

The Role of the Banking Ombudsman in Consumer Protection: A Critical Study of the Indian Banking Sector

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Abstract—The Ombudsman in the banking sector plays a significant role in addressing grievances and disputes between consumers and financial institutions. The Banking Ombudsman is an independent, neutral authority or official appointed to resolve disputes between customers and financial institutions (like banks) in a quick, cost-effective, and impartial manner. The banking ombudsman helps to address grievances or complaints that customers have about their bank's services and actions. The scheme is governed by the Reserve Bank of India (RBI) and operates under various

legislative frameworks, including the RBI Act, 1934, the Banking Regulation Act, 1949, and the Banking Ombudsman Scheme, 2006. This Scheme provides an informal and inexpensive way for bank customers to address their grievances. This includes issues like delays in processing transactions, unauthorized charges, incorrect banking fees, or failure to honor a cheque. The ombudsman is responsible for resolving complaints through investigation and mediation. The Banking Ombudsman can resolve disputes for individuals, businesses, and organizations, regardless of their location within the country. The ombudsman system is accessible to customers across India, and the RBI has appointed various ombudsmen in different regions.

This abstract highlight the importance of the Banking Ombudsman system in resolving banking-related disputes, improving customer trust, and reinforcing accountability in the banking sector. It discusses the process of complaint filing, investigation, and decision-making.

Keywords— The Reserve Bank of India, Ombudsman, Banking Ombudsman Scheme, 2006, RBI Integrated Ombudsman Scheme, 2021, The Banking Regulation Act, 1949, Financial Institutions, Customers.

I. INTRODUCTION

The banking sector plays an integral part of our lives. Today, offering essential financial services to individuals, businesses and governments like accepting deposits providing loans and advances, facilitating payment and money transfers, investment

services like mutual funds, bonds stocks etc. providing financial advices on various financial matters. With the rise of digital banking and services, the relationship between banks and their customers Has grown increasingly complex. While the banking industry is heavily regulated by laws with the aim to protect the consumer conflicts and complaints between customers and banks are unavoidable. In this scenario the function of the banking ombudsman becomes crucial.

A banking ombudsman is an independent body with the aim to address grievances between bank and customers and between financial institutions. The purpose of creating ombudsman is to resolve the disputes speedy and amicably with the merits. The ombudsman act as a mediator, resolve the issue through conciliation. It's a mechanism for the dispute resolution that is efficient, transparent and cost effective.

The primary objective is to reduce the lengthy and expensive legal procedures and it acts as a safeguard for the consumer rights, protect the consumer interest. Customers can relay the ombudsman scheme if the banks give poor service quality, failure in compliance with RBI norms and mishandling of loans and advances. The Banking Ombudsman is governed under the Banking Ombudsman scheme 2006, the scheme is introduced with the objective of enabling resolution of complaints relating to certain services rendered by the banks and to facilitate the satisfaction or settlement of such complaints¹. Here, it delves into the significance and function of banking ombudsman in the modern banking environment, examining its legal framework and its functions, roles and responsibilities and how this institution contributes to improving customer service.

¹ Banking Ombudsman Scheme, 2006

II. ORIGIN AND DEVELOPMENT OF THE CONCEPT OMBUDSMAN

The concept of an ombudsman originated in Sweden, where the world's first parliamentary ombudsman was appointed by the Swedish Parliament in 1809, with the official title 'JUSTITIE OMBUDSMAN' meaning "justice representative" for the purpose to investigate citizen complaints against the government agencies and officials, and later it spread globally. It established to safeguard citizen's right by providing an independent body to investigate complaints and to reduce the corruption and to enhance the government administration.

Many European nations used the term ombudsman, nonetheless other nations such as New Zealand described it as a Parliamentary Commission. The British government started giving serious thought to establishing a body to handle public administration grievances and guard against the abuse of authority in the early 1960s. For this purpose, a Parliamentary Commissioner was established by the British Government in 1966. Ombudsman acts as a check and balance on governmental power, that the rule of law is upheld and make the government agencies held accountable for their actions. In administrative law the ombudsman serves as a protector of individual liberties. They strengthen the pillars of a fair and just society with their hard work and devotion. Ensuring accountability, openness and respect to legal and procedural requirements within the government administrative operations is the main goal of an ombudsman in law.

The idea of an ombudsman in India started out as a way to improve accountability and openness in government while also offering a way to resolve complaints against public officials. It inspired for the establishment of Lokpal and Lok Ayukta in India. Lokpal is the national level and Lok Ayukta act as the state level. MC Setalvad, first brought forward the concept of establishing an ombudsman in India in 1962 during the All-India lawyer's conference.

