

**FIFTIETH REPORT
COMMITTEE ON PETITIONS
(SEVENTEENTH LOK SABHA)**

**MINISTRY OF FINANCE
(DEPARTMENT OF ECONOMIC AFFAIRS)**

AND

MINISTRY OF CORPORATE AFFAIRS

(Presented to Lok Sabha on 09.08.2023)



**LOK SABHA SECRETARIAT
NEW DELHI**

August, 2023/Sravana, 1945 (Saka)

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COMPOSITION OF THE COMMITTEE ON PETITIONS

Shri Harish Dwivedi - *Chairperson*

MEMBERS

2. Shri Anto Antony
3. Shri Hanuman Beniwal
4. Prof. Sanjay Sadashivrao Mandlik
5. Shri P. Ravindhranath
6. Dr. Jayanta Kumar Roy
7. Shri Brijendra Singh
8. Shri Sunil Kumar Singh
9. Shri Sushil Kumar Singh
10. Shri Manoj Kumar Tiwari
11. Shri Prabhubhai Nagarbhai Vasava
12. Shri Rajan Baburao Vichare
13. Vacant
14. Vacant
15. Vacant

SECRETARIAT

1. Shri T.G. Chandrasekhar - Additional Secretary
2. Shri Raju Srivastava - Joint Secretary
3. Shri Vivek Saini - Executive Officer

**FIFTIETH REPORT OF THE COMMITTEE ON PETITIONS
(SEVENTEENTH LOK SABHA)**

INTRODUCTION

I, the Chairperson, Committee on Petitions, having been authorised by the Committee to present on their behalf, this Fiftieth Report (Seventeenth Lok Sabha) of the Committee to the House on the representation of Shri Gourav Kumar Soni and others alleging Securities and Exchange Board of India's (SEBI) high-handedness in refunding the money to the investors of PACL Limited.

2. The Committee considered and adopted the draft Fiftieth Report at their sitting held on 8 August, 2023.

3. The observations/recommendations of the Committee on the above matters have been included in the Report.

NEW DELHI;

**HARISH DWIVEDI,
Chairperson,
Committee on Petitions.**

08 August, 2023

17 Sravana, 1945 (Saka)

REPORT

REPRESENTATIONS OF SHRI GOURAV KUMAR SONI AND OTHERS ALLEGING SECURITIES AND EXCHANGE BOARD OF INDIA'S (SEBI) HIGH-HANDEDNESS IN REFUNDING THE MONEY TO INVESTORS OF PACL LIMITED.

Shri Gourav Kumar Soni submitted a representation dated 18 January, 2021 alleging Securities and Exchange Board of India's (SEBI) high-headedness in refunding the money to the investors of PACL Limited to the Committee on Petitions, Lok Sabha.

2. In his representation, the representationist, Shri Gourav Kumar Soni *inter alia* stated that millions of poor agriculturists, labourers and small traders had invested their hard earned money in the PACL Limited. However, in the year 2014, it was discovered that the said Company, which had already defaulted on returning the invested money to its investors on maturity, was involved in economic fraud and nefarious activities. Consequently, the offices, establishments, etc., of the PACL Limited were closed down and all its assets were freezed and put under the control of SEBI with a direction that SEBI would return the deposited amount to all the PACL investors in a time bound manner. The representationist, Shri Soni further stated that although the Supreme Court of India on 2 February, 2016, had directed the SEBI to refund the money to all the investors in a time bound manner; SEBI has neither been able to honour the said directions of the Supreme Court nor returned the invested money to all the investors of PACL Limited. On the contrary, SEBI had devised a mechanism whereby the investors have been asked for fulfillment of scores of complicated formalities. He also stated that due to such an impasse, thousands of dejected investors have even committed suicide during the last five years. The representationist, Shri Soni, therefore, requested to look into the entire matter and issue appropriate directions to the SEBI to work out on a solution to refund the deposits to the investors of PACL Limited and to devise a mechanism or a system which would minimize the sufferings of the depositors.

3. The Committee on Petitions took up the representation of Shri Gourav Kumar Soni for examination under Direction 95 of the Directions by the Speaker, Lok Sabha. Accordingly, his representation was forwarded to the Ministry of Finance (Department of Economic Affairs) and Ministry of Corporate Affairs for furnishing their comments on the issues raised therein.

