

**HIGH COURT OF MADHYA PRADESH, BENCH AT GWALIOR**

**(DIVISION BENCH : HON. SHRI JUSTICE S.K.GANGELE  
&  
HON.SHRI JUSTICE BRIJ KISHORE DUBE)**

**[Writ Petition No. 3332 of 2010 (PIL)]**

**Dharmvir Singh and Another**

**Vs.**

**Union of India & Others.**

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Shri Prashant Sharma, Advocate for the petitioners.

Shri Ankur Mody, Assistant Solicitor General for the respondent  
no.1- Union of India.

Shri Vivek Khedkar, Deputy Advocate General for the respondents  
no. 3, 4, 5, 6 and 7/ State.

Shri A.K.Chitley, Senior Advocate with Shri Raju Sharma, Advocate  
for the intervenor(Company)/ Samruddha Jeevan Food India  
Limited.

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**O R D E R**

**( Passed on the 13<sup>th</sup> day of July, 2012 )**

(Whether approved for reporting)

***Per Shri Gangele,J :***

The petitioners have filed this Public Interest Litigation  
for order of enquiry against various financial companies working  
within the jurisdiction of this Bench.

(2) The petitioners pleaded in the petition that they are  
residents of Gwalior city and thousands of persons of various  
districts in the State of Madhya Pradesh, including Gwalior city,

have been cheated by various finance companies because these companies under the garb of various schemes, used to receive deposits from the persons with a promise to pay the money back with higher return of interest from 15-20%. These companies used to receive monthly installments and they used to issue fixed deposit receipts to the persons with a promise to pay higher interest. For the aforesaid activities no prior permission has been taken by the companies from the Reserve Bank of India, Security Exchange Board of India or Registrar of the Companies or under the provisions of Madhya Pradesh Nikshepakon Ke Hiton Ka Sanrankshan Adhinyam, 2000 (hereinafter referred to as the 'Act of 2000'). The companies adopted various fictitious methods on papers to show that actually they are in the business of purchasing and selling of cattles, purchasing and selling of plots, development of plots and other activities. In the name of the aforesaid schemes, the companies used to receive money from the citizens with a promise to pay the money back with higher interest. Actually, the companies are in the business of receiving deposits from the citizens.

(3) This Court issued notices to the respondents and thereafter the District Magistrate, Gwalior vide order dated 4<sup>th</sup> May, 2011 passed orders under Section 144 of Criminal Procedure Code, 1973 and directed the concerned Police Stations to conduct investigation. The District Magistrate also stopped the activities of the companies and thereafter at various police stations criminal cases have been registered against various companies.

(4) This Court vide order dated 5<sup>th</sup> July, 2011 directed the CBI to conduct preliminary investigation about the activities of the companies, who were operating outside the State of Madhya Pradesh because the State authorities mentioned the fact in the

return that it is not possible to conduct investigation about the companies who have been operating outside the State of Madhya Pradesh and in various cities. By a detailed order dated 5<sup>th</sup> July, 2011, this Court ordered CBI inquiry. Operating part of the order is as under:-

“By this order looking to the magnitude of the problem and the fact that District Administration and Police Authorities have no capacity to investigate it properly. We deem it fit in the interest of justice and in the interest of thousands of citizens and in the interest of national economy that CBI be directed to conduct a primary investigation about the activities of the companies mentioned in para 2 at page 3 of this order, having operation outside of the State. The investigating authority be at liberty to reach its own conclusions. A copy of this order be sent to the Director of CBI with a request to take appropriate action in the matter and inform the Court about the action taken within a period of three months.

Ordered accordingly.”

(5). Against the order passed by the District Magistrate under Section 144 of the Criminal Procedure Code and further orders, some Companies filed writ petitions. Those writ petitions were dismissed by this Court after passing detailed order.

(6) Thereafter, Special Leave Petitions were filed by the Companies before the Hon'ble Supreme Court against the rejection of writ petitions. Those SLPs were registered as Special Leave to Appeal (Civil) Nos. 16315, 17827 and 17829 of 2011 and dismissed by the Hon'ble Supreme Court with the following observations:-

“Heard learned counsel for the petitioner.

We are not inclined to exercise our discretion in any of these special leave petitions under Article 136 of the Constitution of India. The Special Leave petitions are dismissed. However, we direct that the observations made by the High Court in the impugned orders shall have no bearing in the future

proceedings.”

“In two other Special Leave Petitions i.e. Special Leave to Appeal (Crl) Nos.3725 and 3726/2012 [ M/s. PACL Limited Vs. State of M. P. and Others], the Hon'ble Supreme Court issued notices and also stayed operation of orders passed by the Collector, Gwalior and this Court.”

(7) During the pendency of this petition, the District Magistrate directed the police authorities to conduct an enquiry against the various companies and thereafter various criminal cases have been registered against the companies and charge-sheets have been filed before the Special Court at Gwalior and some other Districts. The criminal cases are pending for adjudication. In some of the cases, the Special Court ordered for return of money of the investors deposited in the Companies.

(8) The State in its reply, admitted the fact that the companies had been receiving deposits from the citizens with a promise to pay higher return of interest and they were in the financial business collecting money without following the provisions of law.

(9) This Court vide order dated 5<sup>th</sup> July, 2011 directed the CBI to conduct enquiry in regard to activities of various companies. The CBI conducted the enquiry and forwarded two reports to this Court. By one report, the CBI requested the Court to grant further eight weeks time to complete the enquiry and thereafter the enquiry was completed. The CBI has submitted the following **status report** to the Court:-

**1. Introduction:-**

1.1 The instant Preliminary Enquiry (PE) was registered at CBI Bhopal on 21.07.2011, as per the order dated 5/7/2011 passed by the Hon'ble High

Court of Madhya Pradesh, Bench at Gwalior in Writ Petition No. 3332 of 2010 (PIL), Dharamveer Singh & Another Vs. Union of India & Others. The Hon'ble Court had directed Cbi to hold a primary investigation regarding affairs of the Companies **which have been operating outside of the state**, as mentioned at para 2 of page 3 of the order dtd. 5. 07. 2011, so as to ascertain whether the said companies have been operating in accordance with law or otherwise. According to the order, the investigating authority i.e. CBI would be at liberty to reach its own conclusion that whether the companies have been doing their business in accordance with law or the activities of the companies amounts to commission of offence (s).

1.2. The Hon'ble High Court had observed that looking at the magnitude of the problem and the fact that district administration and police authorities did not have the requisite capacity to investigate it properly, it was in the interest of justice, thousands of citizens and national economy that the matter is enquired into by CBI.

1.3. Hon'ble High Court had further observed that the order shall not be read against or affect adjudication of criminal cases which are pending before various criminal courts. It further observed that the order shall not affect the investigation conducted by police administration of district Gwalior or any other district and shall also not be read against any company, whose matter is pending before any court.

1.4. The Hon'ble court has further observed that **"We have not directed the investigating agency to register any offence against any company.** We have simply directed the investigating agency to **submit a preliminary investigation report to this**

**court in order to facilitate the court for further action in the matter.”**

**2. Allegations of Enquiry:-**

It has been alleged that the 33 companies (erroneously mentioned as 34 due to a missing serial no.), whose addresses are mentioned at para 2 of the order dated 05.07.2011 of the Hon'ble High Court, have been receiving deposits from the investors with a promise to give regular interest or returns on the deposits so received. In order to carry out the aforesaid activities, the companies have adopted various modus operandi like fictitious selling and purchasing of cattle, plots and other goods and fictitious entries have been made in the name of sale and purchase by way of sham transactions in the books of companies. In doing so, the companies have not taken any permission from the Reserve Bank of India and have not complied with the provisions of the Companies Act, Banking Regulation Act 1949 or the Madhya Pradesh Nikshepakon Ke Hiton Ka Sanrakshan Adhiniyam, 2000.

**3. Developments:-**

3. 1. On the direction of the Hon'ble High Court of Madhya Pradesh, Bench at Gwalior, a Preliminary Enquiry was registered at CBI Bhopal on 21.07.2011 vide No. PE 0082011S001 and enquiry was taken up. Subsequently this enquiry was transferred to EQ-III Branch, CBI, New Delhi.

3. 2. During the course of enquiry the names of the companies whose addresses were mentioned in the orders of the Hon'ble High Court were obtained. These are:-

Sl. No.	Name of the Company	Address as mentioned in the High Court order
I	Madhya Pradesh Lok Vikas Finance Ltd.	27, Mayur Marker, Thatipur, Gwalior
II	Samruddha Jeevan Foods India Ltd.	Pramila Plaza, Thatipur, Gwalior
III	Garima Real Estate and Allied	Garima Kalyan Toward, Near Basant Talkies, Thatipur, Gwalior
IV	Saksham Diary India Ltd.	Midland Plaza, Jhanwar Estate, Gwalior
V	Green Fingers Agro Land Maintenance Private Ltd.	Shivalaya, Sudamapuri, M. H. Square, Morar, Gwalior
VI	Royal Son Marketing and Insurance Service	22, Bhagwan Colony, Thatipur, Gwalior
VII	Sky Lark Land Developers and Infrastructure India Ltd.	Ganga Complex, Mall Road, Morar, Gwalior
VIII	Adhunik Housing Development Pvt. Ltd	University Road, Gwalior
IX	Jeevan Surbhi Dairy and Allied	University Road, Gwalior
X	Parivar Dairy and Allied Ltd.	Ganesh Plaza, Gole Ka Mandir, Gwalior
XI	JSV Developers India Ltd.	41 Manik Vilas Colony, Near Landmark, Gwalior
XII	K. M. J. Land Developers India Ltd.	Fortune Plaza, City Centre, Main Road, Gwalior
XIII	Sun India Read Estate	11, IIDC Plaza, City Centre, Gwalior
XIV	Madhur Real Estate And Allied	50, Manik Vilas Colony, Gwalior
XV	BPN Real Estate and Allied	Abhaya Plaza Complex, Ground Floor Sharda Vihar, City Centre, Gwalior
XVI	Pravachan Dairy and Allied Ltd	104, Jiwandeeep Apartment, Gole Ka Mandir, Gwalior
XVII	Anmol Sahara Marketing India Ltd.	4-A, Gurukrupa Bhawan, Rameshwar Colony, AGMP Road, Gwalior

XVIII	KBCL Pvt. Ltd.	In front of Gurudwara, Phoolbagh, Gwalior
XIX	G. N. Land Developers	In front of Bharat Talkies, Shindey Ki Chhawani, Gwalior
XX	Kim Future Vision (Kim Infrastructure & Developers Ltd. )	Rajeev Plaza, Jayendraganj, Gwalior
XXI	PACL India Ltd.	Pay-In Plaza, Shinde Ke Chhawani, Gwalior
XXII	MKD Land Developers India Ltd.	First Floor, Rama Towar, Shinde Ke Chhawani, Gwalior
XXIII	Kamal India Read Estate and Allied Ltd.	3 Manik Vilas Colony, Behind Hotel Landmark, Gwalior
XXIV	Sarthak India Ltd.	Gudiguda Ka Naka, Lashkar
XXV	RBN Real Estate and Infrastructure India Ltd	Latipur Colony, Gwalior
XXVI	Sai Prasad Food India Ltd. Sai Prasad Properties	Jinsi Nala No. 3, In front of Janak Hospital, Lashkar, Gwalior
XXVII	Galav Leasing and Finance Ltd.	Usha Colony Dabra, Office at Padav, Gwalior
XXVIII	GCA Marketing Ltd.	Jagannath Chamber, Hotel Saya, Padav, Gwalior
XXIX	Chanderlok Fin-vest Pvt. Ltd.	Shivaji Towar, Phoolbagh, Gwalior
XXX	State Citizen Sakh Sehkari Marya	Shriram Market, Hakur Baba Road, Dabra, Gwalior
XXXI	Madhur Tourism and Markential Private Ltd.	50 Manik Vilas Colony, Gwalior
XXXII	Madhur Dairy and Allied Ltd.	50 Manik Vilas Colony, Gwalior
XXXIII	Royal Sun Marketing Services Private Ltd.	22-a, Bhagwan Colony, R. K. Puri, Thatipur, Gwalior

3. Requests were also made to the Registrar of Companies Gwalior, District Collector

Gwalior,SP Gwalior and Ministry of Corporate Affairs, New Delhi to provide the details of the Branch Offices/ Registered Offices/ Corporate Offices of the said 33 companies, located outside the state of Madhya Pradesh. The information available to public on the website of ROC was also scrutinized to find out the same. By summing up the information so gathered from various quarters, it revealed that the following 13 companies have their offices/ area of operations outside the state of Madhya Pradesh.