A proposal to create an ombudsman was made to the government in 1968 by the administrative reforms committee. This was the first formal proposal for an ombudsman in India. In 1971, parliament introduced the idea of ombudsman based on the

recommendation of administrative reforms committee but the bill was not passed. Then in 2013, Lokpal and Lok Ayukta Act 2013 introduced and came into force after the persistent public demand led by the Anna Hazare.

Likewise, in banking sector also there is a banking ombudsman to resolve the disputes between the customers and banks and complaints related to the banking services.

The main purpose is to protect the interest of the banking customers. In India Reserve Bank of India is the central bank and the regulatory institution. In 1995, the RBI formally launched the Banking Ombudsman Scheme. The RBI established this program to address the consumer complaints against the commercial banks, regional rural banks, scheduled primary cooperative banks after realizing the necessity for an independent grievance mechanism in the banking industry. The scheme was introduced under Section 35A of the banking regulation act, 1949 to help the customers. The scheme has been revised multiple times since then. The Banking Ombudsman Scheme 2002 was superseded and repealed by the present scheme which went into effect on January 1 2006, currently the Banking Ombudsman Scheme 2006 and RBI-Integrated Banking Ombudsman Scheme, 2021 is in effect.

III. BANKING OMBUDSMAN SCHEME, 2006

Under India's Banking Ombudsman Scheme 2006, the Banking Ombudsman is a quasi-judicial body that was established in response to a government decision to facilitate the resolutions of bank-customers complaints about specific services provided by the banks². An ombudsman is a person who has been appointed to look into complaints about an organization.³ The goal of using an ombudsman is to resolve a complaint out of court. The scheme 1995 was implemented through direction issued by the Reserve Bank of India, Section 35A of the Banking Regulation Act 1949. Section 35A of the act says that the power of RBI to give directions to Banking companies. The RBI can issue directions in the following circumstances like in the public interest and in the interest of banking policy.

India originally implemented the Banking Ombudsman Scheme in 1995, and it underwent

revisions in 2002. The current scheme became operative from first January 2006 and superseded the Banking Ombudsman Scheme 2002.

² Law of Banking and Financial institutions: 2011 Statutory Supplement Richard Scott Cornell.

³ Ellinger's Modern Banking Law by EP Ellinger, Lomnicka and C.Hare.

In India, the ombudsman mechanism defined in the Banking Ombudsman Scheme 2006. It is the official responsibility of banking ombudsman to look into customer complaints and resolve them and help the parties to find a solution. Therefore, the banking ombudsman functions as a mediator and promotes reconciliation. The definition of the banking ombudsman is found in clause 4 of the scheme. It applies to all commercial banks, regional rural banks, and scheduled primary cooperative banks and shall comply with the Banking Ombudsman Scheme 2006.

There are mainly 5 chapters, first chapter preliminary, second chapter defines the establishment of office of banking ombudsman. 3rd chapter defines the jurisdiction, powers and their functions of banking ombudsman. Chapter 4 defines the procedure for redressal of grievances. The appellate authority means the Deputy Governor in charge of the department of RBI. Clause 4 says about the appointment and tenure; the RBI may appoint one or more of its officers in the rank of Chief General Manager or General Manager to be known as Banking Ombudsman and appointed for a period of not exceeding three years at a time.⁴

Using the grounds listed in clause 8, the Banking Ombudsman will receive and review complaints about banking or other service shortcomings. The Banking Ombudsman shall send a report to the Governor, RBI as on 30th June every year containing a general review of the activities of his office.

Clause 8 defines the grounds of complaint like

- ❖ Non-payment or inordinate delay in the payment or allocation of checks, bills etc in order to provide or delay in providing a banking facility,
- ❖ Charging a customer without giving them enough advance notice.

- ❖ Non-adherence to the instructions of the RBI on ATM or debit card and prepaid card operations in India. Or any of the following like,
- ❖ The account was debited, but the ATM did not dispense any cash.
- ❖ Use of stolen cards.
- ❖ Deduct money from the account without using the card or its data.
- ❖ Non-adherence to the instructions of the RBI with regard to mobile banking / electronic banking services in India like delay or failure to effect offline online payment, unauthorized electronic payment, unwillingness to close the accounts or postpone doing so.

⁴ Banking Ombudsman Scheme,2006.

- ❖ Rejection to open a deposit account without providing a good explanation.

