of the bank or office of the bank against whom the complaint is made is located.⁴⁶ In case of credit card⁴⁷ and other related issues⁴⁸ a complaint shall be before the Banking Ombudsman where the billing address of the complainant is located.⁴⁹

A complaint shall be made in the format provided in 'Annexure A' of the Banking Ombudsman Scheme, 2006, with details like, name and address of the complainant, the name of the Bank/office against whom the complaint is made, the facts of the matter, the nature of loss and relief sought etc.⁵⁰ The complainant can also submit documents if any in support of his complaint.⁵¹ A complaint can also be filled through electronic means.⁵²

Appraisal of the performance of Banking Ombudsman

The Banking Ombudsman Annual Reports on the performance of the Banking Ombudsman Scheme⁵³ is published by the Reserve Bank of India and the performance is analyzed based on the aspects like the quantum of complaints handled by them, the timeliness in handling the issues, appropriateness of the decisions of the Banking Ombudsman. This analysis is based on the latest report available.⁵⁴

A brief appraisal of the working of the Banking Ombudsman Scheme in the 2014-15.⁵⁵

- 1) A total 85131 complaints were received by 15 Offices of the Banking Ombudsmen during the year.
- 2) There has been an increase of 11.2% of complaints compared to the previous year.
- 3) The Banking Ombudsmen have issued 87 Awards during this year.

⁴⁴ Clause 2(f) of the Banking Ombudsman Scheme, 2006

⁴⁵ On the subject matter mentioned in the clause 8

⁴⁶ Clause 9(1) of the Banking Ombudsman Scheme, 2006

⁴⁷ Including other types of centralized operation

⁴⁸ Including other types of centralized operation

⁴⁹ Ibid at 38

⁵⁰ Clause 9(2)(a) of the Banking Ombudsman Scheme, 2006

⁵¹ Clause 9(2)(b) of the Banking Ombudsman Scheme, 2006

⁵² Clause 9(2)(c) of the Banking Ombudsman Scheme, 2006

⁵³ <https://www.rbi.org.in/Scripts/AnnualPublications.aspx?head=Annual%20Report%20on%20Banking%20Ombudsman%20Scheme>

⁵⁴ Nov 26, 2015.

⁵⁵ <https://rbidocs.rbi.org.in/rdocs/Publications/PDFs/BO201415264C25BFB88547F783CA0B8E12A6B9B3.PDF>

4) The complaints related to failure to meet commitments, non-observance of fair practices code, BCSBI⁵⁶ Codes⁵⁷ taken together constitute the largest category of complaints with 29.2% of the total percentage of complaints.

5) The average cost of handling a complaint was ₹ 4541/-.

It is worth mentioning that in recent years the Banking Ombudsman Scheme has become popular, especially in the rural and semi urban population, which saw an increase in the number of complaints of 15.6% and 8.5% respectively.⁵⁸ There has been an increase of 11% in the number of complaints as compared to last year. These are surely a sign that the awareness of the Scheme has increased in rural and semi urban areas and further that the customers prefer Banking Ombudsman Scheme over the traditional system of dispute resolution.⁵⁹

Conclusion

Banks are the lifelines of an economy. Banks are generally understood as an institution which deals with money from the public, thus it is a service based institution where customer satisfaction is an important part, especially when the Indian banks are facing competition with foreign banks which have strong customer friendly environment. The customer dispute resolution is an important part of customer satisfaction and the commencement of the Banking Ombudsman Scheme by the Reserve Bank of India is a laudable step in this direction.

The institution of Banking Ombudsman brings an easy and affordable alternative to the traditional system of dispute resolution which is prone to time and capital consuming process. A process before a Banking Ombudsman involves no fee or charges. The Banking Ombudsman adopts a consumer friendly procedure like settlement of disputes by agreement through conciliation or mediation and is free to adopt the procedure which it considers just and proper.⁶⁰ Moreover a complaint can be filed through an email or by writing on a plain paper⁶¹ giving consumer easy route to file complaint. Thus it can be concluded by affirming that the institution of Banking Ombudsman is playing an important role in banking reforms in the modern banking scenario.

⁵⁶ The Banking Codes and Standards Board of India

⁵⁷ <http://www.bcsbi.org.in/>

⁵⁸ Compared to last year

⁵⁹ Annual Report on Banking Ombudsman Scheme, 2014-15,
<https://www.rbi.org.in/Scripts/PublicationsView.aspx?id=16709#S13>

⁶⁰ Clause 11(1) of the Banking Ombudsman Scheme, 2006

⁶¹ There is a form for filling of complaint however, it is not necessary to use that format.
<https://rbi.org.in/scripts/FAQView.aspx?Id=24>