S. No.	Name of the company with CIN( Corporate Identification Number) no. and date	Registered with	Addresses of Offices	No. of Complaints/Refund Claims fled with Collector Gwalior (as per HC order dt. 05/07/2011)	Details of Criminal Case registered with Gwalior Police
I	Madhya Pradesh Lok Vikas Finance Ltd. U45991CT1996PLC10401 Dated: 19.01.1996	ROC-Gwalior	Reg. Office-Kataria Road Peradis Building Raipur Chhatis garh India	Nil	None

II	Samrudha Jeevan Foods India Ltd., U15204PN2002PLC016950 Dated 29.04.2002	ROC- Pune, Pune PMT Building, 3 <sup>rd</sup> Floor, Deccan Gyamkha na Pune, Maharas htra 411 004	Reg. Off.- Office No. 4, 3 <sup>rd</sup> Floor, Lankma rk Building Shirole Road, Opp. Fergus son College, Shivaji Nagar, Mahara shtra  Office- D-1, 13/5, Sambaji Nagar, Dhanka wadi Pune 411043  CSC Add. - M-5 Mezzani ne Floor, Pramila Plaza Thatipu r, Gwalior	Yes (16)	FIR No. 309/11, PS Thatipur, u/s. 420 IPC, 3(1), 3(2) & 3(4) of M. P. Nikshepa kon Ke Hiton Ka Sanraksh an Adhiniya m, 2000 and 45S RBI Act 1934
III	Saksham Dairy India Ltd. U15203DL2000PLC108977 Dated:21.12.2000	ROC- Delhi 4 <sup>th</sup> Floor, IFCI Towar, 61, Nehru Place, New Delhi	Reg. Office 307, Agg arwal Shoppin g Arcade, CU Block, LSC	Yes(2)	None

		110019	Pitampura, Delhi, 110085		
IV	Royal Sun Marketing and Insurance Services, Gwalior Royal Sun Marketing Services Private Ltd., Gwalior MP,U52590MP2008PTC 021178 Dt. 22.09.2008		Reg.Off. -22A, Bhagwan Colony, R. K. Puri, Thatipura, Gwalior, M.P. 474 011	Yes (1)	None
V	Sky Lark Land Developers and Infrastructure India Ltd. U70100MP2010PLC023 689 Dated: 02.06.2010	ROC-Gwalior, 3 <sup>rd</sup> Floor A Block, Sanjay Complex, Jayendra Ganj, Gwalior, Madhya Pradesh-474 009	Regd. Office-Ganga Complex Mall Road, Morar, Gwalior, Madhya Pradesh  CS.C. Add.- Near Rajasthan Marval Bhind Road, Gwalior MP	Yes (1)	Fir No. 268/2011, P.S. Morar, u/s. 420, IPC 3(1), 3(2), 3(4) of MP Nikshepan Ke Hito Ka Sanrakshan Adhiniyam 2000 & 45S, 58B (5A) RBI Act, 1934.

VI	K.M.J. Land Developers India Ltd., U7010MP2008PLC0208 23 Dt. 26.06.2008	ROC- Gwalior 3 <sup>rd</sup> Floor, A' Block, Sanjay Complex Jayendra Ganj, Gwalior, Madhya	Reg. Office- 10 Fortune Plaza, Shrinant Madhav Rao Scindia Road, City Centre Gwalior, Madhya Pradesh -747011	Yes (12)	FIR No. 154/2011, PS Vishwavidalya u/s. 420, 3(1), 3(2), 3(4) of MP Nishepakon Ke Hiton Ka Sanrakshan Adhiniyam, 2000 & 45S, 58B(5A) of RBI Act, 1934
VII	KBCL Pvt. Ltd., U01407 UP 2002 PLC026529 Dt. 18.03.2002	ROC- Kanpur 10/499-B, Alliganj, Khalasi Line, Kanpur, Up 208002	Reg Off. Kalpataru, 25 K. M. Mile Stone, Mathura Agra Highway, Mathura, UP 281122 HQ- Aurangabad, Agar Road, Mathura, UP Branch Off.- 2 <sup>nd</sup> Floor Tata Indicom Office Building, In	Yes (3)	FIR No. 255/2011 PS Inderganj u/s. 420, 468 IPC, 3/6 MP Nishepakon Ke Hiton Ka Sanrakshan Adhiniyam 2000 & 45 S 58B (5A) RBI Act, 1934.

			front of Chidiya Ghar, Shinde Ki Chhawa ni, Gwalior , MP		
VII I	G. N. Land Developers G N Diary Ltd. U45300DL2008PCL181132 Dt.21.07.2008	ROC- Delhi 4 <sup>th</sup> Floor, IFCI Towar, 61 Nehru Place Delhi-1100 19	Reg. Office- 1102, Kirthi Shikhar, District Centre, Jankpuri, New Delhi 110058  Local address- In front of Bharat Talkies Shinde Ki Chawani, Lashkar, Gwalior	No	FIR No. 29/2011, P. S. Inderganj, u/s. 420, 467, 468, 506 IPC & 3, 6 MP Nikshepako n Ke Hiton Ka Sanrakshan Adhinyam 2000

IX	Kim Future Vision, (Kim and Infrastructure Developers U45201DL2005PLC140 693 Dt. 14.09.2010	ROC- Delhi 4 <sup>th</sup> Floor, IFCI Towar, 61 Nehru Place, New Delhi, Delhi 110019	Reg. & Corp. Off.- 1311, Hemkunt House 6- Rajender Place, New Delhi 110008	Yes (122)	FIR No. 254/2011 PS Inderganj u/ S. 420, 468 IPC, 3, 6 MP Nikshepakon Ke Hiton Ka Sanrakshan Adhinyam 2000 & 45-IA, 45S, 58B(5A) RBI Act 1934.
X	PACL India Ltd. U70101RJ1996PLC011577 DT.13.02.1996	ROC- 6-7 Second Floor, Residency Area, Civil Lines, Jaipur, Rajasthan 3022001	Reg. Off. -22, 3 <sup>rd</sup> Floor, Amber Towar, Sansar Chanra Road, Jaipur-302004	Yes (662)	FIR No. 256/2011 PS Inderganj 3, 6 MP Nikshepakon Ke Hiton Ka Sanrakshan Adhinyam 2000 & 45-IA, 45S, 58B(5A) RBI Act 1934.



			Road, Near Ashok Palace, Lashkar, Gwalior MP		
XII I	GCA Marketing Ltd. U52599MP2010PTC024689 Dt. 08.11.2010	ROC- Gwalior 3 <sup>rd</sup> Floor, A Block, Sanjay Complex Jayendrag anj Gwalior Madhya Pradesh- 474 009	Reg. Office- Sanik Niwas Schindia Nagar Sabdha Pratap Ashram, Lashkar, Gwalior MP 474 001  Off. F-77 Civil Lines, Bathinda Punjab  Corp. Off- 336 IInd Floor, Garg Plaza, communit y Centre, Pitampur a, Delhi-34	Yes (38)	FIR No. 279/11 PS Padao u/s. 420 IPC, Sec 6 MP Nikshepako n Ke Hiton Ka Sanrakshan Adhiniyam 2000

3.4. The Director(s)/ Proprietor of the above companies were requested to join the enquiry proceedings being conducted by the CBI in compliance to the Hon'ble High Court order. They were requested by sending letters through post, through special messengers and through e-mail, wherever available.

Field visits were also conducted to record the versions of the investors/ depositors/ complainants regarding the activities of the said companies.

The companies were asked to provide the details of the customers/ clients, details of the land bank/livestock available with them, the details of the customers to whom allotment letters have been issued, sale deed executed and the land allotted against the allotment letters.

Letters were sent to various District Collectors/ District Magistrates to verify the existence of lands in name of the companies as per the details provided by them.

Letters were also issued by post to the various investors of the companies outside the State of Madhya Pradesh to ascertain whether they have purchased/ entered into agreement for purchase of land, livestock etc. from the companies or they have simply invested into the company as recurring deposit/fixed deposit policies on the assurance of high rate of return.

Field visits were also conducted to verify the physical existence of cattle farms/ livestock and land in the possession of the companies.

#### **3. 4. 1. Madhya Pradesh Lok Vikas Finance Limited:-**

(i) This company was found to be registered with Registrar of Companies, Gwalior on 19.01.1996 with corporate identify no. as U45991CT1996PLC10401. The address of the Registered office of the Company as per the ROC record is Kataria Road, Peradis Building, Raipur, Chhatisgarh, India and the local address as

mentioned in the Hon'ble High Court order is 27 Mayur Market, Thatipur, Gwalior.

(ii) During the course of enquiry it was found that the said company is not running either from House No. 27 Mayur Market, Gwalior or from Shop No. 27, Mayur Market, Thatipur, Gwalior. It was revealed that the company also does not have its existence at the registered address of Chhatisgarh. Three persons were examined for the existence of this company and it was revealed from the owner of House No. 27 Mayur Market, Thatipur, Gwalior that the office of this company was running at the said premises ( house) during the period 1996-97 on rent basis but the company vacated the premises overnight in the year 1998.

(iii) It was further revealed during the enquiry that Sansthatagat Vitt Sanchalanalaya, Finance Department, Madhya Pradesh Bhopal vide its letter No. NBFC/1(11)2009/2176 dated 12.11.2009 has informed Collector Gwalior and other Collectors of Madhya Pradesh regarding intimation of the Reserve Bank of India that the said Company has been identified and categorised as vanishing company. However, in the instant PE, there has been no complaint against the company with District Collector Gwalior.

### **3. 4. 2. Samruddha Jeevan Foods Limited:-**

(i) It was revealed during enquiry that M/s. Samuruddha Jeevan Foods India Ltd. was incorporated on 29.04.2002, registered under the Companies Act 1956 with the Registrar of Companies, Pune having registration No. CINU15204PN2002PLC016950. The company was previously named as M/s. Gurukrupa Dairy Pvt. Ltd. which was later changed to M/s. Samuruddha Jeevan Food India Pvt. Ltd. After the company became a Public ltd. Company, its name was changed as M/s Samuruddha Jeevan Food India Ltd. and Change of Name certificate was issued by ROC Pune.

(ii) As per the Memorandum of Association (MOA), the main objects/ business of the company is (i) to produce, breed,

purchase, sell, transfer all type of livestock/farm cattle such as he-goat, she-goat, buffaloes etc., (ii) to establish, organize, promote and run goat/ buffalo farm at various places in India, (iii) manufacture various type of food products, agriculture product, fertilizers, cattle feed and (iv) to sell and purchase any and all types and kinds of livestock including goats on outright, cash and instalment basis and all incidental acts and things necessary for the attainment of foregoing objects.

(iii) As per the company, at present it is having its cattle farms at various places in India with more than 30 thousands buffaloes and thousands of goats. These are scientifically and professionally managed by well experienced people. Besides having the registered and corporate office at Pune, the Company has numerous customer service centres in various states such as Madhya Pradesh, Rajasthan, Maharashtra, Gujarat, Karnataka, Punjab and Haryana etc.

(iv) According to the company, they promote its business through its customer service centres and marketing persons by explaining various sale plans to the customers. The sale plans include cash plan as well as instalment plan. As per the company, through their plans, the company is into sale of cattle and rearing of the same on behalf of the purchasers ( customers). A customer desirous of purchasing goat/buffalo from the company under its plans, issues a letter of intent stating the intention to purchase the desired goat/buffalo (**represented in kilograms**). On receipt of letter of intent from the customer, the company enters into a sale agreement with him. After the sale agreement, the customer can purchase and take away his goat/ buffalo (**represented in kilograms**). Further, if he desires, he can avail the rearing services provided by company, by again issuing a letter of intent to the company, for rearing. On receipt of said letter of intent, the company issues an acceptance letter to the customer. Then the

customer and the company enter into a **second** agreement( rearing contract) in respect the said goat/buffalo (**represented in kilograms**), as per various plans enumerated in the business manual of the company. Further, on completion of the said rearing contract, the customer can either take away his goat/buffalo( **as per plan, represented in kilograms**) or sell the same to the company. The sale proceeds acquired from the sale of the milk, fertilizers, by-product etc are utilized by the company for development, management and establishment of farms and for purchase of more cattle.

(v) As per the company, it is not a non-banking financial company (NBFC) as defined by section 45 I of the RBI Act 1934, as no deposits in the form of Recurring Deposits or Fixed Deposits etc are being taken by the company from its customers. Further, according to the company, since no advancing of loans etc. is being undertaken by it, no registration with RBI is required. Also, according to the company, the sale and purchase of cattle is not covered under the provisions of the SEBI Act relating to collective investment schemes viz. section 11AA since the company does not accept to customers and hands over its physical possession to the customers by way of sale agreements. According to the company, only if, after completion of sale agreement and handing over the possession of the cattle to the customer, he desires rearing of his cattle, the rearing ( second) contract is entered into by him with the company, otherwise not.

(vi) During the enquiry conducted, the company was asked to prove the details of its customers and farm-wise cattle records available with the company. The details provided by the company revealed that it has a total of 6,48,406 customers all over India out of which, 15,330 are under the one-time payment plan while the remaining 6,33,076 customers are under the installment plan. Out of these, the company has entered into rearing contracts with

35,105 customers which include 4, 616 under the one-time payment plan and 30,489 under the instalment plan. A total of 3547 customers have taken the delivery of the live stock from the company and out of which 346 were under one-time payment plan and 3301 under instalment plan. These customers had taken the delivery of the live stock after successful completion of the rearing contract between them and the company besides this a total of 5323 customers have claimed and were given refund by the company (148 under one-time payment plan and 5175 under instalment plan). This amount was refunded by the company due to death of the customers and their legal representatives were not inclined to continue the said contract with the company. This also included the customers who were unable to fulfil the terms and conditions of the said agreement like paying total number of instalments to the company.