Clause 9 defines the procedure for filing complaint. The complaint in writing shall be duly signed by the complainant or his authorized representative and must specify the name and address of the complainant, name and address of the bank, the facts of the issue, the relief and all these should be included in the complaint. Complaint can be made through electronic means shall also be accepted by the Ombudsman. The foremost thing is the complainant before making a complaint to the Banking Ombudsman made a written representation to the bank and the bank had rejected the complaint or the complainant had not received any reply within a period of one month or the replay is not satisfied. If the aggrieved person not satisfied by a bank's service, then can file the complaint within one year.

Clause 10 defines the power to call for information and the Banking Ombudsman may ask the parties to furnish the certified copies of any documents relating to complaint and should maintain confidentiality.

Clause 11 defines the settlement of complaint by agreement. The Banking Ombudsman promote a settlement of complaint by agreement between the complainant and the bank through conciliation or mediation. Banking Ombudsman shall not be bound by any rules of evidence and follow such procedure as he may consider just, proper, and provide an

opportunity to both parties to submit their documents, if both parties are not arriving at a decision, he may call for a meeting together to promote an amicable resolution and if they agreed, the parties shall sign the agreement and the Banking Ombudsman shall pass an order according to it.

Clause 12 says about the award of the Banking Ombudsman. The Banking Ombudsman shall not have the power to pass an award directing payment of an amount towards compensation which is more than the actual loss faced by the complainant or ₹2 million.

Appeal deals with the clause 14 and the aggrieved person may prefer an appeal before the appellate authority within 30 days of the date of receipt of communication of award or rejection of complaint. The bank can file the appeal only with the previous sanction of the chairman or in his absence consult the managing director for approval. The banks should display the features of the scheme for the common knowledge of public also.

IV. RBI-INTEGRATED BANKING OMBUDSMAN SCHEME, 2021

The RBI combined its three previous ombudsman schemes. Banking Ombudsman Scheme 2006, The Ombudsman Scheme for non-banking financial companies 2018, Ombudsman Scheme for Digital Transaction of 2019 into a single system called the Reserve Bank-Integrated Ombudsman Scheme 2021 and the scheme was launched on November 12 2021. Through this scheme, RBI allowing consumers of regulated entities such as banks, non-banking financial companies, Payment System Participants, Credit Information Companies to file their grievances at a single centralized point. The scheme's goal is to promptly, affordably and satisfactorily address consumer complaints pertaining to deficiency in services on the part of regulatory entities. The customers can approach, if complaint not resolved to the satisfaction of the customer or not replied within a period of 30 days by the regulated entities. The scheme adopts one nation one ombudsman approach.

Bank includes all commercial banks, including private and their public banks, Regional Rural Banks, Scheduled Primary (urban) co-operative banks with the deposit size of 50 crore and above.

Non-banking financial companies registered with RBI- includes all non-banking financial companies excluding (housing finance companies) which are authorized to accept the deposits with an assets size of 100 crore and above and these are companies registered under Companies Act and regulated by RBI, particularly providing credit and not authorized to accept that demand deposits like savings or current account, for example Bajaj finance Muthoot finance etc. Section 45 IA of the RBI act says about the registration of non-banking financial companies.

System Participants include all payment system participants like National Electronic Funds Transfer (NEFT), Real Time Gross Settlement (RTGS), UPI, Bharat bill payment system, Bharat QR code etc.

Clause 10 of the scheme defines some grounds for non-maintainability of a complaint as indicated below;

- Complaints which are filed directly with the ombudsman without first being taken up with the regulated entities concerned.
- Complaints made after one year from the date of receipt of the reply of the regulated entity or where no reply is received, later than one year and 30 days after the date of the representation to the regulated entity.
- Complaints related to any dispute between a vendor and a regulated entity.
- Complaints related against the management or executive of regulated entity.
- Complaints related to the disputes between the regulated entities.
- Complaints related to any dispute between employee and employer of any regulated entity.
- Complaints made after the limitation period.

For filing the complaint, the complainant must first approach the concerned regulated entity, if they don't respond within a period of 30 days after the lodgment of complaint or reject it, then the complainant can file the dispute. If the complainant approaches the RBI ombudsman without first submitting a complaint to the concerned regulated entity or within 30 days of submitting the complaint and receiving no response from the concerned regulated entity, the case will no longer be maintainable. It should be emphasized that the complaint must be submitted to the RBI ombudsman within a year of the regulated entity response or within a year and 30 days of the date of the

representation to the regulated entity, if no response is received.

