Volume : 2 | Issue : 12 | Dec 2013 • ISSN No 2277 - 8160

Research Paper | Law

The Concept of Legal Rights of Consumers in Banking Sector in India

Prof.Kamlesh M.Pandya

Assistant Professor, SHETH D.L.LAW COLLEGE, Bhuj-Kachchh (Gujarat), India.
Former Dean, Faculty of Law, K.S.K.V.Kachchh University.

ABSTRACT

In the era of E-Commerce, the Banking Sector has been the largest service sector. India has been a country where literacy rate is lower than any other underdeveloped country. One cannot do without Banking Transaction in present era. The Banking sector requires efficient staff and infrastructure and qualitative service to quench the thrust of the customer. The customer many a time shading tears on account of insufficient services of Banking sector. However, there are many stakeholders working for the interest of the Banking Customers, i.e. consumers, such as, the Reserve Bank of India, the Banking Laws, the Consumer Protection Act and what not ! From the opening an account to closing the same, the customer has to bear a lot on account of the strategy of Banking sector, the nature of staff members and a little ignorance of Banking Laws.

KEYWORDS : The Reserve Bank of India – The Consumer Protection Act – National Consumer Redressal Commission – Consumer – Customer – Service – Deficiency.

(1) INTRODUCTION:

The word "commerce" deals with the services related with Trade and other business transactions. The Banking sector is one of the largest sectors of consumer transactions in India. When a person deposits his money to his account at the teller box, he can see that the receiving stamp is not legible. Even the concerned Bank employee does not care to know whether there is sufficient ink in the stamp pad or not! And that may create a lot of problem to the consumer when a dispute arises in the court of Law. We can see the empty ATM machines on the 1st day of every month. All these deal with THE LEGAL RIGHTS OF CONSUMERS IN BANKING SECTOR. This paper revolves round the types of Bank, Rights of Consumers, and The role of stakeholders regarding this matter, the scenario of Consumer Rights Awareness, the problems and solutions regarding the same.

(2) TYPES OF BANKS:

In India, the apex body of all the Banks is THE RESERVE BANK OF INDIA. So far as the types of Banks are concerned, they are as such:
(a) Nationalized Bank (b) Private Bank and (c) Co operative Bank.
Nationalized Banks have to follow all the criteria decided by Government Policies. While Private sector Banks are at liberty to frame some rules for the better administration! It doesn't mean that the private sector Bank is having immunity to follow the instructions of Reserve Bank of India. But the private sector Bank is at its liberty to the some extent to serve the consumers of the Bank.

(3) RIGHTS OF CONSUMERS IN BANKING SECTOR :

The Consumer of the Banking Sector is having all the legal rights deal with Banking Commercial Transaction. Such as :

- Right to open an account in the Bank.
- Right to deposit his amount in his account in the Bank.
- Right to receive the deposited slip.
- Right to enjoying the facility of Bank Locker, cheque Book and Pass book.
- Right to have ATM Card facility.
- Right to know the balance amount of his account.
- Right to get loan in the Bank.
- Right to know the rules regarding KYC norms and other Banking transactions.
- Right to be heard at the time of dispute with administrative staff.
- Right to know the rate of Recurring Deposit and other deposit schemes.
- Right to know the cheque bouncing reasons.

(4) THE STAKEHOLDERS OF THE RIGHTS OF CONSUMERS:

These are the stakeholders of the rights of the Consumers in the Banking Sector: (a) The Reserve Bank of India. (b) The Banking Ombudsman. (c) The three tier machinery provided by the Consumer Protection Act, such as : (a) The District Consumer Disputes Redressal Forum. (b) The State Consumer Disputes Redressal Commission. (c) The National Consumer Disputes Redressal Commission.

The three tier agencies are playing a vital role in protecting the rights of consumers in Banking sectors.

(5) THE LAW DEAL WITH THE RIGHTS OF CONSUMERS OF BANKING SECTOR:

(A) BANKING OMBUDSMAN SCHEME, 2006:

The Reserve Bank of India has framed the scheme to protect the rights of the Customers of the Banking Sector. There are Five Chapters in this scheme. The preamble of the schemes says that "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." Chapter III of the scheme deals with the powers and functions of the Banking Ombudsman. The customers are having rights to make complaints in these matters:

- 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.
- Any other that indicates deficiency in Banking including internet Banking or other services.

Clause 9 deals with the procedure of filing complaint to the ombudsman. However, the complaint may be rejected by the ombudsman if it seems to be a maintainable. The ombudsman may grant compensation up to Rs.1 Lac to the customer. The aggrieved party may challenge the award to the appellant Authority within 30 days of the award.

(B) THE CONSUMER PROTECTION ACT, 1986:

The United Nations General Assembly passed a resolution No. 39/248 on 8/4/1985 adopting guidelines relating to consumer protection. Which further provide a framework for the Governments of the developing countries, for formulation of consumer protection policies and legislations.

The Consumer Protection Act, 1986 has been enacted in 1986 and came into force on dated 24th December 1986, that is having IV chapters and 31 Sections. The bifurcation of the Act is as under:

Chapter I : Preliminary : SS.1-3
Chapter II : Consumer Protection Councils : SS.4-8B
Chapter III : Consumer Disputes Redressal Agencies : SS.9-27A
Chapter IV: Miscellaneous: SS.28-31.

As per Sec.2 of the Act, any deficiency of the services in Banking sector is covered under the Act. So, Banking sector is covered under the Act.