(vii) Under the thirteen projects of the company, there are a total of 16,876 cattle, which include **12,931 buffaloes and 3,945** goats. Out of these, in the project Mehsana located at Gujrat, 2900 buffaloes have been given by the company under the rearing contract in village Nevad, Tal and District Mehsana, Gujrat.

(viii) Scrutiny of few agreements/contracts (sales and rearing), provided by the company, indicates that in case of buffaloes, the agreement/contract mentions the number of buffaloes while in case of goats it mentions number and the total weight of the goats in kilograms. In these sample agreements/contracts it was seen that some customers have made agreements/contracts for more than one buffalo/goat which in other words means that each agreement/contract corresponds to at least one buffalo/goat.

(ix) In the light of the above observation the livestock availability with the company was examined. It is seen that against a total of 6,48,406 customers, all over India, the company has a live-stock of only 16,876. This live-stock is far short of the number of

live-stock required to be with the company even against its already exiting rearing contracts (with 35,105 customers). The number of live-stock should in fact be more than the number of rearing contracts since there would be some cattle against the sale agreements too. Thus it indicates that the company is not purchasing cattle against every deposit made by the investors.

(x) Field visits were conducted at the cattle farms of the company at Jalgaon, and Malthan (Pune), Maharashtra and it was found that there was a proper cattle farm functioning at both these places.

(xi) During the enquiry, 12 customers of the company (against 23 sale contracts) were examined. This included **13 complaints, out of the 16 that were referred in the Hon'ble High Court's Order dated 05.07.2011.** It was found during the examination of these persons that in most of the cases the individuals were aware that the company will be purchasing cattle against their deposits and will be rearing them in its own farm. But they were told by the company agents that at the end of the agreement period they shall have the option to either take away the cattle or take the amount equal to 'estimated value' as shown in the certificate issued to them by the company. A few of the examined customers were not aware of these options and had only invested for a better rate of return. Few replies received through post from the investors outside Madhya Pradesh also revealed that they had purchased investment policies against the deposits made by them with the company and not the cattle.

(xii) It was also revealed during their examination that the company is following a 'chain system' of agents for its business. This system creates a hierarchical network of the agents in which each agent has certain number of up-line/down-line member on the basis of which he earns a pre-determined percentage of the commission from the customer deposits. The details provided by the company

reveal that it follows a 12 level structure of agents.

(xiii) The scrutiny of the certificate provided by the company has revealed that the company mentions the investment as sale agreement/goat rearing contract, against the investment made by the customer **but the details/numbers of the cattle against this agreement are not mentioned. Further, estimated realizable/maturity value is mentioned at the end of the agreement period.** This also indicates that the company is engaged in the business of receiving deposits under various plans and that all the deposits received by it are not for sale of cattle as is being claimed by the company.

### **3. 4. 3 Saksham Diary India Limited:-**

(i) It was revealed during enquiry that this company was registered with Registrar of Companies, NCT Delhi and Haryana on 21.12.2000 vide certificate of incorporation No. U15203DL2000PLC108977 and the certificate of commencement of business was accorded to the company on 22.01.2001. As per the MOA, this company was incorporated in order to develop livestock with high cattle at modernized diary farms.

(ii) As per the representative of the company who joined the enquiry, the company has never been associated with receiving any deposit/ cash etc. from any person in the name of sale, purchase/ rearing of cattle. The company has also not been associated with activities like advancing of loans or financing any individuals etc. Hence, according to the company, it does not require any registration with RBI or SEBI or any other body/authority dealing with or regulating financial activities. For the purposes of functioning of the company, it has all necessary registrations with the concerned authorities viz. Trade Mark Registration, Agmark Registration, Registration with Bureau of Indian Standards, Directorate of Veterinary Services M. P. Bhopal (MMPO), Food Licences and Licence for a factory.

(iii) It was stated by the company that the complaint made against it before Collector Gwalior, mentioned in the High Court order, actually related to the alleged payment to be made by the company to the complainant. According to the company, the complainant claimed that the said payment was due against the supply of milk by him to it and the complainant wanted to purchase cattle from it in lieu of this amount. But the company was of the view that the complainant actually owed it money. However, the company has refunded the amount claimed by the complainant and an affidavit has been given by the complainant to this effect. It was also stated that an enquiry was got conducted by Collector Gwalior through police station Thatipur, Gwalior in the matter and the In-charge Officer vide his report no. 886/2011 dated 02.05.2011 , has submitted that no offence has been revealed on the preliminary enquiry conducted against the company. During the enquiry the company did not provided any detail of the policies etc. It has undertaken and simply narrated that they are not into the business of accepting deposits for sale of livestocks etc. but are into the business of Diary.

(iv) Both the complainants mentioned in the High Court order (against three agreements) were examined. It was stated that they had purchased RD/FD policy with the company but have now got refund from the company i.e. after they made application to the District Collector Gwalior. At the time of initiation of the policy it was only informed to them that they would be getting a better rate of interest on maturity as compared to the Government sponsored schemes. According to these complainants, at no time did the company inform them that the amount being invested by them was fro purchase of cattle or land in their names. They were only informed of a simple investment policy. In one of the cases, the agreement entered into by the investor was with **Saksham Dairy** while he eas issued certificate for his investment by **Saksham**

**Realcon Limited** and now the refund has been given to him.

**3.4.4 Royal Sun Marketing Private Limited/Royal Sun Marketing and Insurance Services Private Limited/ Royal Sun Real Estate & allied Services India Pvt. Ltd:-**

(i) The director of the company Royal Sun Marketing and Insurance Services Private Limited joined enquiry and submitted that the company was registered on 22<sup>nd</sup> September 2008, with ROC Gwalior with the object of carrying on the business of networking and multi level marketing and business of marketing of all kinds of goods and its own products or of other manufacturers/companies. However, since the business of Insurance was not carried out, the name of the company was changed to **Royal Sun Marketing Pvt. Ltd.** with the Registrar of Companies on 26.11.2010. The company has no office outside Gwalior.

(ii) It was also stated by the Director that she had earlier started a company by the name **Royal Sun Real Estate and Allied Services India Ltd.** on the instance/guidance of some acquaintances. This company was engaged in sale/purchase and development of plots. Under the plan run by this company, customers were asked to take instalment/lump-sum payment policy for the purpose of purchase of land and at the end of maturity period, as per the plan, the customers had the option to either take the land equivalent to units allotted to them or the maturity amount. According to the Director, she was under the wrong impression that this was legal. However, at the end of year 2010, when the Director came to know from some sources that this cannot be legally done, the work of policies was stopped and all the money was returned back to the customers.

(iii) It was stated by the Director that this had happened due to ignorance about the rules and improper guidance. On being shown a copy of certificate issued by Royal Sun Real Estate and Allied

Services India Limited in the name of Dheeraj Gaur S/o Late Shri Papi Ram Gaur, Sai Flour Mill, Near Shani Dev Mandir, Taraganj, Laskar, Gwalior and the receipts issued thereof, the policy and the signatures were identified by her.

(iv) During the course of enquiry, four companies in the name of Royal Sun emerged. Of these four, three firms registered at the address as mentioned in the High Court order i.e. 22A, Bhagwan Colony, Thatipur, Gwalior are as under :-

- a. Royal Sun Marketing Private Limited.
- b. Royal Sun Marketing and Insurance Services Private Limited.
- c. Royal Sun Real Estate and Allied Services India Limited.

(v) No activities of the first two companies were found relating to deposits. It revealed during the enquiry that the third company viz. **Royal Sun Real Estae and Allied Services India Limited** was receiving deposits from investors and issuing policies. These policies showed allotment of land units against the consideration amounts. However only one complainant of the company could be located whose money has been refunded by the company.

(vi) The fourth company viz. **Royal Sun Marketing Private Limited** (same name as a above) was found registered at a different address i.e. Nathelav, Bahibali Colony, Dahod Road, Banswada, Rajasthan. The (only) complaint mentioned in the Hon'ble High Court order pertains to this fourth company. This was revealed on scrutiny of records collected from the office of District Collector Gwalior. It was revealed that this fourth company had no relation with the two addresses as mentioned in the High Court order i.e. 22 and 22-A Bhagwan Colony, Thatipur, Gwalior. **The said complainant could not be traced at the address given in the certificate issued by the company/complaint.**

### **3.4.5 Sky Lark Land developers and Infrastructure India Limited:-**

(i) One of the Directors of the company joined the enquiry and it revealed that M/s Sky Lark Land Developers and Infrastructure India Ltd. is having registered office at Ganga Complex, Mall Road, Morar, Gwalior. The company came into existence on 2<sup>nd</sup> June 2010 and has its operations all over India with offices at Gwalior, Delhi, Allahabad, Jaunpur, Pratapgarh, Banaras, Agra, Bhilwara, Surat and Vadodara. The company came into incorporation under the Companies Act 1956 and is an Indian Non Government company, Limited by shares.

(ii) As per the MOA, the main object of the company is to engage in real estate promotion, development and project management association including Civil, mechanical, Electrical, Colonizer, Builder, Developer and all other type erection, commissioning projects, project trading as well as consultation for the execution of projects and **to buy, exchange, purchase or otherwise acquire interest in any immovable property and development of that area, to divide the same and sell or rent to the public and realize cost in lump-sum or installment or by hire purchase system or otherwise to start any housing scheme in India or abroad and to bid for and execute Government contracts for the schemes approved by concerned authorities.**

(iii) As per the company, the applicant/customer who is interested in purchase of a piece of plot from the company is required to fill up an application form in which the payment plan, area of land to be purchased and the payment period has to be reflected by the customer, besides giving his other details. Thereafter the agreement, available on the application itself, is executed between both the parties where the terms and conditions for purchasing the plot and breaches are also mentioned. After the execution, a registration certificate, which contains the details of the payment

plan, size of the plot, mode of payment etc. is issued to the customer. The description of the land i.e. the location where the land will be allotted to the customer is not given/told to the customer till the stage of agreement. Once full payment (in case of cash down payment plan) or sixty percent of it (in the case of instalment plan) is received as per the plan, the available land with the company at that time is allotted to the customer within 365 days or 90 days of the date of payment, respectively. The allotment letter is thereafter issued which contains the exact details of land viz Khasra no, place and area etc. After the issuance of the allotment letter the sale deeds are registered in the name of the customer as per the payment plan within reasonable period. It was also stated that the company is presently having approximately 59 bighas of land in and around Gwalior. The company had undertaken an agreement for another 90 bighas of land at Gwalior, District but since the company's office at Gwalior was sealed on 5<sup>th</sup> May 2011, the sale deed of the same could not be executed.

(iv) It was told during the enquiry that further course of action regarding the agreements with customers shall be decided as per the orders of the Hon'ble High Court. After the newspaper advertisement by the Collector Gwalior regarding the alleged cheating by various firms, only one customer of the company has made a complaint to Collector, Gwalior for return of his money. As per the company the amount has been refunded to the said complainant with 12 percent interest through the Hon'ble High Court.

(v) **During enquiry, one more complainant who had filed the refund claim against the company with District Collector Gwalior was examined. He submitted that he had taken a RD on installment with the company and he was only informed that the plan was simple investment plan and that on completion of the plan, he will be getting the agreed upon**

**amount as mentioned in the certificate issued by the company.**

(vi) The genuinity of the sale deed in respect of the land owned by the company was verified from District Collector Gwalior and it was found that the said land is in possession of the company but is undeveloped. The details regarding the total no. of customers with the company in different states as well as the details of the persons to whom allotment letters were issued could not be provided by the company on the ground that their main office at Gwalior was sealed by the District Collector, Gwalior. However, during enquiry it was learnt that searches were conducted by the Gwalior police at the said sealed office of the company and some documents were seized by the Gwalior police. The same were scrutinized but all the details could not be gathered.

(vii) It was found that the company has its branches at 9 places viz. Gwalior, Gorakhpur, Varanasi, Jaunpur, Bhind, Mirjapur, Bhadoi, Sabalgarh and Allahabad. The details of the customers, the plans under which the customers were issued certificates and the land issued to them could not ascertained. The business report seized, revealed the collections at Gwalior from 29.06.2010 to 30.04.2011, at Gorakhpur from 05.03.11 to 25.04.11 at Varanasi from 08.06.2010 to 31.03.11, at Jaunpur from 07.03.11 to 31.03.11, at Bhind from 06.09.10 to 23.02.11, at Mirjapur from 07.02.11 to 29.03.22 at Bhadoi from 10.01.11 to 28.02.11, at Allahabad from 01.03.11 to 31.03.11 and at Sabalgarh from 15.10.10 to 14.02.11. This clearly means that the offices ( Customer Service Centres) at all these places had started in either second half of 2010 or in 2011. The Company has come into existence in June 2010 only and was sealed in May 2011 and was having 59 Bighas of land in its name before the initiation of its first agreement.