4. In response thereto, the Office of the Director General (Corporate Affairs), Ministry of Corporate Affairs vide their Office Memorandum No. 3/147/2012/CL-II(NWR) dated 28 January, 2021 furnished the following comments:-

“On perusal of the said representation of Shri Gourav Kumar Soni, it is noticed that the representationist has made allegation(s) against the SEBI regarding refund of investors’ money. In this regard, it may be stated that the Hon’ble Supreme Court vide its order dated 02.02.2016 has directed SEBI to constitute a committee for disposing of the land purchased by the PACL Limited so that the sale proceeds can be paid to the investors, who have invested their funds in the company under the Chairmanship of Hon’ble Justice R. M. Lodha (former Chief Justice of India). Hence, in accordance with the direction of the committee the funds should have been distributed among the investors. However, any discrepancy regarding distribution of the amount to the investors may be reported to the committee for its redressal. Hence, the applicant(s) may be advised to approach the committee regarding their grievances for early redressal.”

5. The Ministry of Corporate Affairs while submitting their above comments in the matter also cited the judgment passed by the Supreme Court in this matter as under:-

“.....The SEBI shall constitute a Committee for disposing of the land purchased by the Company so that the sale proceeds can be paid to the investors, who have invested their funds in the Company for purchase of the land. Hon'ble Mr. Justice R. M. Lodha, the former Chief Justice of India, would be the Chairman of the said Committee. It would be open to the Hon'ble Chairman of the Committee to appoint such experts or other persons, as he might think it necessary, in consultation with the SEBI, so as to enable the Committee to sell the land and pay to the investors in a manner that might be decided by the said Committee.

A Nodal Officer shall be appointed, who shall be in-charge of the funds so collected and shall have a liaison with the Committee and shall also work as a Secretary to the said Committee.

The Committee shall collect relevant record, including Title Deeds from the Central Bureau of Investigation (CBI), if the CBI is in possession of any of the documents. Copies of the Title Deeds shall also be given to the Company so that the Company can also assist the Committee in the process of sale of the land.

The CBI is directed to hand over the documents, after retaining their copies, which might be required by the SEBI, so as to enable the Committee to sell the land. The CBI will be

entitled to use the photocopies of the Title Deeds, which will be handed over to it for Court proceedings.

The methodology with regard to recovery of amount by sale of the land and disbursement of the amount to the investors shall be overseen by the Members of the Committee.

Remuneration to be paid to the Chairman shall be determined by the Hon'ble Chairman himself after considering the quantum of work to be done by the Committee.

The work with regard to disposal of the land and disbursement of the proceeds to the investors be completed as soon as possible and preferably within six months from today.

The Registry is directed to forward copies of this order to Hon'ble Mr. Justice R. M. Lodha, the SEBI and the CBI. The Company and its Directors shall extend their cooperation to the Committee so that the Committee can function effectively to complete the work as soon as possible.

It would be open to the Hon'ble Chairman to make modification in the afore-stated arrangement and he is empowered to do whatever he thinks proper for disposal of the land and disbursement of the proceeds to the investors.

The amount, which is lying in the bank accounts of the Company and other cash belonging to the Company shall be released in favour of SEBI so that it can be used either for disbursement in favour of the investors or for incurring necessary expenditure. If any amount has been deposited by the Company or by its Directors or by any other person on behalf of the Company in any Court, the same shall be released in favour of the SEBI, who shall have a separate account so as to deal with the same. The Committee shall also decide as to whether the staff of the Company should be continued or relieved.

The decision with regard to sale of property of the Company by the Committee shall not be interfered with by any Court.....”

6. Further, the Ministry of Finance (Department of Economic Affairs), Financial Markets division, (Primary Markets Branch) vide their Office Memorandum No. 9/2/2021-PM dated 19 February, 2021 furnished following comments in the matter:-

“The Hon’ble Supreme Court of India vide order dated February 02, 2016 in the matter of C.A. No. 13301 of 2015 titled Subrata Bhattacharya Vs. SEBI and other connected matters directed Securities and Exchange Board of India (SEBI) to constitute a

Committee under the Chairmanship of Justice (Retd.) R. M. Lodha for disposing of the properties of PACL Limited, so that the sale proceeds can be paid to the investors. Accordingly, SEBI has constituted a committee under the chairmanship of Justice (Retd.) R.M. Lodha (hereinafter referred to as the 'Committee'). The Committee in furtherance of its mandate initiated the process of refund to the investors of PACL in the year 2018 with the monies so far realised by it.

