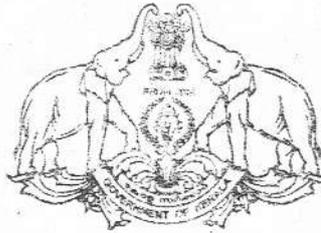


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കേരള സർക്കാർ
2011



Reg. No. രജി. നമ്പർ
KL/TV(N)/12/2009-2011

KERALA GAZETTE

കേരള ഗസറ്റ്

EXTRAORDINARY

അസാധാരണം

PUBLISHED BY AUTHORITY

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GOVERNMENT OF KERALA

Co-operation (B) Department

ORDER

G. O. (P) No. 226/2010/Co-op. Dated, Thiruvananthapuram, 31st December, 2010.

S. R. O. No. 9/2011.—In exercise of the powers conferred by sub-section (1) of section 69A of the Kerala Co-operative Societies Act, 1969, (21 of 1969) the Government of Kerala hereby frame the following Scheme, namely:—

KERALA CO-OPERATIVE OMBUDSMAN SCHEME, 2010

CHAPTER I

PRELIMINARY

1. *Short title, commencement and application.*—(1) This Scheme may be called the Kerala Co-operative Ombudsman Scheme, 2010.

(2) It shall come into force at once.

(3) It shall apply to all co-operative societies registered or deemed to be registered under the Act.

2. *Definitions.*—(1) In this Scheme, unless the context otherwise requires,—

(a) “Act” means the Kerala Co-operative Societies Act, 1969 (21 of 1969);

(b) “authorized representative” means a person duly appointed and authorized by a complainant to act on his behalf and represent him in the proceedings before the Ombudsman or Ombudsmen;

(c) “Complaint” means a representation in Writing or through Electronic means containing a grievance alleging deficiency in Co-operative Banking Service as mention in paragraph 5 of the scheme.

(d) “decree holder” means a person who has made a complaint under this Scheme and in whose favour a proceedings of settlement is issued or an order passed by the Ombudsman or Ombudsmen under this Scheme;

(e) “Ombudsman or Ombudsmen” means a person or persons appointed as such under section 69A of the Act;

(f) “order” means an order passed or issued by the Ombudsman or Ombudsmen in accordance with this Scheme;

(g) “Registrar” means the Registrar of Co-operative Societies appointed under sub-Section (1) of section 3 of the Act or an officer on whom the powers of the Registrar under the Act are conferred on and includes his subordinate officers to whom the powers of Registrar are delegated;

(h) “settlement” means an agreement reached by the parties in the presence of the Ombudsman or Ombudsmen either by conciliation or mediation under paragraph 10 of this Scheme;

(i) “society” means a co-operative society registered or deemed to be registered under the Act;

(2) Words and expressions used and not defined in this Scheme but defined in the Act shall have the meanings respectively assigned to them in the Act.

CHAPTER II

OFFICE OF THE OMBUDSMAN OR OMBUDSMEN

3. *Office of the Ombudsman or Ombudsmen.*—The office of Ombudsman or Ombudsmen shall function under the general superintendence and control of the Ombudsman or Ombudsmen who shall be responsible for the conduct of business thereof.

4. *Secretary to Ombudsman.*—The Government or the Registrar shall appoint an officer not below the rank of Deputy Registrar of Co-operative Societies as Secretary to Ombudsman or Ombudsmen.

5. *Staff.*—The Government or the Registrar shall appoint such number of staff as it or he may deem necessary, in the office of the Ombudsman or Ombudsmen to assist in the performance of the functions of the Ombudsman or Ombudsmen.

CHAPTER III

FUNCTIONS OF THE OMBUDSMAN OR OMBUDSMEN AND DUTIES OF THE SECRETARY TO OMBUDSMAN OR OMBUDSMEN

5. *Functions of Ombudsman or Ombudsmen.*—(1) The Ombudsman or Ombudsmen shall receive and consider complaints relating to the deficiencies in the business or services of societies filed on the grounds mentioned in paragraph 7 and facilitate their satisfaction or settlement by agreement or through conciliation and mediation between the societies concerned and the complainants or by passing an order in accordance with this Scheme.

(2) The Ombudsman or Ombudsmen shall send to the Government, through the Registrar of Co-operative Societies, a report as on the 31st day of December every year containing a general review of the activities of his/their office and shall furnish such other information as the Government may require before 31st March of the next year. The Registrar shall send to the Government a summary report of the working of the Ombudsman or the Ombudsmen before the 31st day of March every year.