(viii) **Since the duration of the operations of the company is less than a year** (minimum period after which the

company issues the allotment letters, **it is not possible to say conclusively that whether the company would have allotted/transferred the land in the name of investors within the prescribed period or otherwise.**

**3. 4.6 KMJ Land Developers India Limited:-**

(I) The authorized representative of the company KMJ Land Developers India Ltd. was examined who stated that, 10 Fortune Plaza, City Centre, Gwalior is the registered office of the company whereas the corporate office is in Delhi with address Atmaram House, 13<sup>th</sup> Floor, Tolstoy Marg, Connaught Place, New Delhi. The company is having corporate identity no. U70101MP2008LC0208823, was incorporated under Companies Act 1956, with the registrar of companies, Madhya Pradesh & Chhattisgarh on 26/06/2008 and the certificate of commencement of business was given to the company on 02/09/2008.

(ii) The company was incorporated with the object to carry out the business as purchaser and seller of land, whether agricultural, commercial, residential or otherwise and to deal in all kinds of immovable properties whether belonging to the company or not. The sale and purchase of land is done by the company by itself and also on or behalf of customers. The company provides facilities to the customers to purchase land by paying consideration and after receiving money, company allots land to the customers. The allotted land to the customers is agricultural land, in which company engages itself to develop the land through cultivation and scientific research and increase productive capacity of land . Through this process, the land becomes fertile and its value also increases considerably, which enables the company to share profits with its customers, as estimated by it.

(iii) The company is adopting two plan system- lump sum payment plan and flexible installment plan. The customer approaches the company showing his/her desire to adopt one of the

plans of the company for purchase and enters into an agreement with the company. The agreement contains:-

1. The details of plan which the customer has adopted.
2. Name and address of the nominee of customer and
3. Payment details.

(iv) The Agreement also contains the general terms and conditions, as per which after full payment ( in case of cash down payment plan) or sixty percent of it ( in the case of instalment plan) is received as per the plan, the available land with the company at that time is allotted to the customer within 365 days or 90 days of the date of payment, respectively. Under both the plans, the sale deed is executed in favour of the customer only after receiving full amount from him.

(v) The agreement further states that the company shall carry out preliminary work upon the said land to develop and maintain the said property in consultation with experts including survey, demarcation, cultivation, planting and raising of crops, trees, plants etc. and to use fertilizers, pesticide, irrigation harvesting and all other incidental activities. it contains a possession clause according to which the customer shall be the owner in possession of the said property at all times and the company shall enter upon the said property only for the limited purpose of development and maintenance of the said property as per the agreement.

(vi) For the purpose of development of business of the company, it has agents/brokers who bring in business for the company and they are given the commission/brokerage on the business brought by them. The company has a 12 level chain of hierarchy for agents-ranging from the rank of agents to the level of Executive Managers. The commission on business done by the agents is distributed amongst all the 12 levels up to the Executive Managers. The company pays 2-5% brokerage to the Executive Manager who is an employee of the company . It is the

responsibility of the Executive Manager to distribute the same to the various other levels of agent hierarchy.

(vii) According to the company it is having pieces of land at Vijaywada, Gwalior, Agra, Jhansi, Bhilwada, Durg, Varansi, Kanpur, Morena and Itarsi. The company possesses approximately 233 hectares of land as owner all over India which is equivalent to 27,85,999.0134 sq. yds. The land at Gwalior measuring about 64 hectares, which is equivalent to 7,65,433.63 sq.yads has been attached by Collector, Gwalior.

(viii) As per the company, it has its customers in the states of M.P., Chattisgarh, Orrisa, Maharashtra, U.P., Bihar, Rajasthan, Gujarat, W.Bengal and Andhra Pradesh. Since its inception in June 2008 there are a total of 4,11,904 customers of the company till June 2011. Out of these, 60,072 are under lump sum payment plan and 3,51,832 are under regular instalment plan. A total of 20,474 persons have been issued allotment letters allotting the lands at different places all over India. The land allotted against this allotment is equivalent to 3,35,915.78 sq.yards. All the allotment letters have been issued under lump sum Payment Plan and there has been no allotment under regular instalment plan as none of those customers have completed the tenure/have deposited the requisite amount for allotment. As per the company, since it has started its business from Sept. 2008 , no sale deeds have been executed by it with any of its customers.

(ix) However the customers under Lump Sum Payment Plan from Sept. 2008 to May 2010, who had made full payment of the amount , against the purchase of land and had completed the minimum required period of 365 days for execution of sale deed till May/June 2011 (when the properties of the company were attached by the district administration ,Gwalior), no sale deeds were executed with them.

(x) The company reasoned that the land allotted to such

customers is a part of total land available with the company for which both, the Lump Sum Payment Plan customers as well as the Regular Installment Plan customers are equally eligible. Such land is a part of a consolidated development plan of the company and the land can be distributed to the two types of customers only together and not separately. If any part of the land under development is handed over to customers of Lump Sum Payment Plan only, it will adversely affect the development of the rest of the land. This explanation however, does not seem to be convincing.

(xi) During the course of enquiry eight persons against all the 12 complaints (15 policies) as shown in the Hon'ble High Court's Order were examined and it was revealed that in some cases the investors were aware that the land will be purchased against their deposits while in other cases they were under the impression that it was a simple investment policy. However, in the cases where the customers were aware of the purchasing of land, it was told to them that they had the discretion either to take the land or the estimated realizable value at the end of the agreement period.

Thus, even in those cases the money received from investors cannot be considered as being against the sale of land and could be termed as investment deposits.

(xii) Only one person examined was aware that the land will be transferred in his name, In one case, it has also been revealed that the company had taken over the policy of Kim Infrastructure and Developers limited (agreement No. 0301R0006103 dated 28.04.2007) and subsequent instalments were received against this policy by the company KMJ Land Developers. Before the claim was filed with collector Gwalior, a premature claim was filed with the company by the policy holder (customer) after depositing 56 out of 66 instalments but till date the amount has not been refunded to him by the company. This indicates that the company is into the business of receiving deposits. No complainant examined was found

to have received any allotment letter from the company.

(xiii) During enquiry, the land details were requested from the company and letters were sent to District Collector/ District Magistrate for verification. Also, field visits were conducted for the purpose of verification of land. The field visits conducted at Agra confirmed the land to be in possession of the company.

#### **3.4.7 KBCL India Limited -**

(i) The authorized representative of the company was examined during the course of enquiry who stated that the company KBCL India Ltd. was incorporated in the year 1993 with registration at RoC , Kanpur, on 18.03.2002.

(ii) The registered office of the company is at 25th Milestone, Mathura-Agra Highway, Mathura. The certificate of incorporation was issued by the Registrar of Companies, Kanpur with the registration no as U01407UP2002PLC026529, dated 18/03/2002. The main object of the company is to carry out the business of laying out, development, construction, building, or providing consultancy in connection with any building or building scheme or any such other structural work of any kind. The object is to also purchase, acquire, take on lease or in exchange or any other such lawful manner any area, land, building, structures and develop the same , and dispose of or maintain the same townships markets, or such other building or conveniences thereon and to equip the same or any part thereof with all or any amenities or conveniences such as drainage facilities electric and to deal with the same in any manner.

(iii) The company is into real estate business activities pertaining to sales and purchase of land. The company purchases barren, agricultural, commercial land in many parts of the country and sells it to the customer in the form of plots of pre determined sizes. Further, company sells land under two plans - Single Instalment Scheme (SIS) Plan and Multiple Instalment Scheme

(MIS) Plan.

(iv) According to the company, in the Single Installment Plan it allots the land to the customer after a period of one year from the date of payment and in Multiple Installment Plan, the company allots it to the customer after the receiving of 50% of the full payment (without any default). After the fulfilment all these conditions as per agreement with the customer, the company provides allotment letter to the customers. After the allotment, the company registers the land in the name of the customer within 100 days of the completion of the tenure of the plan.

(v) According to the company, it has never engaged in any of the financial activities i.e. non-banking financial or chit fund business & hence it does not come under the purview of RBI and SEBI Acts. This is because according to the company it is a real estate company in a sale and purchase of a land and does not come under collective investment schemes.

(vi) The company Kalptaru Bio Tech Corporation Ltd./KBCL India Ltd.owns (since inception) land at Mathura, Meeraganj Bariely, Gagan Bawra Kolhapur, Vidisha, Farukabad, Bulandsheher, Vyara, Palampur, Udaipur & Ajmer , totalling 2070822.95 sq. yds.

(vii) Since the inception of the company in 2002 , there have been a **total of 3,97,532 customers with KBCL** under different sale plans (3,87,410 under MIS plan and 10,122 in SIS Plan). **The total units allotted to these customers add up to 15,51,381.5 sq. yds.** ( 11,46,034 sq. yds. under MIS and 4,05,347.s under SIS ). Out of the total 3,97,532 customers of the company, **14,706 have been issues allotment letters** for the allotment of land detailing the Khasra Number, Place etc. of such land allotted. During this period since inception in March 2002 ,the company **has executed only one sale deed** jointly with 6 customers totalling registry of land equivalent to 0.2530 hectares (2790 sq. yds. Approx i.e. 2551.176 mtrs.) at Khasra No. 129, Mouza Bhadaya, Tehsil &

Distt. Mathura. **Further a total of 13,911 customers have been paid estimated value against their registration on completion of the maturity period. it may also be mentioned here that the Plan chart or other documents of the company do not mention anywhere that the customer can take away the estimated value instead of the plot offered to him at the end of the agreement period.**

(viii) The company follows a 12 level structure of agents from the rank of sales representative to Executive Manager (C). **A total of approximately 40 % of the amount which is received as sale deposits is given as commission to the all levels of hierarchy of agents of 12 levels in the first year which gets reduced to 10.20 % in the second year and 6.10 % in the third year onwards.** The commission is distributed amongst all the 12 levels which goes on reducing from the first agent of the chain, to the topmost level of agent of hierarchy.

(ix) During the course of enquiry the details of the land bank available with the company was requested and the same has been put under verification by writing letters to the concerned District Magistrates/ District Collectors. For the purpose of verification of land, field visits was also carried out at Mathura and the land was found to be existing in the company's favour. However, some portions of this land which were purchased by the company from the patta holders, is under dispute as the patta relating to these were cancelled by the concerned ADM in 2008 and the company has moved to the Commissioner's Court Agra against this cancellation.

(x) All the three **complainants (four policies ) mentioned in the High Court order were examined** and it revealed that the investors have deposited the amount with the company for a better rate of return. In one case it was intimated that the company will be giving the estimated value at the end of

the agreement periods or land against the same. However the other two were only briefed for better returns. Further no allotment letter was issued to the customer who had paid the installments for more than three year i.e the required period.

(xi) Thus it is indicated that the company has been receiving deposits from the investors without having any registration with RBI . This is also clear from the fact that since its inception in 2002 ,it has executed only one sale deed in favour of a customer while the maturity amount on completion of the agreement period has been refunded to approximately 13,911 customers/investors.

#### **3.4.8 G N Land Developers Ltd./G N Dairies Ltd./ G Gold Ltd :-**

(i) The Director & representative of the company G N Land Developers Ltd attended the enquiry and it was revealed that. was incorporated on 21.07.2008 having corporate identity no. U45300DL2008PLC181132 with registered office at 1102 Kirti Shikhar, District Centre Janakpuri, New Delhi. The main object of the company as per its MOA is to purchase, acquire, take on lease or in any other such lawful manner any land building, and structure and to develop the same and dispose off or maintain the same and built townships,market Commercial complex and to equip the same or any part of other buildings or any related amenities or connivances such as drainage, and to act as commission agents and dealers in farm land, buildings whether commercial, residential, whether meant for purchase, sale, resale or let out to sell let or dispose of the market commercial complex, lands, houses, buildings etc

(ii) **There has been no complaint against G N Land Developers Ltd. by any investor before Collector Gwalior.** It was also informed by the Director of the company that though the company was incorporated but no activity of real estate or receiving

of deposits from the investors was actually undertaken by the company and even the brochures for the same were not printed.

(iii) **However. an FIR No. 29/2011, P.S Inderganj, u/s 420,467,468,506 IPC & 3,6 of MP Nikshepakon ke Hiton Ka Sanrakshan Adhiniyam, 2000 has been registered against the company along with two other companies viz. G.N. Dairies Limited and G.N.Gold Limited.**

(iv) It has been revealed that the companies G N Dairies Limited and G N Gold Ltd. were running from the same address, which is the present address of G N Land Developers Ltd. It has been revealed that one of the Directors of G N Land Developers Ltd. viz. Shri Satnam Singh Randhawa was also one of the Directors of G N Dairies Limited during March 2003 to December 2006 and May 2010 to October 2010. The property from where the three companies viz. G N Land Developers Ltd., G N Dairies Ltd. and G N Gold Ltd. were running is owned by G N Dairies Ltd.