Process followed for refund

Considering large number of investors involved and they being spread across entire India, the investors were requested to file their claim applications by uploading on online portal. The window for submitting claim applications is generally kept open for three months.

Following details were sought in the claim application to verify and ensure that the money is paid to the genuine investor:-

- (a) Name of the investor as per PACL Certificate.*
- (b) Amount claimed (in rupees).*
- (c) Claimant's mobile number.*
- (d) PACL Scheme Payment Registration Number.*
- (e) Scanned copy of PACL Certificate.*
- (f) Aadhaar/PAN Number.*
- (g) Bank account number and IFSC code.*
- (h) Whether land has been allotted to the claimant investor by PACL.*
- (i) Scanned copy of PAN Card/Aadhaar Card.*
- (j) Scanned copy of the latest Bank Statement showing the last three transactions (The Applicants should ensure that the latest Bank Statement uploaded must clearly show the name, address, bank account number and IFSC code)*

It is informed by SEBI that an interim application No.52228/2019 in CA -13301/2015 in the matter of PACL Limited was filed earlier, before Hon'ble Supreme Court, praying that accepting of physical applications be allowed for filling claims by investors. The

Hon'ble Supreme Court upon consideration of the facts placed before it, has dismissed the said interim application. Furthermore, the online process ensures transparency and reach to larger section of the investors.

In order to assist investors in submitting their Claim applications, a Demo Video illustrating the process for making an application has been placed on the portal. Further, a helpline number has been made available for investors for enquiring about the status of their claim application. Frequently Asked Questions (FAQ) were also made available on the portal for assistance of investors.

Upon the closing of receipt of claim applications, the applications as received are verified. Further, the investors whose claims were deficient are given an opportunity to make good the deficiency so that the same can be processed. This exercise of providing opportunity to rectify deficiencies was feasible since the entire process was through online portal.

At the conclusion of verification, refunds are credited directly to the bank accounts of the investors, as provided by them in their claim applications, by way of electronic transfer. After effecting the payment to the investors, they are intimated of the same by way of SMS. The payments are made to the investors in tranches in view of the corpus available with the Committee.

It is submitted by SEBI that the entire process of online submission of claim application was kept simple and adequate assistance by way of demo videos and helpline number was provided to the investors for filing their claims. Further, the Committee requested Chief Secretary of each States to provide required assistance to investors in filing claim application through E-Seva Kendra. To ensure transparency, the Committee regularly updates inter alia, status of refund, timeline for rectifying/submitting claim application etc., on SEBI website, i.e., <https://www.sebi.gov.in/PACL.html>. Further, periodic reports containing, inter alia, details of refund to investors, are submitted before Hon'ble Supreme Court.

Refund status

First Refund exercise: *At the first stage, the Committee invited claims from such investors whose total outstanding amount (Principal) with PACL Limited was upto Rs.2,500/. The window for submitting claim applications was kept open for three months from January 02, 2018 to March 31,2018. After verification of claims, the Committee paid Rs.18.15 crore in respect of 1,89,103 claim applications.*

Second Refund exercise: *Thereafter, the Committee invited claim applications from*

all investors of PACL Limited. The window was initially opened for around three months from February 08, 2019 to April 30, 2019. Thereafter, the last date for submission of claim was extended till July 31, 2019 so that investors get enough time to make their claims. This refund exercise provided the opportunity to the investors who could not file their claims in the earlier refund exercise in 2018. Around 1.50 crore claim applications were received by July 31, 2019.

The Committee decided to make phase-wise/ claim amount-wise payment to the investors after considering the funds available with the Committee. As on issuance of Public Notice dated 08.09.2020 payment of Rs.429.13 crore was effected to the investors in PACL Limited (This amount includes payments of Rs 18.15 crore in respect of 1,89,103 claim application and Rs 1.91 crore in respect of 5682 re-submitted/rectified applications.)

Further, the Committee vide public notice dated October16, 2019 has informed the investors who could not submit their claims, to await notification from the Committee with respect to such claims, in due course.