Clause 17 defines the appeal before the Appellate authority- It provides an appellate mechanism for both complainant as well as for the regulated entity. Any aggrieved person can file an appeal before the appellate authority within 30 days of the date of receipt of communication of the award or rejection of the complaint. The Executive Director in charge of the RBI department has the authority to act as the Appellate authority. An award made for failure to disclose the documents or information shall not be subject to appeal to a regulated entity. Clause 20 defines the repeal of the existing schemes and it replaced all the schemes like the Banking Ombudsman Scheme 2006, Ombudsman scheme for non-banking financial companies 2018, Ombudsman scheme for digital transaction, 2019.

Likewise, the Ombudsman Scheme of India, we can witness similar schemes across the countries like Ombudsman for Banking Services and Investment of Canada, The Swiss banking ombudsman of Switzerland, Financial Ombudsman Service of the UK and the Office of the Comptroller of the Currency of the USA. The aim of all these institutions is to deal with the consumer complaints regarding the banking services.

V. IMPACT OF THE BANKING OMBUDSMAN ON THE BANKING SECTOR

CONSUMER PROTECTION

One of the most significant impacts of the banking ombudsman is to protect the consumer interest and their confidence in the banking sector. The ombudsman gives customers a free and easily accessible forum to express their grievances and reassured their rights and their resolved the issue in timely manner and it foster trust in the overall banking system.

CREATE ACCOUNTABILITY IN BANKS

The banking ombudsman program was created to hold banks responsible for their operations and service. The ombudsman serves as a watchdog to make sure that the banks fulfill their duties to their customers.

IMPROVE THE BANKING SERVICES

By the way of resolving issue quickly to avoid the

escalation to the ombudsman, it will lead to the effective customer service and improve all banking experiences and it maintains records of customer complaints and reviews over time.

REDUCE UNFAIR PRACTICES IN BANKS

The ombudsman scheme ensures the ethical banking practices and acts as a deterrent to unethical practices and also enforcing fairness in the banking sector and reduce the wrongful denials of services to the customers.

IMPROVE TRANSPARENCY AND TRUST

The banking ombudsman guarantees openness in the handling of complaints by providing a transparent dispute resolution procedure. The decision-making procedure is frequently open to the public, which fosters consumer trust. The ombudsman's primary goal is to guarantee that banks handle complaints fairly and effectively address their concerns. Create a better relationship between banks and their clients are encouraged by this customer centric strategy.

ENHANCING FINANCIAL SYSTEM

By ensuring that bank functions fairly and follow best practices, the banking ombudsman contributes to enhancing the financial system. The banking ombudsman promotes financial inclusion by providing grievance redressal process knowing that a neutral entity is in place to safeguard their interest, it makes customers more comfortable to use financial services, especially those from marginalized groups.

ACTS AS A MEDIATOR

The ombudsman act as a mediator between customer and legal institutions. Because the ombudsman service is rapid, inexpensive, and easily accessible and many customers prefer to resolve conflicts with banks through the scheme and it reduces the burden on court.

VI. CONCLUSION

Since banks are the most significant financial institutions in the world, addressing complaints about their behavior is also a crucial component of customer satisfaction as a result, in many countries, an authority has appointed as an ombudsman or office to handle consumer complaints about banks. A valuable and crucial avenue for the public to voice complaints against banks and banking services

is the ombudsman scheme. People who feel wronged do not hesitate to use the banking ombudsman scheme as a key forum for resolving complaints pertaining to banks because it is structured in a way that doesn't supersede the jurisdiction of other courts.

In addition to the aforementioned, banking ombudsman offices have established outreach initiatives to raise consumer awareness, such as interacting with banks, setting up awareness camps, taking part in exhibitions etc. The Financial Ombudsman, an unbiased and independent agency offers a forum for consumers to promptly and effectively address complaints about financial services. It enables customers to seek remedies for problem like false charges, delays and frauds and failure of services without any legal action and by providing an alternative dispute resolution option. Banking ombudsman scheme must resolve the complaints quickly and effectively to avoid unnecessary delay.

BIBLIOGRAPHY

- [1] TheBankingOmbudsmanScheme,2006-
https://rbidocs.rbi.org.in/rdocs/Content/PDFs/BOS2006_2302017.pdf
- [2] RBI-IntegratedOmbudsmanScheme,2021-
https://rbidocs.rbi.org.in/rdocs/content/pdfs/RBIOS2021_amendments05082022.pdf
- [3] A Brief Analysis of the Banking Ombudsman Scheme in India, Pragya Mishra-
<https://articles.manupatra.com/article-details/A-Brief-Analysis-of-the-Banking-Ombudsman-Scheme-in-India>
- [4] Ombudsman in Administrative Law, Aishwarya Agrawal- <https://lawbhoomi.com/ombudsman-in-administrative-law/>