

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

PRESENT : BISHWANATH SINHA IAS

HOME (SC) DEPARTMENT

No.SC3/202/2024-Home Dated,Thiruvananthapuram (15-11-2024)

Sub: Home Department - Banning of Unregulated Deposit Schemes Act, 2019 - Interim order dated 13.09.2024 in WP(C) 32294/2024 filed by Unibharath Corp Kissan Producer Company Ltd before the Hon'ble High Court of Kerala - Complied with - Proceedings issued

- Ref: 1) Proceedings No.SC3/56/2024-Home dated 02/09/2024.
2) Interim order dated 13.09.2024 of the Hon. High Court of Kerala in WP(C) 32294/2024.
3) Representation dated 19.09.2024 from Sri. Sujith V Nair, Managing Director, Unibharath Corp Kissan Producer Company Ltd.
4) Email dated 22.10.2024 from Manager, Department of Supervision, Reserve Bank of India
5) Letter no. ROC(K)/Legal/F.No. 4047/2024 dated 24.10.2024 of the Registrar of Companies.

ORDER

The RBI's Market Intelligence team after their visit to M/s Uni Bharath Corp Kissan Producer Company Limited, Thrissur has reported that the company was accepting money in the form of debentures by offering high interest rates, which was in violation with the provisions of Companies Act 2013. The 'Fixed Deposit Application Form' given by the company evinces accepting of deposits from the public, in violation of Section 73 of Companies Act 2013.

The State Police Chief has informed that the company provides loans on a daily basis with high interest rates of 12% for amounts from Rs. 25,000. They are registered with the Ministry of Corporate

Affairs under Schedule 1 of BUDS Act and accepts deposits under Chapter 5 or sec 406 of the Companies Act. These are treated as regulated but the company is not a fund company, that does not fall under sec 406, and not a public limited company and does not comply with sec 73 and 76 regarding deposit acceptance. The State Police Chief has informed that it is illegal and in violation of the BUDS Act and other existing laws for this institution to grant loans and accept deposits from the public.

In the light of the findings in the MI Visit of RBI and from the report of State Police Chief, it was concluded that Uni Bharath Corp Kissan Producer Company Limited, Thrissur, a private limited accepted deposits from the public in the form of debentures in violation of the provisions of Companies Act, 2013. The deposits accepted by the Company would thus be unregulated deposits. Accordingly vide proceedings read as reference 1st cited, orders for attaching the properties of the deposit takers of the above firm were issued.

The firm M/s Uni Bharath Corp Kissan Producer Company Limited has filed a WP(C) 32294/2024 before the Hon. High Court of Kerala and the Hon. High Court per the interim order read as 2nd reference cited has ordered that the petitioner can approach the Competent Authority or the Designated Court, with a request to confine the freezing of the account to the quantum of deposits allegedly collected in contravention of Section 3. If such a request is made, appropriate decision, in accordance with law, shall be taken expeditiously.

Accordingly the Managing Director of the firm has submitted a representation read as reference 3rd cited before the Competent Authority for releasing the attached properties and bank accounts. Subsequently, reports in this regard was sought from Reserve Bank of India and Registrar of Companies.

The Reserve Bank of India in its email read as 4th reference cited has informed that it has already shared all the available information gathered during the Market Intelligence visit and no further comments are available to offer in this regard.

The Registrar of Companies in its report read as 5th reference cited has informed that the firm M/s Unibharath Corp Kissan Producer Company Ltd has not filed any statutory returns till date as its not

due. Further, as per the records available with the Registrar of Companies, Kerala, this company has not filed any e-forms in connection with the issue of debentures with this till date.

Accordingly the petitioners of the above WP(C) was given an opportunity for hearing and the hearing was conducted on 02.11.2024. During the hearing, the petitioner has denied the charge of collecting deposits by issuing debentures, citing the elaborate process of issuing debentures. They rely on the reply of the Registrar of Companies that "this company has not filed any e-forms in connection with the issue of debentures." They also argued that they are empowered to collect deposits from members as per Article 5(ii) of the Articles of Association. The company has produced a certificate from the Chartered Accountant assuring that no debenture is issued in the name of Unibharath Corp Kissan Producer Company Ltd during the financial year 2023 - 24.

It is seen that the Company has not collected debentures from the public or members as no formalities have been initiated in line with the above provisions. The possibility of issuing fake debenture certificates cannot be ruled out, but we did not get a single piece of evidence to prove that. So far, there have been no complaints received from any of the depositors against the company.

Under the circumstances stated above, I, Bishwanath Sinha IAS, Competent Authority, BUDS Act 2019 have examined the matter in detail on the basis of the reports from Reserve Bank of India and Registrar of Companies and after hearing the petitioners and considering the direction from the Hon. High Court as per reference 2nd cited has decided to place the attachment order issued by the Competent Authority vide reference 1st cited in abeyance, allowing the company to operate fully in accordance with the provisions of the Companies Act 2013, until a complaint is received from the depositors/members regarding non-payment of deposits on maturity or evidence of fake debenture certificates issued.

The interim order of the Hon. High Court of Kerala as per reference 2nd cited is complied herewith, accordingly.

(Sd.)
BISHWANATH SINHA

Forwarded/By order

Section Officer.

To:

Advocate General, Ernakulam (with C/L)
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
Sri. Sujith V Nair, Managing Director, Unibharath Corp Kissan Producer Company Ltd, 2nd Floor, T.M Properties, Achutha Menon Road, Punkunnu, Thrissur - 680002
I & PR (Web & New Media) Department.
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