



LEGAL DEFENCES IN FINANCIAL DISTRESS IN BANKING SECTOR IN INDIA

By Anand Kumar Maurya
From Chandigarh university

Abstract:

Finance is the capital that the world is striving for, it is required in every situation of a business without finance nothing could be possible in today's situation, each and every bank is serving on the basis of finance only. There is the greatest demand for higher accumulation of assets and liquidity for all time but nothing is fixed. The present market situation is dynamic for every one so banking survives is also demanding for more liquidity that could give more profit to them but banking survives are in distress because of the unpredictable situation like fraud and misrepresentation. That leads to the conflict in the banks weather externally or internally, that all things when reaches to extreme level leads to the bankrupt that is the final thing that are happening to the banks so financial distress is not confined to only one point it has variety of points that are interdependent on them. In present condition every bank are suffering because of the financial distress, like not earning a good liquidity not able to maintain stability and debt commitment in the financial periods of bank for the long run that will lead to the financial distress in banking sector so, with references of all this problem we could find the conclusion of the present situation. That conclusion can be a legal expression and its measures. That are helping in all the ways.

Introduction:

Development of any provision, there is the requirement of adequate and acceptable

economic policies and legal services that will lead the nation in the developmental process the supportive pillar of any economy is law & banks, bank that is required every were from one hand business to large scale business. It is the particular demand of the nation that need to be meet in fair and clear way and on the basis of LAW only the economic policies run.

Banks are the fundamental part of any economy that is inherent from developed country to developing country. But whenever there are any financial disturbances from internal to external environment than the Banking sector need to suffer a lot because of the imbalance in the economy. The stability and fragility of the banks is suffering day by day in today's portfolios. The important factors here is that the Central Bank are the guardian of the other Bank that need to be taken care so that other private bank could survive in this competitive world where nothing is stagnant for a while the central bank need to take care that other small bank are able to survive or by keeping keen eye on them. In a simple way financial distress is a difficulty in performing any task in related to companies finance in a corporate way this type of problem occur every time in any business ,the same thing is happing in our banking sectors that banks are not able to maintain their profits and not able to survive in the Dynamics environment . They need to understand the banking laws clearly and reduce the lope holes with the help of legal services and interactive solution.

Distress in banking sector:

Distress the word itself speaks the suffering that is so vast in itself ,that is not only related to physical scene but related to every situation of the business and even for the



financial institution like banks, so distress is everywhere but when we are relating to economic terms that is financial distress, that is the risk that is present, that can affect any time in this dynamic environment. When we are relating to the banking sectors, they are the problems which are present in between the work. The financial distress that are occurring every time in the banking sector they need to be taken care in both public and private sector with proper establishment in long run and amending the Acts for the latest developments.

Public sector Banks:

Generalisation in job:

Presently the situation is worst in banking sector people are getting jobs on the bases of the paper that is so called competitive papers for which the millions of the people are striving for but when they get the job in the banking sector they think that they can do anything which they want because of that only proper specialisation in lacking behind and task is getting more difficult to handle for example there should be a proper criteria let say that for big merchant A/C related problems there should be a CAS and for conditional problem there should be a MBA graduates so that they can handle every situation in a broad way.

More bad debts:

Public sector banks usually don't lent loans because they have to follow their condition which are to formal and complete as well. what happen usually public sector banks are over crowded for granting of loans but bank does not grant to everyone, but here the situation is different banks are already over-borrowed by the people so from where he could grant the loans. So, public sector bank

needs more clearly with bad debts and legal situations.

Lack of competition:

In today world the competition is at the pick people can do anything to get excel in there way from any means but in PSB people are to relax and they follow their own way they are not reluctant they think that within time they will get the promotion so why they need to think for that. This is the lack of competition because people fell that they are stable and they don't need any kind of multi dynamic workloads.

Social burden:

Whenever the government make any policies or scheme for the common people at large all the policies go through the public banks only there is no other option present if the government could divert the process of the polices formation than it could be more easier for the banks and is only leading to the social burden on the banks.

Job security:

Without job security job in nothing, job is defined only when there is job security ironically in public sector bank there is job security but that job security is only responsible for the low productivity of the public sector banks in India because employs are not only willing to take any kind of risk in their work that will somehow affect them.

Public sector Banks:

Regulatory procedure and deady in work:

Private sector banks are suffering because of the restriction on them only the government has made such laws so that the private sector banks have to suffer. the government need the clarity of each and every thing that leads



to the deadly of the work. that is unexpected for the business point of view.

Needless control:

Control are needed every were for the betterment of the work but when the control is unnecessary the control will lead to the problem the same thing is happening the private bank of the country.

Extreme level diversification:

Competition in the market and target to compete with other lead to the diversification, it is nothing but the wart expansion that expansion is somehow disturbing the banking sector as well.

Un invited problem are present in every sector (private or public) public sector bank is suffering because of some region and private bank is also suffering because of some situation. there are many problems which are faced by everyone related to profit or capability and others.

Financial viability of Indian commercial banks:

Viability for each and every business is required from small scale business to large scale, everyone is working for stability, profitability and fame. In the business world viability it simply say that to became successful in all the ways and when we are relating viability to financial terms it relates to profit and growth for any commercial bank profit is the main motive for that only they are working to become self-sufficient and competitive they need to work in such a way that there competency and business skills should speak everything for expansion in the global market, commercial banks are working in all the way to earn more and more customer. They need more and more variety

and banks are making different ways to attract the customer.