Rectification Requests

The opportunity for rectification was provided in stages and the details of the same are as under:

Sl. No.	Period during which opportunity provided to rectify claim applications	Claim Amount (in Rs.)
1.	24.01.2020 to 31.07.2020	Upto Rs 5,000/-
2.	01.08.2020 to 31.10.2020	Upto Rs 7,000/-
3.	01.01.2021 to 31.03.2021	Upto Rs 10,000/-

Till December 31, 2020, the investors have re-submitted 28,593 claims after making good the deficiencies and pursuant to verification of these applications, payment of Rs.5.48 crore has been effected in respect of 15,369 re-submitted applications (including Rs 1.91 crore in respect of 5682 re-submitted application earlier and Rs.3.56 crore effected in respect of 9687 re-submitted applications pursuant to Public Notice dated 08.09.2020).

Thus, till date, the Committee has effected refund in respect of 12,58,031 eligible applications, having claim amount upto Rs. 10,000/-, aggregating to Rs. 432.69 crore.

The details of the payment of refund made by the Committee is as under:-

S.No.	Claim Amount (Outstanding Principal) (Rs.)	Date of Payment	No. of Investors
1.	0-2500	Sept. 07, 2018 - Nov. 15, 2018	1,89,103
2.	0-5000	Oct. 29, 2019 - Dec. 26, 2019	3,94,823
		April 24, 2020 - July 24, 2020	
		Sept. 09, 2020 - Sept. 10, 2020	
		Sept. 13, 2020 - Sept. 19, 2020	
		Nov. 09, 2020	
		Dec. 23, 2020 - Dec. 24, 2020	
3.	5001-7000	March 10, 2020-April 13, 2020	2,62,011
		Dec. 15, 2020 - Dec. 17, 2020	
4.	7001-8000	July 03, 2020 - July 07, 2020	1,36,231
5.	8001-10000	August 27, 2020	2,75,863
Total:			12,58,031

7. In the meantime, a Group of Investors also submitted their representations *inter alia* requesting to expedite the refunding of money to the investors of PACL Limited to the Committee on Petitions, Lok Sabha. The representationists *inter alia* stated that millions of people from marginal income group had invested their hard earned money in the PACL Limited. They further submitted that the Supreme Court of India had directed the SEBI to refund the money to all investors within a period of 3 months, however, even after a lapse of 4 years, SEBI had not been able to complete the refund process in a time bound manner despite the fact that a huge amount of money of the PACL Limited is under its disposal. The representationists, therefore, requested to expedite the refund to all the PACL investors.

8. In order to have a detailed examination of the representation of Shri Gourav Kumar Soni alleging Securities & Exchange Board of India's high-handedness in refunding the money to investors of PACL Limited and the issues/points raised in other representations on the subject in the light of comments furnished by the Ministry of Corporate Affairs and the Ministry of Finance (Department of Economic Affairs) thereon, the Committee held oral evidence/briefing with the representatives of the Ministry of Finance (Department of Economic Affairs), Ministry of Corporate Affairs and the Chairman, Securities and Exchange Board of India (SEBI), during their sitting held on 16 March, 2021.

9. During the said oral evidence/briefing held on 16 March, 2021, the major issues put forth before the Committee by the representatives of the Ministry of Finance (Department of Economic Affairs), Ministry of Corporate Affairs and the Chairman, Securities and Exchange Board of India (SEBI), were as follows:-

- (i) SEBI issued letters dated November 30, 1999 and December 10, 1999 to PACL, alleging that PACL was operating a CIS. PACL then challenged the letter of SEBI before the Hon'ble High Court of Rajasthan at Jaipur. The Hon'ble High Court of Rajasthan vide its order dated November 28, 2003 allowed the Writ Petition filed by PACL. The Hon'ble High Court inter alia held that the schemes of PACL were not CIS as they did not possess the characteristics of a CIS as defined under Section 11AA of the SEBI Act and quashed the letters dated November 30, 1999 and December 10, 1999, issued to PACL by SEBI. Thereafter, SEBI appealed to the Hon'ble Supreme Court, and the Hon'ble Supreme Court of India vide order dated February 26, 2013, set aside the order of Hon'ble High Court and directed SEBI to examine the matter afresh and pass order. Whole Time Member (WTM), SEBI, in his order dated 22.08.2014 observed that PACL Limited had mobilized Rs 49,100 crore from 5.85 crore investors.
- (ii) The Hon'ble Supreme Court vide its Order dated 2, February, 2016 had directed SEBI to constitute a Committee under the Chairmanship of Justice R.M. Lodha (former CJI) for disposing of the land purchased by PACL Limited so that the sale proceeds can be paid to the investors, who have invested their funds in the Company. Accordingly, SEBI has constituted a Committee under the Chairmanship of Justice (Retd.) R.M. Lodha.
- (iii) The said Committee, in furtherance of its mandate, initiated the process of refund to the investors of PACL Limited in the year 2018. SEBI has extended administrative and secretarial assistances to the said Committee.
- (iv) Considering large number of investors spread across the entire country, they were requested to file their claim applications through online portal, which was generally kept open for three months. Upon closing of receipt of claim applications, the same had been verified and at the conclusion of verification process, the refund are credited directly to the bank accounts of the investors.
- (v) Periodic Reports containing inter alia details of refund to the investors, are submitted to the Hon'ble Supreme Court.
- (vi) At the first stage (January, 2018 to March, 2018), the Committee invited claims, wherein the total outstanding amount was up to Rs. 2500/-. After verification of