(v) Field visit to the aforesaid common address revealed that the property was sealed by Collector Gwalior. There was no board of any of the three above mentioned companies and a board of 'GNN News' was seen at the address. This indicates that the directors were changing the name of their company frequently.

(vi) During enquiry, the examination of two investors of G N Dairies Ltd. and G N Gold Ltd., it emerged that the companies had received deposits from the investors on the pretext of selling of cattle/calf/ ghee and gold respectively to them. This is also apparent from the certificates issued by the companies. Apart from the said information the certificates also the 'minimum estimated price' at the end of the agreement period. However, the investors were only told of a simple investment plan. As per one of the examined investors(against three policies), both the companies refused to return the (premature) amount due to him for which he had applied to them.

### **3.4.9 Kim Infrastructure and Developers Limited -**

(I) Enquiry revealed that the company Kim Investment Limited (KIL) was incorporated in the year 1993, registered with ROC, Chandigarh, on 04.02.1993 with registration no U65921PB1993PLC013024 and address, 207, 2<sup>nd</sup> Floor, Choudhary Complex, Hide Market, Amritsar, Punjab. The Company came into incorporation under the Companies Act 1956 and is an Indian Non Government company, limited by shares. **The company (KIM Investment Ltd. ) is registered with the RBI as an “ A category' NBFC, with asset finance licence. The registration no. of the company with RBI is A-06.00541.** This company takes public deposits and gives loan to the borrowers as per the RBI guidelines. The period of investment ranges from 3. 5 years to 5 years since the NBFC are not allowed to take the deposits beyond 60 months. The usual percentage return on investment is up to 12 % ( maximum), but varies from time to time.

(ii) The company **Kim Infrastructure and Development Ltd (KIDL)** was incorporated on 14<sup>th</sup> September, 2005 with the ROC, NCT Delhi and Haryana, New Delhi with CIN No. as U45201DL2005PLC140693.

(iii) As per the MOA of the company the main object of the company is to build, construct road, land, residential flats, buildings, colonizer, fabrication and erection work and to carry out the business of colonizer and real estate owners, sale and purchase of properties and to construct buy, sale, give and take on hire, lease subcontractors, exchange, purchase or to deal in all any manner in all types of land and buildings, infrastructure of facilitates. Also, the object of the company is to buy exchange or otherwise acquire, an interest in any immovable property such houses buildings and lands within or outside the limits of Municipal Corporation or such other local bodies and to provide roads, drains, water supply electricity and lights within these areas, and **to rent or sell the same to the**

**public and realize cost in lump-sum or on installments.**

(iv) As per the representative of the company, it is carrying out real estate business activities pertaining to sale and purchase of land. The company purchases barren land in various parts of the country and sell it to its customers in form of plots. The company sells land under- (i) one-time payment plan and (ii) deferred payment plan. The customer, who opts for the one-time payment plan, gets the registration of the land after its development. In case of deferred payment plan, the company enters into an agreement for sale of the land with the customer, upon receipt of 50% of its value. This is followed by registration upon receipt of the full payment. Further, in the deferred payment plan, if the buyer defaults any payment, the deposited amount is refunded without any interest, after deducting 4% as development charges.

(v) It was also stated by the representative that the company has never engaged in any financial activities. i. e. non-banking financing or chit fund business and hence does not come under the purview of RBI. Under the group Kim Future Vision, another company namely **Kim Investment Ltd.** is authorized by RBI as NBFC for accepting public deposits. Thus, when the group already has a company authorized to accept deposits from public viz. **Kim Investment Ltd which is in business since 1993**, there is no reason why **Kim Infrastructure & Developers Ltd.** should have taken deposits or entered into banking activities.

(vi) As per the details provided by the company, a total of 14,30,776.625 Sq. yard land is available with the company at Raipur, Gwalior and Amritsar. The company has 4,513 customers under instalment scheme and 3,405 under one time scheme. The land allotted as per agreement certificate is 4,95,774 and 5,03,412 Sq. Yards respectively. **There are a total of 4,477 customers to whom the allotment letter is due while there are a total of 128 customers whose sale deed reintegration is due.**

(vii). The company follows 10 level of associates/ sales agent network system starting from 'field associates' to the level of 'zonal associates'. On the sales deposit brought by a field associate, certain percentage of the deposit is given to him as commission/business development expenses. All the above level also get overriding commission on this business deposit. The commission is maximum for the agent who gets the business and the overriding commission goes on reducing as one moves up line.

(viii). There have been 122 complaints against this company as mentioned in the High court order. **20 investors / depositors / complainants for 35 complaints** (48 policies) were examined during the course of the enquiry. It was revealed that neither the company nor its representatives/ agents, have at any stage, intimated the investors that the plan they are investing into is related to purchase of land in any manner. They also said they invested into the company as the plans of the company seemed lucrative in comparison to that of Government sponsored schemes.

(ix). Further, the chain structure as regards the distribution of commission in the agents was also revealed during the examination of agents / policy holders. It has also emerged in one/two statements, the company has briefed its agents that the company can received deposits as it is registered with RBI. In the cases where the investors have made one time payment required payment under instalment plan and had completed the period for issue of allotment letter / execution of sale deed, the same have not been issued or the sale deed executed.

(x). **In one case, it has also revealed that the company has also floated yearly income Scheme in its policies/ plans.** In one case it has also been revealed that the company had **transferred over the policy agreement No. 0301R0006103 dated 28.04.2007 to KMJ Land Developers** and subsequent instalment were received against this policy by the company KMJ

Land Developers.

(xi). The details of land provided by the company was attempted to be verified by way of issuing of letters to the collector / DM Gwalior, Raipur and Amritsar. The confirmation received from DM Gwalior confirmed the ownership of the company but stated that the land is undeveloped. Field visit to Raipur also confirmed the existence of land in the name of the company at all the given places in Raipur district, Chhattisgarh except village Churki which could not be located in Raipur. Reply from DM Amritsar could not be received till submission of the present report.

**3.4.10 PACL India Limited :-**

(i) It was revealed during enquiry that the company came into existence on 13<sup>th</sup> February, 1996, and has its operations all over India. It has offices at approx. 300 places all over India. The company is registered with the ROC Jaipur having its registered office at 22<sup>nd</sup>, IIIrd Floor, Ambar Tower, Sansar Chand Road, Jaipur. Vide ROC letter No., ROC/Approval/21/11577/376 dated 09.01.98, the name of the company was changed from Pearls Agrotech Corporation Ltd., to PACL India Ltd. no. 17-011577.

(ii). As per the MOA of the company, it is engaged in Real Estate business I.e. the sale and purchase of the agricultural plots, carrying out agriculture development activities on behalf of the customers as well as construction of residential / commercial complexes including townships, cities, flats throughout India.

(iii). According to the company, it has appointed commission agents who contract the prospective customers. Initially when the agreement is signed between a customer and the company, a registration letter on behalf of the company is issued to the customer in which, his name, address, mode of payment, and land area is mentioned. Further, the customer is given two options (plans) for payments- (I) Cash Down payment plan (ii) Instalment payment plan. If the customer opts for cash down

payment plan, the land is allotted to the customer within 270 days from the date of purchase (agreement). If he opts for the instalment plan, the land is allotted to him within 270 days of receiving fifty percent of the full payment. The allotment of land by the company to the customer is as per availability of land with the company at the time of issuance of the letter of allotment. The allotment letter issued contains the exact details of land viz. Khasra no. location and its size etc. As per the company, after the issuance of the allotment letter, the sale deeds are registered as the payment plans in the name of the customer within reasonable period of time. In both instances, at the end of the term, the customer has a right to either keep the land or sell it on his own.

(iv) It was stated by the company representative that the company is not registered with RBI because it does not fall under the category of Non Banking Financial Companies.

(v) The company also does not have registration with SEBI. It has been revealed during enquiry that Hon'ble High Court of Judicature at Rajasthan, Rajasthan, Jaipur in its judgment dated 28.11.2003 passed in Civil Writ Petition No. 6735 of 1999 against SEBI, has ruled that the company does not fall in the category of collective investment scheme as defined by section 11AA of SEBI Act. However, against this order SEBI has filed a petition in the Supreme Court vide Civil Appeal No. 6753-6754 of 2004. The proceedings are pending in the Hon'ble Supreme Court and on the last date 02.01.2012, the Hon'ble Apex Court has granted four weeks further time to file additional affidavit and deferred the matter for 30.01.2012.

(vi) As per the details provided by the company, it has a total of 65,07,895 customers under the instalment plan and 47,24,061 customers under cash down payment plan (i.e. total 1,12,31,956 customers) all over India. Out of these, 19,83,588 customers under instalment payment plan and 47,23,817 customers

under cash down payment plan (i. e. total 67,07,405) have been issued allotment letters by the company, allotting them pieces of land at different places. Further the company has transferred the title by way of execution of sale deed/GPA to 6,33,396 customers under instalment payment plan and 47,23,817 under cash down payment plan (i.e. total 53,57,213). The land area allotted to the customers for which titles have been transferred i. e. 42,57,050 square yards under instalment plan and 62,89,12,766 square yards under cash down payment plan. Thus, as per the details provided, the company has transferred the total of 87,31,69,816 square yards of land to its customers by way of general power of attoreny (GPA) or sale deed.

(vii) The company PACL India Ltd as well as its associate companies have a total land measuring 50,875.564 acre of land (equivalent to 24,62,37,729.716 square yards) in 14 states of India while the customers of the company are in 26 states. Out of this 50,875.564 acres of land, the company has in its name( ownership) has be 2,661.3398 acres all over India (1,28,80,885.5032 Square Yards) out of which 1,541.676 acres of land is in Andhra Pradesh, 531.602 acres in Chhattisgarh, 430.070 acres in Karnataka, 19.765 Acres in Delhi, 83.021 Acres in Rajasthan, 36.94598 Acres in West Bengal and 18.26 acres in Uttar Pradesh.

(viii). The company follows 12 levels of Estate Adviser / Agents hierarchy for the purpose of getting business. The company also gives commission to Estate Advisers as well as senior up-line members, on the business brought by the Estate Advisers. In case of instalment payment plan, the commission percentage is 15% for the Estate Advisers (in the first year) and 1.2% at the top most level i.e. Estate Executive Consultants. Similarly, this is 5, 6 and 7 % to the Estate Advisers for the plans up to 5 years, 7 years, and above 10 years respectively under cash down payment plan. This also goes on reducing up wards the hierarchy and is 0.5% at the top most level.

(ix). There are 662 complaints against this company as mentioned in the Hon'ble High Court order. A total of 33 customers for 61 complaints (78 agreements) as mentioned in the Hon'ble Court order, were examined during the course of the enquiry. It was revealed that in most of the cases neither the company nor its representatives / agents have at any time intimated the investors about the plan being offered by the company to be relating to purchase of land in any manner and the customers were only explained the plan to be an investment policy for a better rate of return. In other cases, the investors were only informed that the company shall invest the amount in Real Estate Business and at the end of the maturity period/ agreement period they were assured of a return as mentioned by the company in the certificate issued by it. Only in few cases the customers were aware that the land may be allotted to them against the deposits.

(x) It was seen that in most of the cases under both the plans, i. e. one-time payment plan and instalment plan, where the required amount of money has been deposited by the customer and the mandatory period of time for issuance of allotment letter has also expired, the company has not issued allotment letters. In some instances it was also seen that the customers were issued allotment letters but the land allotted to them was located hundreds of kilometers away from their place of their stay, for e. g. a customer from Gwalior was allotted land in South India. This indicates than even in such cases where the allotment letters were issued, the company's intention was not to offer land which could be easily accepted by the customers, against the investment.

(xi) Enquiry also reveled that after the sealing of the company's office at Gwalior, in most of the cases, where the refund claims were filed, the company has refunded some amounts to the complaining customers. But these amounts are found to be less than the deposited amounts in some cases while in some other cases the

amounts refunded are with marginal interest or no interest. In none of the cases was any sale deed found to be executed.

(xii) Letters were also sent in the enquiry to the investors outside the State of Madhya Pradesh. The replies received from a few, stated that they have only made investments in the company under RD/FD. In some other cases of customers who stated to have entered into agreements for purpose of plots and received allotment letters, it has been confirmed that no sale deeds were executed by the company.

(xiii) As per the details provided, the company PACL India Ltd. as well as its associate companies have a total land measuring 50,875,564 acres ( equivalent to 24, 62, 37, 729. 716 square yards). Out of this, PACL India Ltd. has 2, 6661.3398 Acres ( 1,28,80,885.50 Square Yards) in its name ( ownership) all over India. The land transferred to its customers since its inception, by way of execution of sale deed/GPA has been shown to be 87,31,69,816 square yards by the company **which is more than thrice the total land available with PACL and its associate companies ( and 67 times of that available PACL India Limited).**

(xiv) Further, the details of land owned by the company were attempted to be verified from the concerned District Collector/ District Magistrates. Field visits conducted at Agra, Raipur and Allahabad have revealed that five out of the six properties which have been included in the land bank details of the company, are actually commercial places/ offices, where the company is running its own offices. Thus it is indicated that the details of the land, as provided by the company, also include its own offices, which obviously would not be transferred to the investors against their deposits.