- Technological development
- Artificial intelligence
- Banking services in phones
- Easy viewing policies
- Customer rating and support
- Easy communication and loan
- Legal consultancy

So, this all are the ways through which commercial banks are trying to earn more and more liquidity, profitability, solvency, stability and growth in long run prospective.

The different ways to attract the customer will only serve the need of the commercial banks so that they can generate the sufficient income to meet the organisational need in all the ways. This only speaks about the financial viability of the country its competency power and laws.

Impact on the economic development:

Development is the most important factor for which the economy is running. Development doesn't mean that you can use any means to gain profit you can use only that factors which are important in the situation.

The Revolution which came in banking sectors when digitization came, that has transformed the banking sectors, that has reduced footfall in the banks, that has reduced the customers in the banks, because of the digital media all the polices and processors are available on the online portal only.

Process of transaction is becoming more shorter and convent, that is somehow increasing the misuse of the digital media within a minute's fraud are easily committed.



With the introduction of new cheque processing system that is MICR this has become of the most usable means but has increased the chances of misuse and cheat. (Unstructured supplementary services data) USSD was launched by the government so that people could access their bank account without visiting the branch and without internet but that also have led to the distraction in the process as well because of the easier process the crime could be easily committed.

More transparency in transaction has led to the exchange of information in more easier way that has led to the misuse in all the ways.

For minimizing the scope of frauds in the banking sectors double authentication passwords was use, that was also not sufficient because in transparency in transaction has led to the halcyon in the process and frauds are easily committed.

Economy has to developed with the help of banking sectors but here the economy is suffering because of the advanced banking sectors, daily misuse of bank account is happening and even the big business man are using the loop holes of the banking system. Evacuating our banking system with the fraud in their mind. That has a vast impact on the economy and RBI has to focuses on all the issues, so that the society could not be morally bankrupt.

Legislation governing insolvency and restructuring in Indian Jurisdiction

1-There are various Act and provisions that are present for the banking sectors are:

- Insolvency and Bankruptcy code 2016
- The companies Act 2013

- The sick industrial companies Act 1985
- Banking regulation Act 1949
- The presidency towns insolvency Act 1909

2-The new committee was set up and drafted the code on resolution of financial firms. That was related to draft bill-the financial resolution and deposit insurance bill 2016 so that the public could understand the drafted code in more clear way to avoid insolvency problems. That includes banks, insurers, financial market infrastructure, payment system and financial service providers in distress.

3-The financial sector legislative reforms commission to review and rework legislation that are governing Indian financial system. They have started their work in 2011 and report came in the year 2013, that has clearly analysed the regulatory regime.

4-Furthermore the amendment came in the year 2017 for the banking regulation ordinance, so that the problem of surmounting bed debts and non-performing assets in Indian banking system could be solved.

Conclusion:

Banking sector is one of the most import pallor for all times in the financial development, social welfare and in technology upraising. Advance banking services requires best legal services that only helps the country to maintain good relation and reputation in the diplomatic world of conflicts. when there is a situation of loss that could be the batter only when we will be able to minimise the loss for survival. The same thing has to be done with the banking sector because the situation demand for the solution the solution for the financial distress that are taking place in every bank of the country.



There is the requirement of prudent and will understandable law and processor's so that before being indulges in conflict on the matter they should understanding it clearly by taking the legal consultants and what will be the upcoming circumstances as well, the disturbance are not same in all the conditions some are political some are legal and other are financial techno as well so to cope up with the situation they need to prepare the predefined solution so that no one could cheat or misrepresent the data and operate the account . Economy of our country is already under threat and when the bank will become bankrupted our economy will be in very bad condition so there is the requirement of the economic-legal leadership way to figure out the financial distress in our banking system.

https://shodhganga.inflibnet.ac.in/bitstream/10603/88986/11/11_chapter%205.pdf
<https://www.cnbc.com/2019/10/31/india-must-clean-up-banks-and-non-bank-lenders-to-grow-rbi-rahuram-rajan.html>
[https://www.academia.edu/37750006/Factors Contributing to Financial Distress in Commercial Banks of Kenya](https://www.academia.edu/37750006/Factors_Contributing_to_Financial_Distress_in_Commercial_Banks_of_Kenya)
<https://www.lexology.com/library/detail.aspx?g=c0de32ec-c4ce-4d0e-a567-1d1e29912068>
<http://www.informaticsjournals.com/index.php/jbt/article/viewFile/21217/17435>

References:

https://www.researchgate.net/profile/Rajendra_T/publication/333186305_Impact_of_Banking_Sector_Reforms_-_An_Analysis/links/5dfce2d9299bf10bc36ba0e4/Impact-of-Banking-Sector-Reforms-An-Analysis.pdf?origin=publication_detail
<http://www.yourarticlelibrary.com/india-2/private-sectors/problems-faced-by-private-sector-in-india/62952>
<https://www.youthkiaw.com/2018/06/rising-frauds-npas-in-indian-banks-specially-psbs/>
<https://rbidocs.rbi.org.in/rdocs/Bulletin/PDFs/02SPE03062283D244B578E69F7B7FD5A2980.PDF>
<https://www.ukessays.com/essays/management/indian-public-and-private-sector-banks-management-essay.php>
<https://economictimes.indiatimes.com/industry/banking/finance/a-major-crisis-may-be-brewing-for-indian-banks/articleshow/70458734.cms>