

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

PRESENT: BISHWANATH SINHA

HOME (SC) DEPARTMENT

No. SC3/78/2023/Home Dated,Thiruvananthapuram(29-10-2024)

Sub: Home Department - Banning of Unregulated Deposit Schemes Act, 2019 - Provisional attachment of all movable & immovable properties of M/s Tharayil Finance- Orders Reissued

Ref: 1) GO(P) No. 69/2020/Home dated 18.12.2020 published as SRO No. 887/2020.

2) GO(Rt) No. 2959/2020/Home dated 22.12.2020 published as SRO No. 894/202

3) Letter No. T5 -16956/2022/PHQ, dated 26.02.2022 from the State Police Chief

4) Letter No. D1 - 30414/2021/N, dated 12.01.2022 from the District Police Chief, Pathanamthitta

5) Proceedings No. SC3/39/2022/Home dated 13-01-2023

6) Judgment dated 09/08/2024 in WP(C) No. 8932 of 2023 filed by Sri Thomas Mathew

7) Letter No. DCPTA/1348/2022-B7 dated 26.09.2024 of the District Collector, Pathanamthitta

ORDER

The State Police Chief as per reference 3rd cited has furnished a report on the stage of investigation of crime cases registered against Tharayil Financiers having headquarters at Omalloor, Pathanamthitta. The firm had swindled crores of rupees from depositors by dishonest means. Altogether 286 cases have been registered in Pathanamthitta District of which 244 cases are registered at Pathanamthitta Police Station and 42 cases at Adoor Police Station. The

total defrauded amount is Rs 29,50,63,990/- (Twenty Nine Crore Fifty Lakh Sixty Three Thousand Nine Hundred and Ninety Only). The brief of the case is that Sri. Saji Sam, the owner of the firm along with his wife Rani Saji made the public believe that they will give high interest rate and collected crores of rupees from general public. But even after the maturity period the deposited amount was not returned as promised.

The District Police Chief, Pathanamthitta as per reference 4th cited has further reported that the Reserve Bank of India had informed that Tharayil Financiers is not a licensed Non Banking Finance Company. Subsequently sections 3 r/w 21, 5 r/w 23, 25(1) of Banning of Unregulated Deposit Schemes Act, 2019 were incorporated in all the afore-said crime cases

Accordingly the Competent Authority had attached the properties of the M/s Tharayil Finance as per proceedings read as 5th reference cited. However, the attachment order became inoperative due to the failure to file an original petition before the Designated Court within the prescribed limitation period by the District Collectors.

As per section 14 of the BUDS Act application for confirmation of attachment and sale of property had to filed within 30 days which may extend up to 60 days before the Designated Court. But the District Collector, Pathanamthitta vide his report read as 7th reference cited has reported that application under Section 14 was not filed within the statutory period and has requested to reissue the above proceedings.

The Hon. High Court in its judgment as per reference 6th cited has disposed the WPC directing the competent authority to initiate fresh proceedings in the matter within one month of receipt of copy of this judgment and to take follow up action, including filing of application for conformation, within the time limit prescribed in Section 14 of the BUDS Act.

Accordingly, I, Bishwanath Sinha IAS, Competent Authority, BUDS Act 2019 have examined the matter in detail and have found that the owners of the firm Tharayil Financiers deliberately defaulted the payment to the depositors and thereby cheated the public thus amounting to an unregulated scheme. The deposit taker have accepted the deposits in contravention of section 3 of the BUDS Act read with section 21 and defaulted in repayment of such deposits.

I, therefore, in exercise of powers conferred under section 7(3) of

BUDS Act, 2019, reissue the proceedings read as 5th paper above to safeguard the interest of the innocent depositors, hereby attach 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.

The Inspector General of Registration Department is hereby directed to freeze the sale/mortgage or any other transaction of 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 concerned/Registrar of Cooperative 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 current/ any future accused persons from time to time directly to the concerned 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 serve the copy of the provisional attachment to the owner of the property or any person who claims to be in possession of the property or any other person who has an interest in the said property and to prepare and maintain details of the properties so attached and the expenditure incurred in this regard in Form No. 2.

The District Collectors are further directed to publish the order of provisional attachment in a leading newspaper both in Malayalam and in English having wide circulation in the area or jurisdiction in which the deposit taker is located.

The District Collectors appointed as officers to assist the Competent Authority under section 7(2) of BUDS Act are directed to issue attachment orders separately against the properties of the accused and file application with particulars of the attachment effected before the

Designated Courts constituted read as 2nd paper above, of the respective District, within the stipulated time of 30 days 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 BUDS Act, 2019.

(Sd.)
BISHWANATH SINHA

Forwarded/By order

Section Officer.

To:

The Advocate General, Ernakulam (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 Inspector General of Registration Department
The Transport Commissioner
The Registrar of Co-operative Societies
The Lead Bank Managers.
General Managers of KSFE/District Managers of KFC (through District Collectors)
The Finance/ Law/Revenue/Taxes Departments
I & PR (Web & New Media) Department.
Stock file/Office Copy