(xv) Thus, it seems that the company is working as Non Banking Financial Company ( NBFC) and accepting deposits under

different plans in the garb of receiving payment against booking of plots.

(xvi) Examination of various agents of the company has also revealed that the company is following a commission structure of agents similar to the pyramid structure where a certain percentage of received deposits is being distributed amongst all levels of the agents. This is maximum for the lowest level( who brings the deposit) and goes on reducing as we move towards the top. It has also revealed that the company briefed its Estate Advisers about its various plans as simple investment plans only. Some Estate Advisers also stated that they were only aware that the company's investment in land but not of th provision of execution of sale deeds with the customers. They were under impression that the company shall be refunding the maturity amounts as mentioned in the certificates issued by it, on completion of the agreement period.

(xvii) It has also revealed that in some cases the company has neither refunded the amount nor allotted land/executed sale deed with the customers, even after the expiry of agreement period and the completion of payment schedule. It was found that in these cases the documents are deposited with the company and it has not repaid the amount to the customers. The company has been only asking for more time from the customers to refund their amounts.

### **3. 4. 11 RBN Real Estate and Allied India Limited:-**

(i) The firm was not found to be in existence at the address given in the Hon'ble High Court order. However, the company was found to be registered with ROC Kanpur at the address MIG F-845, Gujaini Kanpur (UP). The owner of the house Shri Laxmi Narayan Dixit, where alleged company has its registered office was examined and it has emerged that he was also the Chairman of the company. He submitted that Shri Mahendra Singh Pal of Gwalior contracted him around August 2009 and informed that Shri Pal wished to open

a branch of RBN at Kanpur and will be using Shri Dixit's address of Kanpur.

(ii) He further submitted that the company was initially running from Gwalior and in Aug 2009 he took a policy of the company RBN Infrastructure India Ltd ( Registration No. 007000001 dtd. 17<sup>th</sup> August 2009) under instalment plan for six years for a consideration value of 72,000/- ( plot size 720 sq. yards). He had invested an amount of Rs. 1000 per month for 12 months ( I. e. total Rs. 12,000). This was the first policy for Kanpur region and R007 code was allotted for Kanpur. The policy/registration letter/certificate of the company RBN Infrastructure India Ltd. was issued with the registered office/ head office address at Gwalior and under the signature of Chairman of RBN Infrastructure India Ltd. namely Sh. R. N. Pal who was a relative of Sh. Mahendra Singh Pal, Director of the company.

(iii) The company was initially registered with ROC Gwalior vide registration no. U70102 MP 2009 PLC021573 but later on, a fresh registration was also applied in the name of RBN Read Estate and Allied India Ltd. with ROC Kanpur, using the residential address of Shri Dixit as registered address of the Company.

(iv) Shri Dixit further submitted that he and his wife were made Directors of the company in March 2010 and later he was made its Chairman. The other Directors at that time were Sh. Mahendra Pal and his wife Smt. Kusum Lata Pal. The branch of the company RBN Limited at Kanpur could not be made fully operational due to requirements of heavy investments. He also told that the business of the company was also running at Bina, Bhopal, Gwalior and other cities of MP and UP.

(v) The Gwalior office of company was at Morar with address 402, 4<sup>th</sup> Floor, Nandani Apartments, Morar, Gwalior and Lalitpur Colony, Gwalior. Shri Dixit stated that when he came to know that the business of the company was not legal, he resigned

from his post in the company with effect from 06.06.2011. No land was purchased by the company at Kanpur and no allotment letters issued to any customers from Kanpur because the customers had defaulted in their payment schedules.

(vi) No details of land purchased by the companies could be provided and none of the two companies i. e. RBN Infrastructure India Limited or RBN Real Estate and Allied India Limited were registered with RBI or SEBI. The commission structure of the company RBN Real Estate and Allied India Limited was up to 9 levels and each member was given commission on deposits brought by the field agents for the company. The field officers were given maximum commission which was about 10-20% of the deposits. The senior agents got over-riding commission on the deposits brought by their juniors.

(vii) The details of total number of customers of the company RBN Real Estate and Allied India Limited, its land details, the details of the customers to whom allotment letters were issued or with whom the sale deeds were executed could not be provided by the company.

(viii) There are 11 complaints against the company RBN Real Estate and Allied India Limited as per the Hon'ble High Court order. During the course of enquiry, **7 persons, for 8 of these complaints** (for 21 agreements) as mentioned in the Hon'ble High Court order were examined. Their examined revealed that Shri Mahendra Singh Pal had initially opened the company RBN Infrastructure Limited at Gwalior with one of his relatives Shri R R Pal. He was handling the affairs of this Company and his brother Shri Kamlesh Pal was also assisting him in the collection of the deposits from the investors at the Gwalior office. Initially, the policies were issued to the investors from the company but later on a new company in the name of RBN Real Estate and Allied Limited was opened by Shri Mahendra Pal along with Shri Lakshmi Narain

Dixit with the registered office at Kanpur and the deposits against both the companies were received under the receipt of RBN Real Estate and Allied Limited.

(ix) It has also revealed that Shri Mahendra Pal was earlier working with a company HBN Infrastructure and subsequently the above named two companies were opened by him along with the other associates, in which the deposits under instalment plan as well as one time payment plan were received from the investors. The agents were lured to join the company promising them a good commission and a better rate of interest to the investors as compared to other companies.

(x) It has also revealed that there was no land available with either of the above named companies ( i. e. RBN Infrastructure India Limited or RBN Real Estate and Allied India Limited) and the examination of the complainants/ investors have revealed that they were only assured of a good rate of return against the deposits made by them. No one was even aware that the company will be selling land/plots to them against their investment. Even the agents of the company were not aware that the deposits they are bringing to the company are against the sale of land by the company to the customers/ investors.

(xi) It was also revealed that the company is following hierarchical structure of agents for the distribution of commission amongst them where a certain percentage of commission against the deposits was distributed amongst all the agents according to their position in the hierarchy.

(xii) It has revealed that the company was being managed by Shri Mahender Singh Pal, Shri RR Pal, Shri Kamlesh Pal and Shri Lakshmi Narain Dixit. The first three could not be traced during the course of enquiry and reported to have left Gwalior for some unknown addresses. The Directors of the company have not refunded any amounts to the customers and have misappropriated

the entire deposits.

**3. 4. 12 Sai Prasad Foods Limited/ Sai Prasad Properties Limited:-**

(i) It was revealed that M/s Sai Foods Ltd was incorporated on 18.09.2001 under the Companies Act 1956 with the ROC Pune. The company was previously named as M/s. Sai Prasad Marketing Pvt. Ltd. The name of the company was changed to M/s. Sai Prasad Food Pvt. Ltd. on 16.01.2004 & again changed to Sai Prasad Food Ltd. on 23<sup>rd</sup> January, 2004. The company is having offices all over India. The main object/business of the company is manufacturing , processing, servicing and marketing of instant food, fruit, agricultural and diary products & to purchase, sell, import, export, produce or otherwise deal in preserved vegetables, tinned fruits and all type of food products, food grains, develop and exploit farms, horticultures, agriculture, animal husbandry and dairy.

(ii) As per the Article of Association of the Company, one of the objects incidental or ancillary to attainment of the main object is also to acquire by purchase, lease, exchange or otherwise land, building, structures, and hereditaments or of any tenure or description whatsoever and any estates or interest therein and any rights over or concerned with the land and to turn the same to account, as may seem expedient and in particular by preparing buildings, sites and by constructing, reconstructing, altering, improving, decorating, re-erecting, furnishing, and maintain office, flats, houses, laboratories, cold storage, factories, warehousing, shops, wharves, buildings, works and conveniences of all kinds and by leasing, transferring, same as may be necessary for the purpose of the company.

(iii) M/s Sai Prasad Properties Ltd was incorporated on 12.06.2008 registered under the Companies Act 1956 with the ROC Goa having registration no. U70200GA2008PLC005799. The

company is having offices all over India. The main object/business of the company is to carry on the business of building and developing residential & commercial properties and to carry on the business as promoters, builders, developers, construction and maintenance contractors of industrial buildings, multiplexes, hutments etc and prepare lay out for building and construction activities.

(iv) A common representative of both the companies was examined during the enquiry. It was informed by him that the operations of both the companies are similar in nature. He stated that whenever an individual is interested to join or intends his participation as joint venture in any of the project of any of the companies, he is briefed about the participation plan of the company. On agreeing to the participation plan/payment plan (which is either one-time payment plan or instalment plan), the individual is registered as an associate with the company and a certificate, containing the details of the plan opted by him is issued on general terms and conditions. Thereafter, the individual is asked to enter into joint venture-ship by way of agreement, in which the allotment and the expiry date, as per the plan opted is clearly mentioned. After the completion of the required period, as mentioned in the agreement, an allocation letter is issued to the individual which is a guarantee/ warranty to repay the amount of the said investment. Only in case of company going into liquidation, the joint venturer has right to dispose off the land and in that case company would help the joint venturer or associate in its disposal.

(v) M/s Sai Prasad Foods Ltd has lodged a writ petition no. 6451/2011, & writ appeal no. 596/2011 M/s Sai Prasad Foods Ltd. Vs. State of M.P. and others, in the High Court of Madhya Pradesh, Principle Seat at Jabalpur, wherein the company has challenged circular/instructions dated 28.03.2011 issued by the Department of Finance, Govt. of M.P. Bhopal, directing all the Collectors of M.P. To

proceed against the company in absence of registration. It has been prayed therein that implementation and operation of that circular/instruction be stayed. The Hon'ble court has granted stay on the implementation of the said circular on interim basis.

(vi) As per the common representative of both the companies, the companies have never been associated with receiving any deposit/cast etc. from any person in the name of sale, purchase/rearing of cattle. The companies have also not been associated with activities like advancing of loans or financing any individuals etc. Hence, according to the companies, they do not require any registration with RBI or SEBI or any other body/authority dealing with or regulating financial activities. It was also stated by the representative that in a reply to a query under RTI Act, it was held by RBI that the company does not fall under category of NBFCs.

(vii) The details regarding the number of customers of the company, total land bank, the land allotted to the customer and sale deed executed were requested from the company M/s Sai Prasad Foods Ltd. and as per the details provided by the company, it has revealed that there are **total 6,71,121 customers** with the company in which 26,077 are under one-time payment plan while 6,45,044 are under instalment plan. Further, only **102 customers have been issued allotment letters** and the land allotted against these allotment letters is 1,31,145 sq. ft. **No sale deed** has been executed by the company with any its customers while 34,278 have been given refund claims on completion of the agreement period.

(viii) Further, as per the details provided by the company M/s Sai Prasad Properties Ltd it has revealed that there are **total 13,49,616 customers** with the company in which 2,34,716 are under one-time payment plan while 11,14,900 are under instalment plan. Further, only **157 customers have been issued allotment letters** and the land allotted against these allotment letters is

1,64,495 sq. ft. **No sale deed** has been executed by the company with any of its customers while 456 customers have been given refund claims on completion of the agreement period.

(ix) In the details provided by the company during the enquiry it has been mentioned by the representative that no sale deed has been executed by the company with the customers, **as the company has to execute the sale deed only if it fails to refund the agreed amount to the customers at the end of the agreement period.** This clearly indicates that the company is only into accepting deposits and not into the sale of land. This indicates that both the companies are simply collecting deposits from the investors without any registration with RBI.

(x) Both the companies follow a hierarchy of agents involving 10 levels, for the purpose of getting business. These are from the level of Field Representatives to the level of Chief Controller. The company also gives commission to senior up-line members on the business brought by the junior most level against the booking of plots. In case of instalment payment plan, the commission percentage is 20% for the Field Representative in the first year, and further commission is distributed till the highest level of Chief Controller but goes on

reducing upwards the hierarchy and is 2 per cent at the top most level. In the similar way under cash down payment plan this is 6 to 9 % to the Field representatives and is 0.5 % at the top most level.

(xi) There have been several complaints ( 54 + 24) against these companies. **15 persons for 18 complaints** ( total 25 agreements) as mentioned in the Hon'ble High Court order, were examined during the course of enquiry. It was revealed that neither the company nor its representatives/ agents have at any time, intimated the investors that the plan being offered by their companies is in anyway related to purchase of land in their names. Some investors emphasized that had it been in their knowledge that

the money was for allotment of land units, they would have never gone in for the investment plans. They also said they invested with the companies as the plans of the companies seemed to be lucrative in comparison to that of Government sponsored schemes. Further, only a few investors had the knowledge that the company will be investing their deposits in land and at the end of the maturity period they would be getting the amount as mentioned in the certificates issued by the companies. No allotment letters were found issued by the companies to any of their customers who had made the required payments. The amounts of the investors who had made complaints with the Collector, Gwalior have been refunded without interest by the company. Examination of one of the investors also revealed that the company has also floated yearly Income Scheme in its policies/ plans.

