

Present status of Consumer Protection in Indian Banking Sector

written by Akshay Ramesh | November 11, 2019

in the banking sector where the consumers are misled due to the failure of bank's operational capacities leading to the financial insecurity amongst the innocent customers. The recent example is the Punjab and Maharashtra Co-operative bank issue, wherein, the Reserve Bank of India ("RBI") under Section 35(A) of Banking Regulation Act, 1949 imposed the regulatory restrictions and withdrawal restrictions upon the said bank due to its irregularities disclosed to the RBI, which in turn has affected the faultless customers.

Being the caretaker of the Indian banking sector, RBI has the due responsibility in establishing its strong and effective control over all the banks in India in order to provide the citizens of this land with a

transparent banking system. To achieve this, the banks have to effectively coordinate with the RBI through initiatives, customer service departments, customer education departments, customer protection departments, banking ombudsman, etc.

Role of RBI so far, in the creation of a vital consumer protection environment in Indian Banking Sector

From past few decades, the RBI has involved itself in strengthening the fiduciary relationship between the banks and the customers

as it holds the responsibility of maintaining the financial health in the Indian banking sector. At the same time RBI has a major duty in building up a strong consumer confidence amongst general public by ensuring the stability and

the safety in the Indian Banking System.

When previous works of RBI are traced, we can note

its efforts in introducing Banking Ombudsman ("BO") Scheme 2006. BO is an 'Alternative Dispute Resolution Mechanism' for resolving the disputes between a bank and its customers. As of today, there are 20 BO offices in our country. However, the Indian Banking Sector is simultaneously exposed to innumerable known and unknown risks and uncertainties such as cybersecurity breaches, phishing/ vishing frauds, data thefts, misuse of data, data privacy breaches, malware attacks, etc. While it is known that these risks exist, the garb in which they manifest, when and at what severity, is unknown. In this background, the role of the Ombudsman has become challenging as there is an increase in the number of complaints, their complexity, as well as the ability

to deal with the dynamic financial environment.

When we come across the recent initiatives of RBI

in consumer education and protection, we find the formulation of the 'Charter of Customer Rights' which

includes 5 basic rights of bank customers. They are:

- Right to Fair Treatment
- Right to Transparency, Fair and Honest Dealing
- Right to Suitability
- Right to Privacy
- Right to Grievance Redress and Compensation

Also, RBI has done a prominent job by setting up

the Customer Service Department in 2006 to act as the nodal department in the RBI for grievance redressal of complaints received from the public. The department is renamed as Consumer Education and Protection Department (CEPD) and continues to focus on providing a level playing field between suppliers and consumers of financial services, by easing the imbalances arising from information irregularities, inadequate disclosures, and unfair treatment.

An important milestone in strengthening the grievance redressal mechanism available to bank customers was the institutionalisation of the Internal Ombudsman ("IO") mechanism in 2015 in all public sector banks, selected private sector and foreign banks. Now, the coverage of the "IO" Scheme is extended to all scheduled commercial banks (other than Regional Rural Banks) having 10 or more banking outlets in India. The objective of setting up the "IO" is to ensure that an undivided attention is

given to the resolution of customer complaints in banks and the customers of banks get an independent and auto-review of their grievances which are partially or wholly unaddressed before they approach the BO.

On the other hand, recently on 24 June, 2019 RBI launched a software application called Complaint Management System ("CMS")^[1] in order to effectively support the Ombudsman framework 2006. Now, the citizens can access the CMS portal at RBI's website to lodge their complaints against

any of the entities regulated by RBI. With the launch of CMS, the processing of

complaints received in the offices of Banking Ombudsman ("BO") and Consumer Education and Protection Cells ("CEPCs") of RBI has been digitalized^[2].

Role of Banks in Consumer Protection

Banks not only need to make sufficient disclosures

on all aspects of their functioning and operations but also have to play a proactive role in educating customers on the products offered, the operational

techniques, risks involved, safeguards and redressal options available. Banks need to maintain transparency in pricing, service charges, fees, and penalties.

Every bank has to ensure the following in order to build a secure environment for the customers:

- Limiting the liability of customers in unauthorised electronic banking transactions.
- Enforcing ethical behaviour by financial service providers under the regulatory purview of the RBI.
- Emphasis on "Consumer Education" - Advertisement campaign on fictitious offers/fund transfers, coordination with the cyber-crime department, etc.
- Spreading awareness about Banking Ombudsman in rural and semi-urban areas.
- Improving the internal grievances redress mechanism of banks for effectiveness and

timely response.

- Sensitising frontline staff of banks on the importance of customer service.
 - Bringing about continuous systemic improvement by root cause analysis of complaints.
 - Review of the BO Scheme in the light of emerging changes in the environment.
 - Conducting thematic surveys and studies on specific areas.
 - Monitoring implementation of the Charter of Customer Rights.
- Recent Development in Banking Sector which has escalated the Consumer Protection

It can be said that Article 21 of the Indian Constitution is the main theme behind the evolution of consumer protection laws in our country. The Right to Privacy is the stepping stone of the consumer protection laws in our country because every customer has the right with respect to their personal choice. At the same time, the service providers have the inbound duty to protect the 'Right to Privacy' of their valuable customers. Highlighting the same, the High Court of Kerala referring to the case of District Registrar and the Collector v. Canara Bank^[3], has held that, 'Demanding information about bank accounts without statutory backings violates Right to Privacy. The Kerala High Court upheld the same by stating that the demand of details pertaining to the bank account of a person shall amount to infringement of Right to Privacy. So, this has created a positive hope amongst the banking customers about banks which are now duly responsible in maintaining the privacy of its customers and uphold the validity of Right privacy enshrined in the Indian Constitution.

Conclusion

RBI's efforts in upholding the Consumer Protection in the Banking sector can be yielded only if the citizens are made aware of entire grievance redressal structures and their functions thereupon. People have to be educated about the procedures for lodging complaints especially the grounds of complaints under the various Ombudsmen Schemes. Therefore, creation of public awareness from grass root level about entire grievance redressal structures is inevitable. For which both RBI and the Central Government of India have to coordinate with each other to infuse certain policy measures into the Indian banking sector.

Since the

banks are under the obligation to maintain the secrecy of information unless disclosure of the same is required by law, it must be well understood that the

Right to Privacy is not lost as a result of confidential information being parted by customers to the custody of the bank

Hence, the

development of the overall banking sector in our country depends on how effectively the banks maintain the fiduciary relationship with its customers.

- [1] Reach CMS at <https://cms.rbi.org.in/cms/IndexPage.aspx?aspxerrorpath=/cms/cms/indexpage.aspx>

- [2] https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=47383

- [3] AIR 2005 SC 186

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