6. *Duties of the Secretary to Ombudsman or Ombudsmen.*—(1) The Secretary to Ombudsman or Ombudsmen shall have the following duties, namely:—

(a) to maintain register for receipt of complaints, register of complaints rejected, register of disposal of complaints, register of fees received and such other registers as may be found necessary for the functioning of the office of the Ombudsman or Ombudsmen;

(b) to send copies of settlement proceedings under paragraph 10 or order under paragraph 11 or any other correspondence to the parties involved in the complaint for and on behalf of and as directed by the Ombudsman or Ombudsmen;

(c) to make correspondence with the Registrar and the Government for and on behalf of and as directed by the Ombudsman or Ombudsmen;

(d) to deal with the establishment matters of the staff of the office; and

(2) to discharge such other duties as may be assigned by the Government or the Registrar from time to time

CHAPTER IV

PROCEDURE FOR REDRESSAL OF GRIEVANCE

7. *Grounds of complaint.*—(1) Any person may file a complaint before the Ombudsman or Ombudsmen having jurisdiction on anyone or more of the following grounds, namely:—

(a) non-payment or inordinate delay in payment or repayment of money in respect of share, deposits of any kind, advances etc. for which the complainant is eligible;

(b) non-payment or inordinate delay in payment or collection of cheque, drafts, bills etc;

(c) non-adherence to prescribed working hours;

(d) Not providing or negligence to provide or inordinate delay in providing banking facility including loans and advances for which the complainant is eligible;

Explanation:—Where loan application is received by a society but loan is not granted in time or there is inordinate delay in granting loan or the loan application is rejected without sufficient and reasonable grounds, such a complaint will be treated as grievance;

(e) non-observance of the rate of interest/penal interest on loans and advances and rate of interest on deposits as fixed by the Registrar or Reserve Bank of India, as the case may be;

(f) complaints from Non-Residents Indians having accounts in India in relation to their remittances from abroad, deposits and other bank related matters.

(g) Refusal to open deposit accounts without any valid reason;

- (h) Levying of charges without adequate prior notice to the customer;
- (i) Levying of apprising charges, insurance charges, fee for loan application, valuation fees, Gehan writing fee, document writing fee etc. by societies in excess of the rate fixed by the Registrar or levying such fees without the sanction of the Registrar;
- (j) Non-disbursement or delay in disbursement of pension;
- (k) Forced closure of deposit accounts without due notice or without sufficient reasons;
- (l) Refusal to close or causing delay in closing the accounts when requisitioned;
- (m) deficiency of service in matters pertaining to Automated Teller Machine, Credit Card/Debit Card etc.; and
- (n) any violation of the directives issued by the Registrar or other department officers exercising the powers of the Registrar as per the Act and the rules made there under in relation to the business done or services provided by a society which causes grievance to a customer.

(2) No complaint to the Ombudsman or Ombudsmen shall lie if,—

- (a) a complaint on the subject matter involving the same parties has been previously filed before the Ombudsman or Ombudsmen; or
- (b) the subject matter of the complaint has been previously disposed of by the Ombudsman or Ombudsmen or has been under the consideration of or has been previously disposed of by any civil court or labour court or;
- (c) a complaint on the same subject matter has been filed under sections 69, 70 and 82 of the Act; or
- (d) the complaint is frivolous or vexatious in nature ; or
- (e) the complaint is in the nature of a dispute under section 69 of the Act or in the nature of an appeal petition under sections 82 and 83 of the Act; or
- (f) the subject matter of the complaint is beyond five years.

8. *Procedure for filing Complaint.*— (1) Any person who has a grievance against a society on any of the grounds mentioned in paragraph 7 of this Scheme may, himself or through his authorised representative (including an Advocate), make a complaint to the Ombudsman or Ombudsmen within whose jurisdiction the Society or branch of the society complained against is located.

(2) The complaint shall be signed by the complainant or his authorized representative and shall be as far as possible, in the form specified in Annexure 'A' containing the following particulars, namely:—

- (a) the name and postal address of the complainant;
- (b) the name and address of the society or branch thereof against which the complaint is made;
- (c) the facts giving rise to the complaint; and
- (d) the relief sought for.

(3) The complaints shall not be rejected by the Ombudsman or Ombudsmen merely on the ground that the complaint is not in accordance with sub-paragraph (2) above. The Ombudsman or Ombudsmen may call for necessary details from the complainant.