(xii) Thus from the above it is indicated that the companies are not actually into the business of sale of land/ food products as claimed them but are receiving deposits and floating investment policies without registration with RBI.

**3. 4. 13. GCA Marketing Pvt. Limited. :-**

(i) The authorized representative of the company was examined during the course of enquiry, who submitted that GCA Marketing Pvt. Ltd. is a company registered under the Companies Act 1956 from ROC Punjab, Chandigarh and Himachal with its registered office at F-77,Civil Lines, Bhatinda-115 001 ( Punjab). The company came into being on 09<sup>th</sup> May, 2005 and the Registration No. of the company is CIN U 52559 PB 2005 PTC 28378.

(ii) As per the representative, the company is carrying out its business and operational activities strictly in accordance with the provisions of its MOA and is not engaged in any other business activities. According to him, its business is spread all over the country. Since the company is not an investment company or an

NBFC, there is no question of accepting money as deposits from public at large. The main sources of the income of the company are sales of Herbal, Cosmetic and Ayurvedic products, Medicinal, Ornamental and Decorative Plants prepared in the nurseries of the company. Another source of income of the company is the lease money given by the lessors with whom company enters into contract farming agreements.

(iii) As per the company, it is adopting the method of 'contract farming'. As per its Memorandum & Article of Association and business activities, the company is engaged in the business of Multi Level marketing selling and marketing of FMCS, Ayurvedic, Desi Medicines, Herbal & Cosmetic Products with plants of Rattan jot & Kranj by involving distributors across the country and own purchase, take on lease hire or exchange or otherwise acquire estate, land tea garden, plantations & farms and to carry on business as cultivator, producers, planters, manufactures, buyers, sellers, dealers, importers, exporters and any kind of horticulture, food and other products.

(iv) At the same time, the company also offers land on which those plants could be maintained, raised. For this purpose the company either purchases land or takes it on lease for a definite period. When plants are allotted to the Lessees/ Clients/ Customers, they are given an agreement which mentions amongst other things, the number of plants and the land on which they were planted etc. In case of sale, the amount is taken from the farmers/ customers and equivalent plants are sold to the customer who takes from away. The company has sold **22,65,183 plants to 12,694 customers**. This type of sale may be termed as " Sale of Nursery Plant". In this type of sale the amount is taken from the customer and no agreement is entered into.

(v) The sale of the plants to a prospective customer/farmer is under three types of payment plans viz. one-time payment plan,

monthly payment plan & yearly payment plan.

(vi) Under one-time payment plan, a specified number of plants is allotted to the farmer against the lease money i. e. the amount paid by him to the company. This allotment of plant by the company is either for 6 years, 15 years or 19 years. The estimated value of the proceeds during these years is mentioned in the plan and the buyback amount is also reflected in the brochure of the company. Under this purchase, the customer/ farmer has three option:-

(1) He can get allotted the plants and take care of the same himself in the company's farm, for the period as mentioned in the plan. Under this plan, the sale of the proceeds is taken care of by him.

(2) The customer can opt for 50-50 plan under which caretaker is appointed for the maintenance of the plants allotted to him and the profit is shared between the customer and the caretaker while the company gets the lease money ( from the customer).

(3) The customer can opt under assured buyback price option, under which the proceeds generated at the rate of Rs. 7 per kg. is calculated in advance and this amount is assured to the customer as his buyback price. Under this plan, the care, maintenance and sale of proceeds of the plant at all done by the company and customer has no claim whatsoever on the proceeds except the assured amount at the end of the agreement period.

(vii) According to the company, in case of monthly payment plan as well as yearly payment plan, the allotment i. e. the physical possession of the plants is given to the customer/ farmer after payment of 50%of the total amount to the company by him against the sale/lease of plant.

(viii) As per the company, in all the cases of one-time payment, monthly payment and yearly payment plans, the plants

are allotted to the customer/ farmer only after 18 months. As per the terms & conditions, an agreement entered into by the company cannot be revoked. However, the same can be transferred in the name of another person after completion of 3 years, for which 5 % of the lease money deposited for Rs. 300/- ( whichever is more) is to be paid by the customer. In cases where there is a breach of the agreement by the customer, the company returns the deposited amount to the customer without interest. If the instalment amount is not paid by the customer for continuous 12 months then the lease can be terminated by the company.

(ix) As per the details provided by the company it has its breach offices in 7 states viz. Andhra Pradesh, Chhattisgarh, New Delhi, Punjab, Rajasthan, Uttar Pradesh and Madhya Pradesh. It has its land as owner/lessee in out these 7 states including New Delhi & Chhattisgarh. **The company owns land totalling 676.7991 acres on which 2, 70,720 plants of Bermidek, Krunj, Amla, Neem and Sheesham are planted.** In all the 129 farms owned by the company at Andhra Pradesh, Rajasthan, Madhya Pradesh, Uttar Pradesh and Punjab, there are plants of Bermidek only. As per the company, since at the time of the inception of the company in 2005, the minimum period of agreement executed by the company with the customers was 7 years ( which was brought down to 6 years from 2006 onwards), as such, there are no customers/ farmers who have completed the agreement period to have taken away the assured crop/assured crop price. All the payments till date that have been made by the company are against cancelled agreement/lease brief.

(x) **During the enquiry it is seen that the plants available with the company are mostly Bermidek. A few places in M. P. & Rajasthan the company has plants of Krunj, Amla, Neena & Sheesham also. The plants of Rattanot are not available in farms of the company. None of the policies/**

**lease brief of the company mentions the plant allotted as Bermidek.**

(xi) As per the records of the company there are a total of **3,54,398 agreement holders** with the company out of which 53,434 have been cancelled and amount (without interest) in respect of these have been refunded to the customers. Further, **there are 2, 02,461 agreements against which no plants have been allotted till date.** The total number of plants allotted against the remaining 98,503 agreements are 2, 52,72,990, which include 2,81,740 Jojoba plants, 330 Kranj and 2,49,90,920 Rattan jot plants. The total lease money receivable by the company against all the lease agreements was approximately 567 crores while the net money received by the company is Rs. 219 crores. The total buyback assured support price against the agreements that have not been cancelled ( amounting to Rs. 219 crores) is Rs. 510 crores.

(xii) It is clear from the above that the company has a total of 2,70,720 plants. The number of plants required by the company against only those agreements to which allotment is due (98,503 agreements) is 2,52,72,990 which include Jojoba plants, Kranj and Rattan jot. **Thus, the company required 93 times more plants than actually available with it at present. Besides, there are 2, 02,461 agreements to which the plants have not been allotted till date but the payments have either been received or are being received. Further, the plant Rattan jot, that have been allotted to customers are not available with the company.** Thus from the above it is indicated that the company is only receiving deposits from the customers under the garb of sale of plants which in fact, the company does not possess.

(xiii) The company for purpose of achieving its objects appoints, distributors/ selling agents and these agents further enroll other agents under them. In the company the chain of agents is up

to 25 levels and the top most rank is considered as the marketing house. The business for the company is being done through by these agents who get commission against the business brought by them for the company. The commission is distributed amongst the all the 25 levels, which is highest for the junior most level and lowest for the top most level i. e. is marketing house.

**(xiv)** During enquiry **10 persons for 13 complainants/ investor**(14 policies), who had filed a refund claims with District Collector, Gwalior and mentioned in Hon'ble High Court order, were examined. It revealed that they were under the impression that it was an investment policy with good returns and only some of them were aware that the company will purchase Ratanjot plants against their investments and that at the end of the agreement period, they will get the agreed upon amount as shown against the investment plan opted by them. The company has or is returning the deposited amount to those customers who have claimed refund after the offices of the company were sealed by the Collector Gwalior, without interest or marginal interest. It has also emerged that the company was following a chain system for agents for the purpose of distribution of commission.

**4. Facts that have emerged during enquiry:-**

From the enquiry conducted, the following facts have emerged:-

- a. That none of the companies are registered with RBI to function as an NBFC.
- b. That the companies have been registered with various ROC offices under the Companies Act, 1956 with the principle object of sale, purchase and development of land, sale of plants and in some cases sale-purchase and rearing of cattle stocks and utilizing the by-products.
- c. That the companies have generally floated two types of plans viz. installment plan and lump-sum payment plan against the sale of land units, plants and that of livestock.
- d. That the companies through application forms/agreements, are entering into contracts with the

investors showing sale/proposed sale of land units or livestock, plants and simultaneously assuring an agreed amount on completion of a decided period.

e. In most of the cases the investors are uneducated/less educated and are from economically weaker sections of the society. They enter into such contracts without going through the technicalities and project details.

f. That the companies through their agents have either propagated the agreements/ contracts as investment plans or only briefed the customers that their money shall be invested on land, cattle or plants but the customers shall be refunded the estimated value at the end of the agreed upon period. In some cases it was informed to the customers that they had both the options.

g. The companies do not possess sufficient land, livestock or plants required for allotment to the customers against the certificates/ allotment letters issued.

##### **5. Conclusion:-**

(i) It is prima facie indicated that the companies are receiving deposits from the customers in the name of one scheme or the other. The companies are deposits from the unwary public with the allure and promise of huge interest, more than Government sponsored schemes. But to avoid being covered under the definitions of 'deposit' as in RBI Act [ Section 45 I(bb)] and Madhya Pradesh Nikshepakon Ke Hiton Ka Sanrakshan Adhiniyam 2000 [section 2(b)], the companies are issuing certificates showing allotment of lands, plants or livestock which are actually not being honoured by him.

(ii) It has also been seen that there is quite a mismatch between the amount of land/ livestock/plants available with the companies and their number of customers to whom these are supposed to be allotted. The amounts of land/livestock/ plants available with the companies have been found to be quite less than required. The certificates being issued by the companies have maturity date, nomination facility and estimated realizable value mentioned on

them, which by themselves are indicate of the fact that the companies are not interested in sale but only in receiving deposits.

(iii) As regard the issue of distribution of the commission amongst the agents of these companies, it has been revealed during enquiry that the companies are following a 'chain system' of agents for business. The system has a hierarchical network of the agents in which each agent has certain number of up-line/down-line members on the basis of which he earns a pre-determined percentage of the commission from the customer deposits.

(iv) The aforesaid matter was scrutinized by the Hon'ble High Court of AP in **Amway India Enterprises Vs. Union of India 2007(4) ALT 808 DB** and it was observed that “ It is, thus, evident that the whole scheme is so ingeniously conceived that the inducement for aggressive enrollment of new members to earn more and more commission is inherent in the scheme. By holding out attractive commission on the business turned out by the downline members to chase for the new members in their hot pursuit to make quick/easy money. On the part of the promoter by pushing each member to achieve the minimum sales worth Rs. 2, 000/-er months, (this sale includes enrollment of new members) he is assured of about 1000 crores per annum. All this squarely satisfy the description of quick/easy money. In addition to this, it is is an admitted fact that each person in order to continue to be the distributor, shall pay renewal subscription fee of Rs.995/- per annum. In para-11(b) of the counter affidavit on the admitted number of distributors of 4, 50,000 this amount is calculated at about Rs. 45 crores per annum. These figures are not denied by the first petitioner in its rejoinder. The plea of the first petitioner that there is no compulsion that a member shall renew his distributorship looks to us to be specious. Once a person becomes a distributor in a scheme of this nature where the sops in the shape of commission are so luring, it would be very difficult for a member to

withdraw from their membership to avoid payment of the annual renewal subscription fee.” { Para 34}

(v) The Hon'ble Court further observed that “ From the whole analysis of the scheme and the way in which it is structured it is quite apparent that once a person gets into this scheme he will find it difficult to come out of the web and it becomes vicious circle for him. In any event the petitioners have not specifically denied the turnover they are achieving and the income they are earning towards the initial enrollment of the distributors, the renewal subscription fee and the minimum sales being achieved by the distributors as alleged in the counter affidavit. By no means can it be said that the money which the first petitioner is earning the business turned out by the down-line members sponsored either directly or indirectly by the up-line members( which constitutes an event or contingency relative to enrollment of members), the first petitioner is earning quick/easy money from its distributors, apart from ensuring its distributor earn quick /easy money. Thus the two ingredients are satisfied in the case of promoter too. We are, therefore, of the considered view that the scheme run by the petitioners squarely attracts the definition of “ Money Circulation Scheme” as provided in Section 2(c) of the Act.” { Para 35}

(vi) Similarly, the **Hon'ble High Court of A. P in Speak Asia Online Pvt. Ltd Vs. State of AP CRLP 5626/2011** and the **Hon'ble Supreme Court in Kurian Chacko Vs. State of Kerala 2008(8) SCC 708** have also made observations on the applicability of section 2(c) of the Prize Chits and Money Circulation Schemes ( Banning ) Act, 1978 on the hierarchical structure of agents for the purpose of distribution of commission amongst them.

#### **6. Submission:-**

Thus from the enquiry conducted it has emerged that prima facie the companies have not found to be conducting their business legally and the following offences appear as being committed by

them.