(6) THE ROLE OF THE STAKEHOLDERS :

(A) Reserve Bank of India:

The Reserve Bank of India is much aware of the rights of the customers of the Banking Sector. R.B.I. issues various Notifications regarding the protection of the rights of the customer. A notification related with ATM Transactions is one of the examples of its. By this Notification, the R.B.I. has instructed all the Banks to follow the same. By this Notification, the Bank is bound to display insufficient or unavailable balance of the customer in the A.T.M.Machine. The Bank is also bound to make available the forms for lodging ATM complaints within the ATM premises and also display the name and phone number of the officials with whom the complaint can be lodged. This will help in avoiding delays in lodging complaints. The R.B.I. in its website has mentioned all the decisions related with the Bank and Customer Relations.

(B) The National Consumer Disputes Redressal Commission:

CONFONET is the name of the website of National Consumer Dispute Redressal Commission. The appeals and original jurisdiction of the commission speak itself the role of the commission. Here are some examples of its :

(1) Oriental Bank of Commerce, Karauli, Rajasthan Vs. Chandan Bala Jain

After considering the fact of the case, Presiding Officer Justice J.M.Malik saheb, rejecting the revision petition on the ground of delay, has declared that when there is a Notification of the Bank to provide free personal insurance up to Rs.5 Lac, it is the deficiency of service if the Bank fails in providing such. In this case, the borrower of the loan was not given any benefit of personal insurance against his housing loan. After his death on account of accident, the legal representative of the deceased was compelled to pay the principal amount with interest. In this case, the National Commission decided to return the amount to the legal representative.

(2) Jaswinder Singh Vs. Corporation Bank, Secunderabad:

The Bank published a Notification for the sale of mortgaged properties in the public auction on 27\5\2009. The petitioner had deposited Rs.1,10,000\- as earnest money. The petitioner was not allowed to verify the title of the property. The petitioner found by other sources that the title of the property was illegal. The petitioner tried to get loan on the basis of the said property deed, even, the Bank itself declared it to be illegal, so he could not get any loan. In this case Presiding Officer H'ble Justice J.M.Malik Saheb declared that the Notification was nothing but a fraud on the side of the Bank. It is the case of deficiency services of the Bank. So it was ordered to return the earnest money to the petitioner.

There are at least 7 cases have been decided by the National Commission from 2nd December 2013 to 11th December 2013 related with Banking Sector.

(7) PROBLEMS:

In spite of all the legislations regarding the rights of Consumers in Banking Sector, we can see that the consumers do not feel to have sufficient services in this sector. A survey of Kachchh district speaks itself that only 15% people are aware of the rights in rural area of Kachchh District (Gujarat). Now a days, there are number of Banks have been increasing in rural area in all over India. In this situation, it is necessary to get the people aware regarding the rights of consumers. Some problems have been regarding these:

- Mostly in Private Sector Banks, the employee who is appointed as a clerk or in any administrative work, is compelled to do MARKETING WORK for the Bank, such as, to bring new accountholders and to encourage the customers of the Bank to do other transactions related with the Branch, such as, to purchase GOLD COIN, to open another saving or current account, and what not! Even that employee lives under the burden of fulfillment of ***TARGET***! That employee seems to have ***TARGET FOBIYA*** all the day. Even, some Banks are selling MUTUAL FUNDS and VARIOUS INSURANCE SCHEMES! And that poor employee has to do all the ***JOB DISCRIPTION***S given by the Local Bank Authority. We can't understand why a bank employee is compelled to do such types of MARKETING WORK that do not fit with the BANKING TRANSACTIONS. Mutual Funds and Insurances are different Industries than that of Banking Sector. Such types of Practices are nothing but the exploitation of such Bank employees! It also matters with the rights of consumers of Banking sector, because a depressed and over burdened employee of any Bank may create a lot of problems with the transactions of the consumers of the Bank. Even that employee cannot pay proper attention to the consumers.
- All the languages of the schemes or rules or notifications are in English Languages, so the consumers cannot follow the same. That creates a lot of trouble to the consumers.
- In case of query, the Banker in many cases does not hear the consumer.
- Most of the consumers are not aware of KYC and they know only when they find their account fringed. That creates a lot of problems.
- R.B.I. has instructed to have Nodal Officer in the Bank. But consumers are not having good experiences with the same.

(8) SOLUTIONS:

The employee of the Bank should not be compelled to do marketing in Mutual Fund and Insurance sectors. Even that employee, who does not wish to do marketing work, must not be compelled to do. By this way, that employee shall be free from stress and over burdened work, and then that employee shall pay proper attention to the customers of the Bank. All the schemes and policies including Notifications should be translated into regional languages in Banks. Some employees should be appointed to guide the consumers in Banks. The Bank should arrange workshops for the consumer awareness in Banking sectors in urban and rural areas in India.

REFERENCES

www.bankingombudsman.rbi.org.in | Clause 8 of Chapter IV of the Banking Ombudsman Scheme, 2006. | RBI\2013-14\171 Dated 1st August 2013. | www.confonet.nic.in | Revision Petition No.2517\2013 Dated 1st August 2013. | Revision Petition No.4662\2012 Dated 1st August 2013. | A survey made by SHETH D.L.LAW COLLEGE, BHUJ regarding the consumer awareness in Rural Area of Kachchh District in 2006 under the Consumer Rights Festival Project (Indian Institute of Public Administration, New Delhi) 2006.