

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

SC3/1/2023/Home Dated, Thiruvananthapuram (17-04-2024)

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Sub: Home Department - Banning of Unregulated Deposit Schemes Act, 2019 - Provisional attachment of all movable & immovable properties of 'The Merchants Association, S 45/1971' Cherthala, Alappuzha - 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. Judgement dated 06.02.2024 in WP(C) No. 1355/2023 filed by Sri Sinil Kumar E K and others.  
4. Letter No. DRGALP/3025/2022 - A2 dated 12.03.2024 from the District Registrar General, Alappuzha.  
5. Letter No. D3 - 2576/2023/PHQ dated 23.03.2024 from the State Police Chief, Thiruvananthapuram.

ORDER

The Hon'ble High Court as per judgement dated 06.02.2024 in WP(C) No.1355/2023 filed by Sri Sinil Kumar E K and others have directed to take up Ext.P7 complaint of the petitioners and dispose of the same, after hearing them, as also respondents 5 and 6 and pass appropriate order and necessary action thereon, as expeditiously as is possible, but not later than one month from the date of receipt of a copy of judgement. The petitioners seek a direction to respondent No.2 Home Secretary to consider and pass orders on Ext.P7 complaint preferred by them against respondents 5 and 6, containing the allegation that the latter is conducting an unregulated Deposit Scheme, under the aegis of an unregistered Association called the The Merchants Association S

45/1971, Cherthala, Alappuzha. They assert that the actions of respondents 5 and 6 come within the ambit of the prohibited activities under the Banning of Unregulated Deposit Schemes Act, 2019 ('BUDS Act'); and therefore, the 2<sup>nd</sup> respondent is obligated to consider Ext.P7 and take necessary action thereon as per law.

The petitioner's case is that the office bearers of an unregistered association 'The Merchants Association S 45/1971' in Cherthala, Alappuzha are inducing several gullible merchants in Cherthala and nearby locality to become its members by accepting membership fees, soliciting its members to deposit money on the promise that it would carry an interest at the rate of 12%, advancing loans at an exorbitant rate of 16% to the public from the amounts so collected as deposits from its members etc. They are doing the same by misleading the public that it is an association registered under the provisions of the Travancore Cochin Literary, Scientific and Charitable Societies Registration Act, 1955 having Registration No. S 45/71. The name of the Society is deceptively similar to that of the Petitioner Association also called Merchants Association with Registration No. ALP/TC/461/2022 and also that of an earlier registered association 'Merchants Association' in Cherthala which was subsequently struck off and was having the Registration No. 45/71.

Competent Authority for BUDS Act heard all the parties in person on 12.03.2024 in compliance of the directions of the Hon'ble High Court. The following persons attended the hearing.

1. Sri S Shaji, Deputy Police Superintendent of Police, Cherthala, Alappuzha.
2. Sri Aby George, District Registrar General, Alappuzha.
3. Sri B Bhasi, President, The Merchants Association Registration No. S 45/71.
4. Sri E K Sinilkumar, Secretary, Merchants Association, ALP/TC/461/2022.
5. Sri Rupesh K R , Merchants Association ALP/TC/461/2022.
6. Sri Siby Panjikkaran

The Petitioners argued that the The Merchants Association S 45/1971' in Cherthala, Alappuzha is taking deposits in violation of the provisions of Banning of Unregulated Deposit Schemes Act and produced documents showing the acceptance of money from various persons. The Opposite parties refuted all these allegations and stated that they only accept contributions from its members which is given as loans to other members.

The District Registrar (General) Alappuzha has reported that a Society with name of Merchants Association Sherthallai has been registered as per Travancore Cochin Literary, Scientific and Charitable Societies Registration Act, 1955 with Registration No.45/71 and in the Register of Society it is declared as defunct w.e.f 08.06.1977 as per the gazette publication dated 08.03.1977. The State Police Chief has reported that based on a preliminary enquiry into the matter it is revealed that The Merchants Association S 45/1971 has accepted deposits and granted loans to its members and the office bearers of the society invested money in the name of other members and accepted interest for the deposit amount. It is further reported that an in depth enquiry is needed to bring forth more evidence against the Society.

The cancellation of registration of the Society and related matters etc are out of the purview of the BUDS Act and the same shall be looked into by the Registration department. However from the available records and the statements from the persons who had deposited money furnished along with the Police report, it can be ascertained that the 'The Merchants Association S 45/1971' in Cherthala, Alappuzha has accepted money which would come within the definition of deposit specified under BUDS Act, 2019 and the Society has also at the time of the hearing stated that the contributions made by the members are later returned to them. Such type of financial activities are not allowed in the case of charitable societies registered under relevant Acts. They can only accept subscriptions/contributions (not returnable) for the purposes specified in their bye law.

In the above circumstances, there is reason to proceed against 'The Merchants Association S 45/1971' in Cherthala, Alappuzha under the provisions of section 7(3) of BUDS Act for unregulated deposit taking.

Now, therefore in exercise of powers conferred under section 7(3) of Banning of Unregulated Deposit Schemes Act, 2019, I, Sanjay M Kaul IAS, Competent Authority, hereby order the provisional attachment of 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 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 2<sup>nd</sup> 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:

The Merchants Association, Cherthala, Registration No ALP/TC/461/22, Building No.8/80, Cherthala PO, Alappuzha PIN 688524.

Shri Sinil Kumar E K, Secretary, The Merchants Association Cherthala, Kannikattu Veetil, Maruthoravattam PO, Cherthala, Alappuzha

PIN 688539.

Shri Sabulal K V, CMC 34, Cherthala P O, Alappuzha PIN 688 524.

Shri Bhasi B, Mattavana CMC 23, Cherthala PO, Alappuzha PIN 688524.

Shri K R Rupesh (President) Kalambukkattu, CMC 8, Cherthala PO, PIN 688524.

Shri Sunilchandrath SCMC-5 Pazhukkachira, Cherthala PO, PIN 688524.

The Advocate General (with covering letter)

The State Police Chief

All District Collectors

The Additional Director General of Police (Crimes)

The Inspector General of Police (EOW), PHQ

All District Police Chiefs

The Deputy Superintendent of Police, Cherthala, Alappuzha.

The District Registrar General, Alappuzha.

The Inspector General of Registration Department

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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