



Concerns over RBI's Orders on Non-Compliance

For Prelims: RBI, Banking Regulation Act, 1949, SEBI, IRDAI, SAT, Appellate Tribunal, Banking Ombudsman.

For Mains: Concerns over RBI's Orders on Non-Compliance.

Why in News?

Since January 2020, the [Reserve Bank of India \(RBI\)](#) has imposed monetary penalties worth Rs 73.06 crore in 48 cases involving banks for violation of provisions of RBI's certain directions.

- RBI penalizes banks on violations of non-Compliance with certain provisions under **Section 35 A of the [Banking Regulation Act, 1949](#)**.

What are the Issues with the RBI Orders?

- **Sparse access to Information:**
 - Customers and investors of banks have only **sparse access to information on non-compliance** of RBI directions by banks.
 - Unlike in the case of other financial regulators, RBI provides details only to the **entity being penalised for violation**.
- **Do not hear the Party:**
 - RBI in its orders don't only give reasons and detailed explanations, but they also **don't hear the party**.
 - Whereas compared to the penalty orders passed by the two other regulators - the [Securities and Exchange Board of India \(SEBI\)](#) and [Insurance Regulatory and Development Authority \(IRDAI\)](#)- for any non-compliance **are more elaborate with details about the violation and the modus operandi**.
 - SEBI hears the concerned party or at least gives **them some opportunity to provide explanations**, before taking action. If not satisfied, the party can also challenge the Sebi's decision in SAT.
- **RBI's Orders cannot be Challenged:**
 - Currently, the RBI is the only regulatory institution **which doesn't have an appellate body**.
 - Since no one can appeal, these (RBI's) orders are not challenged on merit. So, with this kind of arrangement in the regulatory system, **RBI can easily get away with passing only a cursory or main order** without giving reasons and explanation.
 - But the RBI has a system of the [Banking Ombudsman](#) where an aggrieved bank customer can raise disputes or unfair actions and services of a bank.
- **RBI's Arguments:**
 - When RBI passes orders for any irregularity at a bank, they usually make **references to certain clauses or sub-clauses** of the regulation under which the non-compliance has happened. So, there is no need for any further elaboration in the order passed.
 - RBI should not make public all the details in their orders. This might create **unnecessary**

fear in the minds of people and they can lose confidence in the banks.

What is Banking Regulation Act, 1949?

- It regulates **banking firms** in India. It was **passed as the Banking Companies Act 1949** and was changed to the Banking Regulation Act, 1949 from 1st March 1966.
- This **act empowers the RBI to issue licence to commercial banks**, regulate shareholders' shareholding and voting rights, **supervises the appointment of boards and management**, regulates the operations of banks, giving instructions for audit, control moratorium, merger, and liquidation, issues instructions to the banks in the interests of public welfare & banking policy, **impose a penalty on banks if required**.
- In **2020**, the government passed an ordinance to change the **Banking Regulation Act, 1949**, making all the co-operatives **come under the supervision of the Reserve Bank**, so that the interests of **the depositors can be protected properly**.

Way Forward

- A similar appellate, which SEBI has, kind of arrangement is required to challenge the RBI orders, going forward.
- There is a need to keep stakeholders informed, and an appellate authority may serve the purpose, say governance and policy experts.
- It is very important for a regulator to pass a speaking order so that **any person reading it will know the issue at hand and** will understand what went wrong and how it can be corrected.
- A detailed order from the RBI may **increase the scope for interpretation**, which if not analysed correctly, may shake confidence in the banking system.
- Like **SAT (Securities Appellate Tribunal)**, there is a need for an appellate authority to challenge RBI orders. Once the orders are appealable, **the appellate body will look into the entire merit**.

UPSC Civil Services Examination, Previous Year Question (PYQ)

Q. With reference to 'Urban Cooperative Banks' in India, consider the following statements: (2021)

1. They are supervised and regulated by local boards set up by the State Governments.
2. They can issue equity shares and preference shares.
3. They were brought under the purview of the Banking Regulation Act, 1949 through an Amendment in 1966.

Which of the statements given above is/are correct?

- (a) 1 only
(b) 2 and 3 only
(c) 1 and 3 only
(d) 1, 2 and 3

Ans: (b)

- Co-operative banks are financial entities which belong to its members, who are at the same time the owners and the customers of their bank. **They are established by State laws**.
- Co-operative banks in India are registered under the Cooperative Societies Act. They are also regulated by the RBI and governed by Banking Regulations Act, 1949 and Banking Laws (Co-operative Societies) Act, 1955.
- Cooperative banks lend as well as accept deposits. They are established with the aim of funding agriculture and allied activities and financing village and cottage industries. National Bank for Agriculture and Rural Development (NABARD) is the apex body of cooperative banks in India.

- Urban Co-operative Banks (UCB) are regulated and supervised by State Registrars of Co-operative Societies (RCS) in case of single-state co-operative banks and Central Registrar of Co-operative Societies (CRCS) in case of multi-state co-operative banks and by the RBI. **Hence, statement 1 is not correct.**
- The banking related functions such as issue of license to start new banks/branches, matters relating to interest rates, loan policies, investments and prudential exposure norms are regulated and supervised by the Reserve Bank under the provisions of the Banking Regulation Act, 1949 after an amendment in 1966. Hence, statement 3 is correct.
- The Reserve Bank of India came out with draft guidelines allowing primary UCBs to augment capital through issuance of equity shares, preference shares and debt instruments.
 - The UCBs could raise share capital by issue of equity to persons within their area of operation enrolled as members and also through additional equity shares to the existing members. **Hence, statement 2 is correct.**
- **Therefore, option (b) is the correct answer.**

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