

PROCEEDINGS OF COMPETENT AUTHORITY & SECRETARY  
TO GOVERNMENT, UNDER SECTION 7(3) OF BANNING OF  
UNREGULATED DEPOSIT SCHEMES (BUDS) ACT, 2019.

PRESENT : SRI. SANJAY M KAUL IAS

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HOME (SC) DEPARTMENT

SC3/70/2023/Home      Dated, Thiruvananthapuram (17-04-2024)

Sub: Home Department - Banning of Unregulated Deposit Schemes Act, 2019 - Provisional attachment of all movable & immovable properties of Thiruthipuram Marana Sahaya Sanghom, Thiruthipuram, Moothakunnam, Ernakulam in compliance of the directions in the judgement dated 23.11.2023 in WP(C) No. 38326/2023 - Orders issued.

- Ref: 1.G.O(P) No. 69/2020/Home, dated 18.12.2020 published as S.R.O No.887/2020.  
2.G.O(Rt) No.2959/2020/Home, dated 22.12.2020 published as S.R.O No. 894/2020.  
3. Proceedings No. SC3/70/2023/Home dated 27.05.2023.  
4. Judgement dated 23.11.2023 in WP(C) No.38326/2023.

The Hon'ble High Court have disposed of the writ petition No. 38326/2023 filed by Thiruthipuram Marana Sahaya Sanghom challenging the provisional attachment orders issued as per reference cited as third paper above, as per judgement dated 23.11.2023 directing Competent Authority for BUDS Act to reconsider the matter, after hearing the petitioner and to issue a fresh order, if so found necessary, under Section 7(3) of the BUDS Act.

The circumstances under which provisional attachment orders were issued against the Thiruthipuram Marana Sahaya Sanghom as per proceedings read as 3<sup>rd</sup> paper above, are detailed below:

Several depositors have filed complaints against Thiruthipuram Marana Sahaya Sanghom for non - repayment of deposit amount. The District Rural Police Chief, Ernakulam Rural has submitted a report stating that the complainants had deposited money in the savings schemes and chit schemes of the Society which is registered as a charitable society. The Society is not legally authorized to accept money or operate any such savings schemes/chit schemes. Due to the

financial irregularities committed by the former members, the Society is unable to return the money to the people who have invested in such savings schemes and chits. The office bearers of the Society have informed that general body meeting has decided to sell the land owned by the Society for repaying the deposits.

It can be seen from the report of District Police Chief, Ernakulam Rural that the Society is not registered with any of the Regulators mentioned in the BUDS Act for conducting deposit taking activity or chit schemes. The BUDS Act is enacted to provide for a comprehensive mechanism to ban such unregulated deposit schemes. In the light of BUDS Act, Unregulated Deposit Scheme means a Scheme or an arrangement under which deposits are accepted or solicited by any deposit taker by way of business and which is not a Regulated Deposit Scheme. Herein the Society registered under Travancore Cochin Literary, Scientific and Charitable Societies Registration Act, 1955 as a charitable Society accepted deposits offering interest and later defaulted the payment in violation of the provisions of BUDS Act.

The aim of the Society as stated in the writ petition is charitable activities for the benefit of its members in the event of death of the members or that of their family members to manage the immediate financial needs for funeral. The working fund is derived from subscription of its members. The arguments of the Society that they have not accepted deposits can be countered on the basis of the complaints received from the depositors. These depositors claims that they had been receiving interest to the deposit amount till 2021 and 2022. Such a charitable Society taking deposits or conducting chit schemes can be held liable for violating the provisions of BUDS Act and hence Competent Authority has issued provisional attachment orders as per proceedings No. SC3/70/2023/Home dated 27.05.2023.

The argument of the Society that they have not accepted deposits on or after 2019 will not stand in the light of the points mentioned hereunder :

Section 3 of BUDS Act states about banning of all types of Unregulated Deposits Schemes mentioned in the Act, from the date of commencement of the Act. Normally penal provisions have no retrospective effect in view of Article 20 (1) of the Constitution. All Unregulated Deposit Schemes are banned with effect from the date of coming into force of the BUDS Act. When the Scheme itself is banned, no person is entitled to retain any deposit received under the

Unregulated Deposit Schemes without the same being returned to the person who deposited the amount. Retaining of any amount in deposit under the Unregulated Deposits Scheme is therefore a continuing offence in view of total ban on the Unregulated Deposit Schemes. Therefore, it is an offence under the Act and also in view of the Judgment in P. RAVEENDRAN PILLAI. V .STATE OF KERALA REPRESENTED BY THE CHIEF SECRETARY, and others (WP(C).No.18199 OF 2020).

