

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

HOME (SC) DEPARTMENT

SC3/119/2023/Home Dated,Thiruvananthapuram (12-12-2023)

Sub: Home - BUDS Act - Judgement dated 02.06.2023 in WP(C) No. 12541/2023 filed by Smt Namitha Jose - Directions complied with - Orders issued.

Ref: 1. Judgement dated 02.06.2023 in WP(C) No. 12541/2023.
2. Representation dated 19.06.2023 submitted by Smt Namitha Jose.
3. Letter No. SC3/119/2023/Home dated 13.07.2023 addressed to the District Collector, Idukki.
4. Interim Order dated 01.12.2023 in Contempt Case No. 2702/2023 in WP(C) No. 12541/2023.

ORDER

The Hon'ble High Court of Kerala as per judgement read as first paper above directed to consider and pass orders on the representation submitted by the Petitioner in WP(C) No. 12541/2023, Smt Namitha Jose within six weeks from the date of receipt of a certified copy of the judgment. The petitioner is the absolute owner in possession and enjoyment of property having an extent of 1.48 Ares comprised in Survey No.312/7B/3 of Thodupuzha Village in Thodupuzha Taluk. The petitioner leased out one of the rooms in the building bearing No. 28/389 in Thodupuzha Municipality to the Mary Rani Popular Nidhi Limited since May 2019. The grievance of the Petitioner is that she 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. In the light of the judgement, the Competent Authority directed the District Collector, Idukki to comply with the directions in the judgement within the stipulated time limit as

per letter read as 3rd paper above.

The Banning of Unregulated Deposit Schemes Act mandates as per section 14 of the Act that 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 rooms of the firms had been functioning. Taking into account, the plight of such building owners who are 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 the 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. The furniture and some other valuables used by the Popular Finance are still kept in the buildings and therefore 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 and directed vide order dated 05th of April, 2023 to remove the article from the respective buildings under the lease agreement taken out by M/s Popular Finance Group for functioning of their branches in different places in the State of Kerala to the building owned by M/s Popular Finance situated 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 alternate place to store safely provisionally attached articles nor has she brought to notice of Government challenges in identifying alternate premises. It is hard to believe that a District Collector is not able to identify an alternate 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 in interim order dated 01.12.2023 in Contempt Case No. 2702/2023 in WP(C) No. 12541/2023, the District Collector, Idukki 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 on or before 20th of December, 2023. The directions in the judgement dated 02.06.2023 in WP(C) No. 12541/2023 is thus complied with.

(Sd.)

SANJAY M KAUL

Forwarded/By order

Section Officer.

To:

The Advocate General (with C/L)

Smt Namitha Jose, Pulimoottil House, Olamattam, Thodupuzha, Idukki,
PIN - 685 584.

The District Collector, Idukki

I & PR (Web & New Media) Department.

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