

The Role of Ombudsman Scheme in Redressal of Customer Grievances

AUTHOR

Dr. Arvind Kumar Yadav

Faculty in MBA, Institute of Management Education, Sahibabad, Ghaziabad.

ABSTRACT

The word ombudsman originated in Sweden country in 18th century and it means a representative who protects the rights of another. According to Webster's dictionary 'ombudsman' as a public official appointed to investigate citizen's complaints against government agencies or officials that may be infringe on the rights of individuals. Simply stated, ombudsman is an officer appointed by the legislature to handle complaints against the administrative action. The dispute resolution and justice dispensing system by Ombudsman ensures speed, economy, convenience and simplicity of procedures and maintenance of cordial relations between the parties. The system motivates and empowers customers to resolve their disputes without the help of lawyers.

1. THE ORIGIN

Ombudsman is an independent and impartial person, who performs quasi-judicial functions. He collects the relevant facts of the complaint, investigates, analyses the issues and reports his finding to the concerned authority for remedial action. His role is in the nature of a watchdog on the administration. What has made the institution of ombudsman so popular worldwide is the high rate of redressal of public grievance and amicable resolution of disputes in a simple and hassle-free manner.

The 'OMBUDSMAN' scheme is presently available for effective, prompt and cost free redressal of customers' grievances under the banking, insurances, securities and electricity laws. In this article an attempt has been made to explain the salient features of the ombudsman scheme and identify areas requiring improvements.

2. OMBUDSMAN IN BANKING SECTOR

The RBI appoints Banking Ombudsman in the rank of Chief General Manager, for a period not exceeding three years at a time, for the specified territorial

jurisdiction. The Banking Ombudsman is fully staffed and funded by the RBI. There are 15 Ombudsman offices located at Ahmedabad, Bangalore, Bhopal, and Bhuaneswar, Chandigarh, Chennai, Guwahati, Hyderabad, Jaipur, Kanpur, Kolkata, Mumbai, New Delhi, Patna and Thiruvananthapuram. The revised Scheme, 2006, provides an effective, prompt and cost free redressal of customer's grievances against deficiency in banking services rendered by all commercial banks, regional rural banks and scheduled primary cooperative banks. The Scheme has enlarged the scope and includes customers' complaints on new areas such as, credit card complaints, deficiencies in providing the promised services even by banks/sales agents, levying service charged without prior notice to the customer and non-adherence to the fair practice code as adopted by individual banks.

Nature and Type of Complains - Banking customers can now file with the Ombudsman complaints against banks, particularly operations in deposit accounts, refusal or delay in opening and closing of accounts, deficiency in providing promised banking facilities, non-payment, inordinate delay in payments or collection of cheques, drafts,

bills, levying of services charges without prior intimation, non-adherence to the RBI instructions on interest rate, ATM, Debit or Credit card operation, breach of promises given by the sales agents of banks, non-acceptances of small denomination notes and coins or charging of commission for acceptance of small denominated notes and coins and delay in sanction or disbursement of loans or refusal to accept application for loan without valid reasons.

3. OMBUDSMAN IN INSURANCE SECTOR

The Government of India, Ministry of Finance, Department of Economic Affairs, Insurance Division, under section 114 (1) of Insurance Act, 1938, has framed the "Redressal of Public Grievance Rules, 1998", for appointment of Insurance Ombudsman, which came into force with effect from 11-11-1998. The Insurance Ombudsman has started functioning from 1990, to provide for efficient, cost effective and impartial settlement of claims and grievances of any person against a life or General Insurer in public and private sector. The meaning of expression 'any other person' is wider than 'customer' and, therefore, even third party having grievance with respect to an insurance contract can approach the Insurance Ombudsman.

Appointment of Ombudsman - The Ombudsman is appointed by the governing body of Insurance Council issues on the recommendations of the Committee, comprising the IRDA, Life Insurance Corporation, General Insurance Corporation and a representative of the Central Government. The Insurance Ombudsman is appointed for a term of three years or till he reaches the age of 65 years, whichever is earlier, but there is no reappointment.

The Insurance Council provides the Ombudsman with secretarial staff and such

staff drawn from insurance companies. All the insurance companies, who are members of the Insurance Council, share the total expenses on Ombudsman and staff. The Ombudsman functions within their specified geographical jurisdiction. They can hold sitting at various places within their jurisdiction in order to expedite disposal of complaints. At present, there are 12 ombudsman centers in Ahmedabad, Bhopal, Bhubaneswar, Chandigarh, Chennai, Delhi, Guwahati, Hyderabad, Kochi, Kolkata, Lucknow, and Mumbai.

Nature and Type of Complaints - The Ombudsman entertains disputes relating to partial or total repudiation of claims, delay in settlement of claims, any dispute on the legal construction of the policies in so far as such disputes relate to claims, disputes regarding premium paid or payable in terms of the policy and non-issuance of insurance documents.

4. SEBI OMBUDSMAN

The Securities and Exchange Board of India (SEBI) under section 30 read with sub-section (1) of section 11 of the SEBI Act, 1992, has framed the SEBI (Ombudsman) Regulation, 2003, which were notified on 21-08-2003. The regulations provide for the establishment of the office of Ombudsman to redress the grievance of investors in securities and connected matters. The provisions of the Ombudsman Regulations have been incorporated in the code of conduct of various market intermediaries for effective compliance of the Ombudsman award:

1. Clause 21 of Schedule III (Code of conduct) to the SEBI (Merchant Bankers) Regulations, 1992.
2. Clause 11 of schedule III (Code of conduct) to the SEBI (Registrars to an Issue and Share Transfer Agents) Regulations, 1993.