In compliance of the directions of Hon'ble High Court contained in judgement dated 23.11.2023 in WP(C) No. 38326/2023, all concerned were heard in person on 03.01.2024. The representative of the Society argued that it is registered under Travancore Cochin Literary, Scientific and Charitable Societies Registration Act, 1955 as a charitable Society and the primary objective is the welfare of people living in its vicinity. At present the Society has 426 members and the members have to give an amount of Rs 15000/ as subscription fee. It is stated that the Society is conducting purely charitable activities and give assistance to members for educational/marriage/funeral expenses. The Society owns 73 cents of land and 60 shops are rented out and the money for its functional activities are met from this income.

The District Registrar has stated that the Society has not filed annual returns so far.

During the hearing conducted on 03.01.2024, Competent Authority directed to get the following documents from the Society.

1. Copy of bye - law of the Society
2. Details of different deposit schemes and details regarding the amount collected from the depositors/members.
3. Details of new members joined since 2019 and amount collected from them.
4. Income Tax Returns filed and last 5 years' balance sheet certified by Chartered Accountant.
5. Details of inflow and outflow of funds.
6. Account statements of the Bank accounts maintained by the Society.

These details were called for from the Sanghom as per letter No. SC3/477/2023/Home dated 10.01.2024. The Society has failed to produce the documents in time and requested to give an additional time limit of one month

for the purpose.

There is evidence as to the deposit taking activities of the Society and the complaints from the depositors would be suffice to take action against the Society under the provisions of BUDS Act. In the circumstances, since the Society has failed to produce the documents in time, Competent Authority has decided to grant no further time to the Society in the interest of the depositors and the provisional attachment orders issued as per proceedings No. SC3/70/2023/Home dated 27.05.2023 against Thiruthipuram Marana Sahaya Sanghom is hereby upheld with the following stipulations:

All movable/immovable properties and all other deposits held by the Deposit Taker and the money or other property acquired either in the name of the deposit taker or in the name of any other person on behalf of the deposit taker shall be provisionally attached in exercise of powers conferred under section 7(3) of Banning of Unregulated Deposit Schemes Act, 2019.

The Inspector General of Registration Department is hereby directed to freeze the sale/mortgage or any other transaction involving immovable properties of the firm and the Deposit Taker. The Transport Commissioner, Motor Vehicles Department is directed to seize all vehicles owned by the firm, deposit taker, its partners or allied firms and to take necessary steps to prohibit the transfer of registration of vehicles and to report to the respective District Collectors.

The Lead Bank Managers of all districts, Registrar of Co - operative Societies, General Managers of KSFE, District Managers of KFC and all other financial institutions are directed to take necessary steps to freeze all the accounts of the financial institution and its allied firms. Police Authorities shall identify the accounts of the firm and the deposit takers and take action to freeze the accounts by intimating the provisional attachment orders to the respective Banks where the accounts are maintained. The Police shall also report the details of the accused to the District Collectors for provisionally attaching the properties within the stipulated time limit.

The District Collectors appointed as officers to assist the Competent Authority under section 7(2) of BUDS Act are directed to file application with particulars of the attachment effected before the Designated Courts constituted as per reference 2nd cited. This is for making the provisional attachment absolute and

for permission to sell the property so attached by public auction or, if necessary, by private sale according to section 14 of Banning of Unregulated Deposit Schemes Act, 2019.

(Sd.)

SANJAY M KAUL

Forwarded/By order

Section Officer.

To:

Shri Ravi.V.C, Secretary, Thiruthipuram Marana Sahaya Sangam,  
Thiruthipuram, Moothakunnam .P.O, Ernakulam District, Pin 683516.  
(Vadassery, Thiruthipuram,Moothakunnam, Ernakulam PIN - 683516.)

Smt Nalini K R, Moothedath House, Thiruthipuram, Moothakunnam P O.

Smt Bindiya Sundaran, Moothedath House, Thiruthipuram,  
Moothakunnam P O.

The Advocate General, Kerala (with covering letter)

The State Police Chief

All District Collectors

The Additional Director General of Police (Crimes)

The Inspector General of Police (EOW), Police Headquarters.

All District Police Chiefs

The District Police Chief, Ernakulam Rural

The Inspector General of Registration Department

The District Registrar (General), Ernakulam.

The Transport Commissioner

Registrar of Co-operative Societies

General Managers of KSFE/District Managers of KFC/All Banks etc  
(through the District Collectors)

The Finance/ Law/Revenue/Taxes Departments

I & PR (Web & New Media) Department.

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