(4) Notwithstanding anything contained in sub-paragraph (1) above, the Registrar or other officers to whom the powers of Registrar are conferred on in the Act or the Director of Co-operative Audit may transfer, for disposal by the Ombudsman, or Ombudsmen any complaint received from the public, under intimation to the complainant and in such cases the Ombudsman or Ombudsmen shall treat the complaints so transferred as if the same were received under sub-paragraph (1) above.

9. *Power to call for information.*—(1) for the purpose of performing the functions under this Scheme, the Ombudsman or Ombudsmen may require the society against which the complaint is filed to provide any information or furnish certified copies of any document relating to the complaint:

Provided that in the event of failure of a society to comply with the requisition without sufficient cause, the Ombudsman or Ombudsmen may, draw the inference that the information, if provided or copies, if furnished, would be unfavourable to the society.

10. *Settlement of Complaint by agreement.*— (1) The Ombudsman or Ombudsmen shall where a complaint under paragraph 7 is received as far as it is practicable to do, endeavour to promote a settlement of the complaint by agreement between the complainant and the society against which the complaint is made through conciliation or mediation within one month.

- (2) The Ombudsman or Ombudsmen may for the purpose of promoting a settlement of the complaint, follow such procedure as he or they may consider just and proper.

(3) Every proceedings during conciliation and mediation shall be recorded and signed by the Ombudsman or Ombudsmen as the case may be. Signature of both the parties may also be recorded.

(4) The settlement by agreement shall be signed by both the parties and the Ombudsman or Ombudsmen shall issue a proceedings of the settlement of the case affixing his or their signature and office seal and shall communicate it to both the parties. Both the parties shall abide by the proceedings of the settlement.

11. *Order by the Ombudsman or Ombudsmen.*—(1) The Ombudsman or Ombudsmen shall, where it is not possible to settle the complaint by agreement or conciliation within one month from the date of its taking up for the first time, pass an order, preferably within fifteen days, after affording the parties an opportunity to present their case, if necessary.

(2) The Ombudsman or Ombudsmen shall while passing an order take into account the evidence adduced by the parties, the principles of banking law and practice which are applicable to societies, the provisions contained in the Act and the rules made there under, the bye-laws of societies and the directions, instructions and guidelines issued by Registrar or the Reserve Bank of India, as the case may be, and such other facts as are relevant to the complaint.

(3) The order shall be summarized and in writing and shall state briefly the reasons for passing the order.

(4) The order shall contain the signature and office seal of the Ombudsman or Ombudsmen.

(5) The Ombudsman or Ombudsmen shall prepare a Diary in which a brief summary of the proceedings shall be recorded.

(6) The order shall specify the amount, if any, to be paid by the society to the complainant by way of compensation for the loss suffered by him and may contain any direction to the society.

(7) The order shall be final and the society shall abide by the order.

(8) The Ombudsman or Ombudsmen may in the absence of either of the parties to the complaint, after giving reasonable time dispose of the complaint ex-parte.

(9) A copy of the order shall be sent to the complainant and the society concerned.

(10) The order shall, among other things considered necessary by the Ombudsman or Ombudsmen contain the file number, name and address of the parties and of their authorized representatives, subject matter of the complaint, a brief of findings of the Ombudsman or the Ombudsmen, as the case may be, the decision taken, relief granted or not granted or whether rejected and the date of the order.

12. *Execution of Order.*— (1) Where a society does not comply with the conditions agreed upon in the settlement as per paragraph 10 or with the order passed under paragraph 11 after fifteen days of the date of issue of the proceedings of settlement or order, such proceedings of settlement or order shall be executed in the manner as specified under section 76 of the Act and the rules made thereunder.

(2) Where the decree holder wishes to get the order or proceedings of settlement executed as per clause (b) of section 76 of the Act, the Registrar of the Officer on whom the powers of Registrar in the Act are conferred on shall give a certificate as specified in clause (i) to the proviso to clause (b) of section 76 of the Act.

13. *Rejection of the complaint.*—The Ombudsman or Ombudsmen may reject a complaint at any stage if it appears that the complaint made is,—

- (a) not on any of the grounds stated in paragraph; or
- (b) beyond the jurisdiction of the Ombudsman or Ombudsmen under this Scheme or is beyond the period of limitation; or
- (c) frivolous or vexatious, or malafide; or
- (d) without any sufficient cause; or
- (e) in the opinion of the Ombudsman or Ombudsmen that there is no loss or damage or inconvenience caused to the complainant; or
- (f) one requiring consideration of elaborate documentary and oral evidence and the proceedings before the Ombudsman or Ombudsmen, as the case may be, are not appropriate for adjudication of such complaint; or
- (g) otherwise be disposed of under the provisions of the Act.