claims, Rs.18.15 crore was paid in respect of 1,89,103 claims. Thereafter, at the second stage (February, 2019 to July, 2019), claim applications were invited from all the investors of PAC Limited. In response thereto, around 1.50 crore applications amounting to Rs. 28,733 crore were received. It was, then, decided to make phase-wise/claim amount-wise payments to the investors after considering the funds available with the Committee.

- (vii) The Committee has effected refund in respect of 12.63 lakhs eligible claim applications, having claim amount up to Rs. 10,000/-, aggregating to Rs. 434.90 crore.*
- (viii) At present, the total corpus of Rs. 630.90 crore is available with the Committee and with that, the investors having claim amount up to Rs 10,000 to Rs. 12,000 could be paid.*
- (ix) The process of initiating bulk sale of immovable properties of the PACL Limited through Asset Reconstruction Company, which is regulated by RBI, or otherwise is very slow as it has to be approved by the Hon'ble Supreme Court, which is awaited.*

10. The Committee, while carrying out further examination of the issues/points raised in the representations of Shri Gourav Kumar Soni and others alleging Securities & Exchange Board of India's high-handedness in refunding the money to investors of PACL Limited and seeking the status of progress made in the matter, again took oral evidence/briefing of representatives of the Ministry of Finance (Department of Economic Affairs) and the Chairman, Securities and Exchange Board of India (SEBI), during their sitting held on 5 April, 2022.

11. During the said sitting held on 5 April, 2022, the Committee, while recapitulating the discussion held with the representatives of the Ministries of Finance (Department of Economic Affairs) and Corporate Affairs and the then Chairman, SEBI on the representations of Shri Gourav Kumar Soni and others alleging Securities & Exchange Board of India's high-handedness in refunding the money to investors of PACL Limited in their sitting held on 16 March, 2020, sought clarifications on the following aspects:-

- (i) The total volume of the investment made by the investors in the PACL Company and the total amount of refund which has already been effected to the investors after a lapse of more than six years since a Committee under the Chairmanship of Justice (Retd.) R.M. Lodha was constituted by the SEBI for disposing of the land

purchased by PACL so that refund, out of the sale proceeds, can be made to the investors.

- (ii) The difficulties being faced by the said Committee/SEBI in returning the money to the investors and the strategies that have been made/being formulated to overcome such difficulties and about the effectiveness of such strategies.
- (iii) The estimated time period required for returning the entire money to the investors of PACL, in the opinion of the Ministry/SEBI.
- (iv) The reason(s) on the basis of which the Companies like Saradha, Sahara, PACL, etc., have been successful in duping the hard earned money of the investors in spite of the existing Regulatory Mechanism(s)/Body such as SEBI.
- (v) Possibility of timely intervention by the Regulatory Bodies/Law Enforcement Agencies so that such scams by the errant and dubious Companies could be averted at the beginning itself.

12. In response thereto, the major issues put forth before the Committee by the representatives of the Ministry of Finance (Department of Economic Affairs) and the Chairman, Securities and Exchange Board of India (SEBI) on the progress made, till date in refunding the money to investors of the PACL Limited as raised by Shri Gourav Kumar Soni and others in their representations under reference, were as follows:-

