

DEPOSITORS WITH FINANCE COMPANIES ARE CONSUMERS Take complaints to consumers forums

Is the person who deposits money in a financial company a consumer? In case of default by the company, can the depositor file a complaint in the consumer fora?

In a number of cases, the state and the national commission have decided that the depositors of financial institutions are consumers and the financial companies are rendering service as covered under the CPA.

For instance, take the case of Ms. Latha Parthasarathy, who deposited some money in the Manjog Security Plans floated by Manjog of Bangalore. When she was unable to get back her deposit, she filed a complaint with the Karnataka State Commission. It was decided that the depositor is a consumer under CPA.

In a recent case (1997 (1) CPR 331), the same Manjog Corporation was hauled up by the Andhra Pradesh State Commission for non-refund of the deposit to V. Santharam, a depositor. The commission decided that the complainants making recovery of the fixed deposit amount are consumers.

The Karnataka State Commission had another occasion to declare depositors as consumers in the case of Capt K.C. Thimmaiah vs Bajaj Electronics. Here, Bajaj Electronics had accepted deposits for a period of five years at the rate of 24 per cent to repay the amount in the stipulated period.

The Neha Leasing and Holdings Limited had accepted deposits from the public under various schemes. A depositor had paid Rs 25,000 and was entitled to receive Rs 71,230 after six years. However, when the company did not pay him the amount, he filed a complaint.

The Rajasthan State Commission decided that default on part of the company or the firm to carry out its obligation to repay the amount and the interest taken from the public under a scheme constitutes deficiency in services so as to warrant filling of a complaint with the consumer forum.

The important question involved in all these cases is whether accepting deposits from the public constitute service as per the provisions of CPA and secondly, whether a person who deposits money with the company or firm is hiring its services.

The CPA defines service as service of any description made available to the potential user and includes the provision of facilities in connection with banking, financing, insurance, transport, processing, but does not include rendering of any service free of charge or under a contract of personal service.

Since the word banking and financing is included as service, the forums and commissions have taken the view that accepting deposits and repayment with interest is service and depositors are consumers.

The Janapriya Finance and Industrial Investment (I) Ltd. launched a scheme promising in addition to the interest other special benefits like free group, accidental, death insurance cover, personal accident cover etc. However, it did not pay the deposit and interest in the stipulated time.

The case was taken up by the Una Suraksha Samiti, a voluntary consumer association with the Himachal Pradesh State Commission. The commission held there can be no escape from the conclusion that the company amply fulfills the character of being a provider of service as per the provision of CPA. The voluntary organizations too fulfill the character of being a consumer within the meaning of the said definition in the CPA (1996(3) CPR 282).

The national commission created a precedent in 1993 declaring the financial companies as being covered under CPA and which may be directed to repay the amount as agreed upon.

In the case of Neela Vasantraje vs Amogh Industries (1996 (3) CPR 343), the national commission held that default on the part of the company or firm to carry out its obligations to repay the principle and/or interest constitutes deficiency in service so as to warrant the filing of a complaint before a consumer forum under the Act.

The observations of the national commission in this case are worth mentioning. It is said we have to take note of the current state of our society and the ground realities of the life confronting the common people. To be offered a safe revenue for investing one's funds with the assurance of reasonable return in the shape of interest and sound security for repayments is certainly to be regarded as a service under the contemporary conditions prevailing in our society.

If you are the victim of a finance company, make sure to file a complaint with the consumer forums before your company directors down their shutters and run away.