3. Clause 18 of Schedule III (Code of conduct) to the SEBI (Debenture Trustees) Regulations, 1993.
4. Clause 5 of of Schedule III to the SEBI (Foreign Institutional Investors) Regulations, 1993.
5. Clause 13 of Schedule III to the SEBI (Underwriters) Regulations, 1993.
6. Clause 11 of schedule III to the SEBI (Bankers to an Issue) Regulations, 1994.
7. Clause 11 of schedule III to the SEBI (Depositories and Participants) Regulations, 1996: and
8. Clause 14 of schedule III of SEBI (Credit Rating Agencies) Regulations, 1999.

The listed companies and registered stock market intermediaries have to disclose the name, address and other particulars of Ombudsman in their office for the benefit of investors. Ombudsman on the recommendation of a selection committee headed by a retired Judge of a high court. 'Stipendiary Ombudsman' acts as ombudsman in respect of a specific matter or matters in specific territorial jurisdiction. The office of the Ombudsman is to be located in Mumbai and other places to be decided by the SEBI. The SEBI is provided the premises and other infrastructures including staff to the Ombudsman and Stipendiary Ombudsman. The Ombudsman and Stipendiary Ombudsman, meeting the prescribed qualification, are to be appointed for a term of five years and are eligible for reappointment up to the age of 70 years.

Nature and Type of Complaints- An investors and recognized investors association can lodge complaint in writing on the grounds of non- receipt of refund orders, allotment letters in respect of public issue of securities of companies or units of mutual funds or collective investment schemes etc.

5. ELECTRICTY OMBUDSMAN

The Electricity Regulatory Commission, under section 181 read with sub- section (5) of section 42 of the Electricity Act, 2003, issues guidelines for establishment of Forums and Ombudsman for redressal of grievance of electricity consumers. The Delhi Electricity Regulatory Commission (DERC) vide its Notification dated 11-03-2006 has issued DERC (Guidelines for establishment of Forum for redressal of the grievance of consumers and Ombudsman).Regulations, 2003. Electricity consumers. It may be noted that the Ombudsman is the Appellate Authority under the Electricity Act, 2003 and the DERC Regulations, 2003. And, therefore, an electricity consumer has to first approach the Consumer Grievance Redressal Forums established under the DERC Regulations, 2003.

Appointment - The DERC appoints Ombudsman for a period of three years and no further. He is a person of integrity and repute and standing in any of the areas of law, management, finance, commerce, public administration or in non- government organization, who have held the position equivalent to the Secretary to the Government. The DERC also makes arrangement for the office, infrastructure and staff of Ombudsman and determines the proportion in which distribution licensees have to share the expenses of the Ombudsman Office.

Nature and Type of Complaints - The nature and types of complaints include unfair trade practice or a restrictive trade practice adopted by the licenses in providing electricity service; electricity services hired or availed of or agreed to be hired or availed of by him suffer from defect or deficiency in any respect etc.

6. TELECOM OMBUDSMAN

The Telecom Regulatory Authority of India Act, 1997, empowers the Telecom

Regulatory Authority of India (TRAI) to make recommendations on laying down the standards of quality of service to be provided by the service providers and conduct the periodical surveys of telecom services so as to protect the interest of the consumers.

The telecom operators frequently threaten to disconnect phones and withdraw the numbers given to subscribers if the deadline for payment is missed by a day or there is miscalculation of the tiniest amount. The TRAI is, however, neither empowered to look into the grievances of individual's customers nor take action against the operators who do not meet quality of standards. As there is no specialized body to redress the grievances of telecom customers, they have to approach consumer forums set up under the Consumer Protection Act, 1986, or civil courts for resolution and adjudication of disputes.

The Cellular Operators Association of India (COAI), Association of Unified Service Providers of India (AUSPI), Bharat Sanchar Nigam Limited (BSNL), Mahanagar Telephone Nigam Limited (MTNL), and TRAI have now agreed to set up Telecom Ombudsman for the redressal of telecom consumer grievances. Although the structure and terms of reference of the Ombudsman is being worked out, it would be modeled broadly on lines of the Banking Ombudsman.

7. INCOME TAX OMBUDSMAN

The Government is considering to create an office of Income Tax Ombudsman to protect individual taxpayer's rights. The Ombudsman will identify issues that increase

the compliance burden or create problems for taxpayers and bring those issues to the attention of the Ministry of Finance. The Ombudsman will make appropriate legislative proposals where necessary and send periodical reports to the Department of Revenue, suggesting appropriate action. It is proposed to initially set up offices of Ombudsman at Delhi, Mumbai, Kolkata and Chennai.

8. CONCLUSION

India needs an easy, interactive and expeditious complaint interface between service sectors and consumers; a sector monitoring system to identify frequent defaulters, and redressal machinery that minimally impinges on public time, effort and energy. In this context, institution of Ombudsman can provide a fast track customer grievance redressal system.

The dispute resolution and justice dispensing system by Ombudsman ensures speed, economy, convenience and simplicity of procedures and maintenance of cordial relations between the parties. The system motivates and empowers customers to resolve their disputes without the help of lawyers.

The success story of Ombudsman in banking and insurance services is impressive, but Ombudsman in securities and electricity sectors have to go a way to earn to goodwill of investors and customers. There is also urgent need for setting up of Ombudsman in other public utility services like telephone, income tax, water and transport for effective redressal of customers' grievances.

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