14. *Societies and officers to display salient features of the Scheme for common knowledge of the public.*—(1) All the societies covered by this Scheme and the Government offices under the administrative department of such societies shall ensure that the purpose of this Scheme and the name and address of the Ombudsman or Ombudsmen to whom the complaints are to be made by the aggrieved party are displayed prominently in all the offices and branches of the societies and all offices subordinate to the Government departments concerned in such a manner that a person visiting the office or branch receives adequate information of this Scheme.

(2) The Registrar shall publish a copy of this Scheme in the Government Website or in the Website of the departments concerned for information to the public.

CHAPTER V

MISCELLANEOUS

15. *Power of the Registrar to inspect the office of the Ombudsman or Ombudsmen.*—The Government may authorize the Registrar or other officers under his control to inspect the office of the Ombudsman or Ombudsmen in respect of all matters.

16. *Fees chargeable by the Ombudsman or Ombudsmen.*—The Government or the Registrar may fix the fees, if any, chargeable by the Ombudsman or Ombudsmen in respect of the complaints and the procedure thereof.

17. *Legal practitioners may appear.*—Legal practitioners may appear to represent the parties in the proceedings before the Ombudsman or Ombudsmen.

18. *Removal of difficulties.*—If any difficulty arises in giving effect to the provisions of this scheme, the Government or the Registrar may make such provisions not inconsistent with the Act or this Scheme, as it appears to it or him to be necessary or expedient for removing the difficulty.

ANNEXURE A

**Form of complaint to be filed before the Co-operative Ombudsman or
Ombudsmen**

[See sub-paragraph (2) of paragraph 8 of the Scheme]

(To be submitted in triplicate)

(For Office use only)

Complaint No..... of year.....

Date

To

The Kerala Co-operative Ombudsman/Ombudsmen

.....(Address)

1. Name and Address of the complainant with pin code.
2. Name and full address of the society against which complaint is made with pin code
3. Full details of the complaint (if space is not sufficient, please enclose separate sheet)
4. Nature of relief sought for and amount of Compensation claimed.
5. Properties of the society from which monetary compensation can be realized (give details of properties)
6. Other particulars.
7. List of documents enclosed (three copies shall be enclosed duly signed by the complainant)
8. Name and present address (with pin code) of persons to whom notices and further correspondence are to be made

(Complainant or representative)

Declaration

I/We, the complainant(s) hereby declare that:

- (a) the information furnished above is true and correct; and
- (b) I/We have not concealed or misrepresented any fact stated in this complaint and the documents submitted herewith.
- (c) I/We have noted the contents of the Kerala Co-operative Ombudsman Scheme, 2010.

Place:

Signature of the Complainant(s)

Date:

Nomination

(Score, if not applicable)

I/We, the above named complainant(s) hereby nominate Shri/Smt.....whose address is (given full address with pin code) as my/our REPRESENTATIVE in all the proceedings of this complaint and confirm that any statement, acceptance or rejection made by him/her shall be binding on me/us. I/We also agree to send notice and other proceedings of the Ombudsman or Ombudsmen to the person in item No. 8 in the form of complaint. He/She has signed below in my presence.

Accepted.....

Signature of the representative.....

Place:

Date:

By order of the Governor,

S. VIJAYAKUMAR,

Additional Secretary to Government.

Explanatory Note

(This does not form part of the Notification, but is intended to indicate its general purport.)

A large number of complaints have been received in respect of the business carried out and services rendered by Co-operative Societies / Banks. Complaints mainly pertain to charging of higher rate of interest and penal interest than the rate fixed by Registrar, low rate of interest than the rate fixed by Registrar, low rate of interest paid to depositors, inordinate delay in making loans and advances or non-payment loans and advances to eligible customers, reluctance in admitting members, violation of the orders of Registrar etc. Since such complaints are very large in number and the present set up of the department is not enough to redress such grievances a separate body with necessary powers is to be established.

As per sub-section (1) Section 69A of the Kerala Co-operative Societies (Amendment) Act, 2010 separate section is incorporated for the establishment of Co-operative Ombudsman. The Government now decided to constitute "Co-operative Ombudsman" as like the "Banking Ombudsman Scheme, 2006" introduced by Reserve Bank of India.

This notification is intended to achieve the above object.