**A. Madhya Pradesh Lok Vikas Finance Limited:-**

The company Madhya Pradesh Lok Vikas Finance Limited has already been declared as a vanishing company by RBI in 2009 and no complaint has emerged during the enquiry, hence no observations.

**B. Samruddha Jeevan Foods Limited:-**

Prima facie the company and its in-charge persons seem to be committing offences under Section 3(1), 3(2) and 3(4) of Madhya Pradesh Nikshepakon Ke Hiton Ka Sanrakshan Adhinyam 2000 , Sec. 58B (5&5A) & 58C of RBI Act, 1934 and Sec. 4, 5 and 6 of the Prize Chits and Money Circulation Scheme ( Banning ) Act, 1978 and Section 420 Indian Penal Code.

An FIR No. 309/11, P. S. Thatipur, u/s. 420 IPC, 3(1), 3(2) & 3(4) of Madhya Pradesh Nikshepakon Ke Hiton Ka Sanrakshan Adhinyam 2000 and 45S RBI Act 1934 is already registered against the company with Gwalior Police.

**C. Saksham Dairy India Limited:-**

Prima facie the company and its in-charge person seem to be committing offences under section 3(1), 3(2) and 3(4) of Madhya Pradesh Nikshepakon Ke Hiton Ka Sanrakshan Adhinyam 2000 , Sec. 58B (5 & 5A) & 58C of RBI Act, 1934 and Section 420 Indian Penal Code.

No FIR has been registered against this company with Gwalior Police.

**D. Royal Sun Real Estate & Allied Services India Pvt. Ltd.**

Prima facie the company and its in-charge persons seem to be committing offences under section 3(1), 3(2) and 3(4) of Madhya Pradesh Nikshepakon Ke Hiton Ka Sanrakshan Adhinyam 2000 and Sec 58B(5 & 5A) & 58C of RBI Act, 1934.

No FIR has been registered against this company with Gwalior Police.

**E. Sky Lark Land Developers and Infrastructure India Limited:-**

Prima facie the company and its in-charge persons seem to be committing offences under section 3(1), 3(2) and 3(4) of Madhya Pradesh Nikshepakon Ke Hiton Ka Sanrakshan Adhiniyam 2000 , Sec.58B (5&5A) & 58C of RBI Act, 1934.

An FIR No. 268/2011, PS Morar, u/s. 420, IPC, 3(2), 3(4) of Madhya Pradesh Nikshepakon Ke Hiton Ka Sanrakshan Adhiniyam 2000 & 45S, 58B (5A) RBI Act 1934 has already been registered against the company with Gwalior Police.

**F. KMJ Land Developers India Limited:-**

Prima facie the company and its in-charge persons seem to be committing offences under section 3(1), 3(2) and 3(4) of Madhya Pradesh Nikshepakon Ke Hiton Ka Sanrakshan Adhiniyam 2000, Sec. 58B (5&5A) & 58C of RBI Act, 1934 and Sec. 4, 5 and 6 of the Prize Chits and Money Circulation Scheme ( Banning) Act, 1978 and Section 420 Indian Penal Code.

An FIR No. 154/2011 , PS Vishwavidalya u/s. 420, 3(1), 3(2), 3(4) of Madhya Pradesh Nikshepakon Ke Hiton Ka Sanrakshan Adhiniyam 2000 & 45S, 58C (5A) of RBI Act 1934 has already been registered against the company with Gwalior Police.

**G. KBCL India Limited:-**

Prima facie the company and its in-charge persons seem to be committing offences under Section 3(1), 3(2) and 3(4) of Madhya Pradesh Nikshepakon Ke Hiton Ka Sanrakshan Adhiniyam 2000, Sec. 58B (5&5A) & 58C of RBI Act, 1934 and Sec. 4, 5 and 6 of the Prize Chits and Money Circulation Scheme ( Banning) Act, 1978 and Section 420 Indian Penal Code.

An FIR No. 255/2011 , PS Inderganj u/s. 420, 468 IPC, 3/6 MP Nikshepakon Ke Hiton Ka Sanrakshan Adhiniyam 2000 & 45S, 58C (5A) of RBI Act 1934 has already been registered against the company with Gwalior Police.

**H. GN Dairies Ltd./GN Gold Ltd:-**

Prima facie the companies and its in-charge persons seem to be committing offences under Section 3(1), 3(2) and 3(4) & 6 of Madhya Pradesh Nikshepakon Ke Hiton Ka Sanrakshan Adhiniyam 2000, Sec. 58B (5&5A) & 58C of RBI Act, 1934 and Section 406, 420 Indian Penal Code.

An FIR No. 29/2011 , PS Inderganj u/s. 420, 467,468 506 IPC, & 3, 6 MP Nikshepakon Ke Hiton Ka Sanrakshan Adhiniyam 2000 has been registered against the company G. N. Dairies Limited along with two more companies viz. G. N. Gold Limited and G. N. Land Developers.

**I. Kim Infrastructure and Developers Limited:-**

Prima facie the company and its in-charge persons seem to be committing offences under Section 3(1), 3(2) and 3(4) of Madhya Pradesh Nikshepakon Ke Hiton Ka Sanrakshan Adhiniyam 2000, Sec. 58B (5&5A) & 58C of RBI Act, 1934 and Sec. 4, 5 and 6 of the Prize Chits and Money Circulation Scheme ( Banning) Act, 1978 and Section 420 Indian Penal Code.

An FIR No. 254/2011 , PS Inderganj u/s. 420, 468 IPC, 3, 6 MP Nikshepakon Ke Hiton Ka Sanrakshan Adhiniyam 2000 & 45-IA, 45S, 58B(5A) of RBI Act 1934 has already been registered against the company with Gwalior Police.

**J. PACL India Limited:-**

Prima facie the company and its in-charge persons seem to be committing offences under Section 3(1), 3(2) and 3(4) of Madhya Pradesh Nikshepakon Ke Hiton Ka Sanrakshan Adhiniyam 2000, Sec. 58B (5&5A) & 58C of RBI Act, 1934 and Sec. 4, 5 and 6 of the Prize Chits and Money Circulation Scheme ( Banning) Act, 1978 and Section 420 Indian Penal Code.

An FIR No. 256/2011 , PS Inderganj under Section 3/ 6 MP Nikshepakon Ke Hiton Ka Sanrakshan Adhiniyam 2000 & 45-IA, 45S, 58B (5A) RBI Act 1934 has already been registered against the

company with Gwalior Police.

**K. RBN Real Estate and Allied India Limited:-**

Prima facie the company and its in-charge persons seem to be committing offences under Section 3(1), 3(2) and 3(4) & 6 of Madhya Pradesh Nikshepakon Ke Hiton Ka Sanrakshan Adhinyam 2000, Sec. 58B (5&5A) & 58C of RBI Act, 1934 and Sec. 4, 5 and 6 of the Prize Chits and Money Circulation Scheme ( Banning) Act, 1978 and Section 406, 420 of Indian Penal Code.

No FIR has been registered against the company with Gwalior Police.

**L. Sai Prasad Foods Limited/ Sai Prasad Properties Limited:-**

Prima facie the company and its in-charge persons seem to be committing offences under Section 3(1), 3(2) and 3(4) of Madhya Pradesh Nikshepakon Ke Hiton Ka Sanrakshan Adhinyam 2000, Sec. 58B (5&5A) & 58C of RBI Act, 1934 and Sec. 4, 5 and 6 of the Prize Chits and Money Circulation Scheme ( Banning) Act, 1978 and Section 420 Indian Penal Code.

No FIR has been registered against the company with the Gwalior police.

**M. GCA Marketing Pvt. Limited:-**

Prima facie the company and its in-charge persons seem to be committing offences under Section 3(1), 3(2) and 3(4) of Madhya Pradesh Nikshepakon Ke Hiton Ka Sanrakshan Adhinyam 2000, Sec. 58B (5&5A) & 58C of RBI Act, 1934 and Sec. 4, 5 and 6 of the Prize Chits and Money Circulation Scheme ( Banning) Act, 1978 and Section 420 Indian Penal Code.

An FIR No. 279/11 , PS Padao u/s.420 IPC Sec 6 MP Nikshepakon Ke Hiton Ka Sanrakshan Adhinyam 2000 has already been registered against the company with Gwalior Police.

It is submitted that the first status report in the matter was filed by Central Bureau of Investigation on 03/10/2011 which was

taken up by the Hon'ble court on 11/10/2011. The Hon'ble court was pleased to grant further time of three months to complete the enquiry.

As directed, the final status report is being submitted for perusal of this Hon'ble court."

(10) From the aforesaid status report submitted by the CBI and the findings recorded by the CBI, it is clear that the companies used to receive deposits from the citizens by floating various types of plans viz. installment plan and lump-sum payment plan against the sale of land units, plants and that of livestock. The companies entered into contract with the investors and they have committed offences under Section 3(1), 3(2) and 3(4) of Madhya Pradesh Nikshepakon Ke Hiton Ka Sanrakshan Adhiniyam 2000, Sec. 58B (5 & 5A) & 58 C of RBI Act, 1934 and Sections 4, 5 and 6 of the Prize Chits and Money Circulation Scheme (Banning) Act, 1978 and Section 420 of Indian Penal Code.

(11) From the Investigation conducted by the CBI and offences registered by the State, it is clear that the allegations made by the petitioners in this writ petition are *prima facie* found to be true. Hence, in our opinion, it would be necessary in the interest of justice that copy of this order be sent to the various organizations for information.

(12) Interim applications i.e. I.A.No.2767/2012 and I.A.No.2771/2012 have been filed on behalf of one Company, namely, Samruddha Jeevan Foods India Limited for appointment of Commissioner.

(13) Shri Chitley, learned Senior Counsel appearing on behalf of Company- Samruddha Jeevan Foods India Limited, argued that the allegations made against the Company are not true and the

Commissioners be appointed by the Court to prove the allegations. In support of his contentions, he relied on the following judgments:-

- (1) S. N. Naruala Vs. Union of India (2011) 4 SCC 591.
- (2) Union of India Vs. S. K. Kapoor (2011) 4 SCC 589.
- (3) Pubjab National Bank Vs. K. K. Verma (2010) 13 SCC 494.
- (4) South Bengal S. T. Vs. Ashok Kumar (2010) 11 SCC 71.
- (5) Sahara India Vs. Commissioner of Income Tax (2008) 14 SCC 151.
- (6) Managing Director, ECIL, Vs. B. Karunakar (1993) 4 SCC 727.
- (7) State Bank of India Vs. D. C. Aggarwal (1993) 1 SCC 13.
- (8) National Textile Worker's Union Vs. P. R. Ramakrishnan (1983) 1 SCC 228.

(14) In our opinion, the CBI has already conducted *prima facie* enquiry. The CBI is an investigating agency with high reputation. Hence, it is not necessary to appoint any Commissioner by this Court. Hence, I. A. No.2767/2012 and I.A.No. 2771/2012 are hereby rejected.

(15) Some intervention applications on behalf of Companies have also been filed. It is submitted on behalf of the Companies that they are at liberty to controvert the fact and enquiry conducted by the CBI. However, in our opinion, it is not necessary for this Court to decide the controversy that whether the investigation conducted by the CBI which is in the nature of primary investigation, is true or false because it is neither the domain of this Court nor this Court is conducting any trial against the erring companies. It is up-to the appropriate department or organization to take appropriate action. The State of Madhya Pradesh has already taken an appropriate action.

(16) In our opinion, interest of justice would be served if copy of this order be sent to the Union of India, through the Secretary, Ministry of Finance, New Delhi; Reserve Bank of India,

through its Governor, Bombay (Maharashtra); State of M.P. through the Secretary, Ministry of Home and Ministry of Finance, Vallabh Bhawan, Bhopal and Security Exchange Board of India [under Ministry of Finance] through its Chairman, Mumbai with an observation that the authorities of the organizations are at liberty to take appropriate action in accordance with law. It is hereby clarified that this Court has not recorded a final verdict in the matter and it is up-to the concerned authorities. However, we feel it necessary to inform the concerned department in view of the enquiry report submitted by the CBI.

(17) Consequently, the writ petition is disposed of with a direction that the Principal Registrar of this Bench shall forward a copy of this order to Union of India, through the Secretary, Ministry of Finance, New Delhi; Reserve Bank of India, through its Governor, Bombay (Maharashtra); State of M.P. through the Secretary, Ministry of Home and Ministry of Finance, Vallabh Bhawan, Bhopal; and Security Exchange Board of India [under Ministry of Finance] through its Chairman, Mumbai and concerned departments are at liberty to take appropriate action in accordance with law without prejudice to any observation made by this Court in the order. It is hereby clarified that this Court has not issued any mandatory order. However, it is in the interest of national economy that the report of CBI may be taken into consideration. The authorities may also consider the facts of passing orders by the Hon'ble Supreme Court in Special Leave Petitions as mentioned in para 6 of this order as per our information.

(18) Writ Petition is disposed of, with the aforesaid. No order as to costs.

**(S.K.Gangele)**  
**Judge**  
**13 /07 /2012**

**(Brij Kishore Dube)**  
**Judge**  
**13 /07/2012**