

PROCEEDINGS OF COMPETENT AUTHORITY & SECRETARY
TO GOVERNMENT, UNDER BANNING OF
UNREGULATED DEPOSIT SCHEMES ACT (BUDS), 2019.
PRESENT : SRI. SANJAY M KAUL IAS

HOME (SC) DEPARTMENT

SC3/21/2022/Home Dated,Thiruvananthapuram (06-03-2024)

Sub: Home - Judgement dated 28.01.2022 in WP(C) No.1642/2022 filed by Dr Nidhin Babu - Instructions issued to the District Collector, Ernakulam for complying with the directions therein-Orders Issued.

Ref: 1. Judgement dated 28.01.2022 in WP(C) No.1642/2022.
2.Letter from the Advocate General dated 19.02.2024 in Contempt Case No. 456/2024 in WP(C) No. 1642/2022.

ORDER

The Hon'ble High Court as per judgement read as first paper above, have disposed of WP(C) No.1642/2022 directing the 2nd respondent, Competent Authority for BUDS Act, to handover vacant possession of the building to the petitioner within a period of three months from the date of receipt of a copy of the judgment after complying with the formalities in Sections 14 and 15 of the BUDS Act. The Petitioner had leased out the building to M/s SAAN POPULAR FINANCE PVT. LTD. for functioning of their branch office. The grievance of the Petitioner is that he has not been handed over the vacant possession of the building as the properties of the Popular Finance Group Companies were provisionally attached under the provisions of Banning of Unregulated Deposit Schemes Act 2019.

As per section 14 of the Act, Competent Authority shall, within a period of thirty days, which may extend up to sixty days, for reasons to be recorded in writing, from the date of the order of provisional attachment, file an application with such particulars as may be prescribed, before the Designated Court for making the provisional

attachment absolute, and for permission to sell the property so attached by public auction or, if necessary, by private sale. On filing such application necessary orders are to be issued by the Hon'ble Designated Courts according sanction under section 15 (3) of BUDS Act directing the Competent Authority to sell the property so attached by public auction or through private sale. With respect to the Popular Finance case, Hon'ble Designated Courts have not given permission to sell the properties kept in such buildings wherein the office of the firms had been functioning. Taking into account, the plight of such building owners who seem to be in no way connected with the accused firm, Competent Authority has directed all the District Collectors to immediately release the rented premises under provisional attachment to the building owners after ensuring the safe custody of properties/assets attached under BUDS Act as per letter No.SC3/86/2022/Home dated 27.12.2022,21.01.2023 and 11.08.2023.

The buildings under lease agreement taken by M/s Popular Finance Group for functioning of their branches in different places in State of Kerala, could not be handed over to the owners on account of the provisional attachment effected against the firm Popular Finance and the properties of the firm so attached are kept in the buildings itself. Thus, without removing the said articles from the respective buildings, the possession of the building could not be handed over to the building owners. The District Collectors have reported lack of sufficient space for relocating the attached movable properties of the firm also. These aspects were considered by the Hon'ble Designated Court, Pathanamthitta, in IA No. 3/2023 in OP No. 87/2022 in a similar petition and directed as per order dated 05th of April, 2023 to remove the articles from the respective buildings taken under the lease agreement by M/s Popular Finance Group in Vakayar, Pathanamthitta. The Hon'ble Additional District & Sessions Court - III, Pathanamthitta also directed that the respective owners of the buildings shall bear the expenses for transportation, loading and unloading charges and other miscellaneous expenses.

In the instant case, the premises of the petitioner are still under the custody of the District Collector, who does not seem to have made any effort to either identify an alternative place to store safely provisionally attached articles nor has he brought to notice of Government challenges in identifying alternative premises. It is hard to believe that a District

Collector is not able to identify an alternative building for this purpose. It shows sheer lack of sensitivity to the plight of the petitioner by the District Collector and also underlines the fact that previous orders of the Competent Authority in this regards have not been taken seriously. In such circumstances and in view of the directions of the Hon'ble High Court of Kerala in Contempt Case No. 456/2024 in WP(C) No. 1642/2022, the District Collector, Ernakulam shall immediately release the building to the Petitioner after relocating the articles found inside the room to safe custody as mandated under the provisions of BUDS Act 2019 at the earliest in order to comply with the directions in the judgement dated 28.01.2022 in WP(C) No.1642/2022.

(Sd.)

SANJAY M KAUL

Forwarded/By order

Section Officer.

To:

Dr Nidhin Babu, S/o Balagopal N K, Nadeppilly House near Police Station, Thripunithura P O, Ernakulam PIN 682 301.

The Advocate General (with C/L)

The District Collector, Ernakulam.

I & PR (Web & New Media) Department

Stock File/Office Copy