**(2013) 08 P&H CK 0407**

**In the Punjab And Haryana At Chandigarh**

**Case No :** Civil Writ Petition No. 14795 of 2011 (O and M)

Sanjeev Sharma and Others APPELLANT

Vs

Union of India and Others RESPONDENT

**Date of Decision :** 12-08-2013

**Acts Referred:**

**Citation :** (2013) 08 P&H CK 0407

**Hon'ble Judges :** Sanjay Kishan Kaul, C.J;Augustine George Masih, J

**Bench :** Division Bench

**Advocate :** Puneet Sharma, for the Appellant; Sukhdeep Singh Sandhu, Advocate for UOI, Mr. L.M. Suri , Mr. Neeraj Khanna, Advocate for Respondent No. 6, Ms. Jai Shree Thakur, Advocate for U.T. of Chandigarh and Mr. Rajesh Sethi, Advocate for Income Tax Department, for the Respondent

**Final Decision :** Disposed Off

## Judgement

Sanjay Kishan Kaul, C.J.—The greed and lure to make quick money disproportionate to any known business system made people invest in Ponzi Schemes. This petition is filed by such investors who now fear that all their money is lost and the money laundered away. Learned counsel for the petitioners fairly states that kind of return which was being promised even up to 210% upward in ten months'' time could hardly have been realised and the people were not prudent enough to give a second thought to such a scheme. He, however, submits that not only in India but countries abroad have faced situations where people have lost their money in such Ponzi Schemes. It is his submission that these Schemes are in the nature of Pyramid Scheme which is a non-sustainable business model, promising participants payment, services or deals, primarily, for enrolling other people into the scheme or training them to take part rather than supplying any real investment or sale of products or services to the public and this amounts to a form of fraud. It is his say that these schemes have been declared illegal in many countries.

2. Insofar as the present matter is concerned, there is a two-pronged solution

 

suggested by learned counsel for the petitioners. The first suggestion is in a larger frame, i.e., there should be an appropriate legislation brought to curtail such Ponzi Schemes. Learned counsel for the Union of India states that the Ministry of Corporate Affairs has been issuing advisories through different media to make people aware of the risks in participating in such ill-conceived schemes, but, possibly, the greed of people gets the better of them. However, he is not averse to the department looking into the matter to see if there could be any legislation which may assist in curtailing such incidents or make the floating of such Ponzi Schemes more onerous to protect the interest of the public at large. He, thus, assures that a necessary exercise would be carried out within a period of three months in this direction.

3. Second aspect-more specific to the problem at hand, is to continue investigation of the FIRs already lodged. We are informed that out of the 3 FIRs lodged in Haryana, one stands compromised while in two cases prosecution evidence is being led. In Punjab also, there are FIRs registered but the status of these are not known to the learned Additional Advocate General, Punjab. In Chandigarh, there is one FIR in which investigation is in progress.

4. The difficulty is that most of the connected people seem to have vanished and left the country as the schemes appear to have been formulated and implemented in Malaysia.

5. The third status-report of the Enforcement Directorate has been filed under the signatures of its Assistant Director dated 1.7.2013. This status-report shows that some FIRs are being investigated. It appears that the figures of investments in the Scheme quoted in the petition are much larger than the actual investment amounts which have surfaced on investigation, at least on record the figures are much less. Learned counsel for the Enforcement Directorate states that when called upon, some investors are quoting much lower figures while others are not responding. 140 investors have replied during investigation according to which a sum of Rs. 2,07,14,750/- was invested. The amounts which have been attached so far are to the tune of approximately Rs. 1.63 crores. The concerned people have left the shores of India a couple of years back and have never come to India, though their present whereabouts are being traced through Interpol. The Directors of the Companies are absconding. Learned counsel for the Enforcement Directorate assures and undertakes to this Court that there would be no laxity in the endeavours of the Enforcement Directorate to pursue the investigation to its logical end for which six months more time has been sought to conclude the investigation.

6. We are, thus, of the view that no purpose would be served by further continuing these writ proceedings and dispose of the same in the aforesaid terms. List for the final report of the Ministry of Corporate Affairs and Enforcement Directorate on 30.01.2014. The report be filed at least 3 days prior to that date.

 