- (i) *While the Whole Time Member (WTM), SEBI, in his order dated 22.08.2014 observed that PACL Limited had mobilized Rs 49,100 crore from 5.85 crore investors, SEBI had received 1.5 crore claim application from investors seeking refund. Till date, approximately Rs. 450 crore have already been refunded to around 13 lakh investors in first round after the constitution of the Committee headed by Justice (Retd.) R.M. Lodha to oversee the refund process. These investors were those who had invested less than Rs. 10,000 in the Company.*
- (ii) *Second round has also been started which has the target date of 30.06.2022 for the investors who have invested the amount between Rs. 10,000 and Rs. 15,000. After refund of the money against the valid claims, third round would start wherein, those investors would be refunded who have invested more than Rs. 15,000. However, before that, as there is cash crunch in the Committee/SEBI, there is need to monetize the assets of the Company.*

- (iii) *Following are the major challenges being faced by the Committee/SEBI in refunding the money to the PACL investors:-*
- (a) *As per Supreme Court's Order, there is a prescribed process 'as is where is' to be followed, which is actually very difficult to follow in practice;*
 - (b) *Property Papers related to assets of the Company are sometimes not in original or not matching with the land records of the Revenue Office or of a disputed property or sometimes found to be encroached, which are practical problems in respect to monetization of the assets of the Company;*
 - (c) *Rules related to selling of assets are not too conducive to attract large number of bids.*
 - (d) *Verification and validation of genuine refund claims are also cumbersome as sometimes the details of bank account(s) given by the investors do not match with the records of the Company and sometimes, the Certificate(s) issued by the Company are blurred and not legible.*
- (iv) *In view of these challenges, SEBI has submitted a petition to the Supreme Court, wherein it has been requested to allow selling of properties in different ways. SEBI has suggested two methods, viz., top thousand properties in terms of their value, may be liquidated or the assets of the Company may be liquidated District wise. The next hearing in the matter would be held on 08.04.2022.*
- (v) *There is a regulatory gap on the basis of which the errant Companies take advantage to dupe the investors.*

OBSERVATIONS/RECOMMENDATIONS

Expediting the process of refund to the investors of PACL Limited

13. The Committee, while examining the representations of Shri Gourav Kumar Soni, Investors and various other Individuals alleging Securities & Exchange Board of India's (SEBI) slackness in refunding the money to investors of PACL Limited in the light of the comments received from the Ministry of Corporate Affairs and the Ministry of Finance (Department of Economic Affairs), note that the Supreme Court of India *vide* its order dated 02.02.2016 in the matter of C.A. No.13301 of 2015 titled Subrata Bhattacharya vs. SEBI and other connected matters had directed the Securities and Exchange Board of India (SEBI) to constitute a Committee under the Chairmanship of Justice (Retd.) R. M. Lodha for disposing of the properties of PACL Limited, so that the sale proceeds could be paid to the investors. Accordingly, the SEBI had constituted a Committee under the Chairmanship of Justice (Retd.) R. M. Lodha, which in furtherance of its mandate, initiated the process of refund to the investors of PACL Limited in the year 2018 with the monies so far realised by it.

14. As regards the process being followed for refund to the investors of PACL Limited, the Committee note from the submissions made by the Ministry of Finance (Department of Economic Affairs) that considering the large number of investors involved and they being spread across entire India, the investors were requested to file their claim applications by uploading on online portal and the window for submitting claim applications is invariably kept open for three months. In this connection, the Committee further note that certain details, *viz.*, Name of the investor as per PACL Certificate, Amount claimed (in Rupees), Claimant's mobile number, PACL Scheme Payment Registration Number, Scanned copy of PACL Certificate, Aadhaar/PAN Number, latest Bank Statement showing Bank Account Number and IFSC code,

Information regarding whether land has been allotted to the claimant investor by the PACL, etc., are sought in the claim application to verify and ensure that the money is paid to the genuine investor. The Committee also note that upon closing of receipt of claim applications, the applications as received are verified and the claimant investor(s) whose claims are found to be deficient, are given an opportunity to rectify the deficiency so that the same can again be processed. The entire process is being done through online portal.

15. From the submissions made by the Ministry of Finance (Department of Economic Affairs), the Committee note that after the conclusion of verification process, refunds are credited directly to the bank accounts of the investors, as provided by them in their claim applications, by way of electronic transfer; and after effecting the payment to the investors, they are intimated of the same by way of SMS. The payment are made to the investors in tranches in view of the available corpus.

16. As regards the status of refund, based on the information furnished by the Ministry of Finance (Department of Economic Affairs)/SEBI, the Committee take note of the fact that during the first stage of refund exercise, the Justice (Retd.) R. M. Lodha Committee invited claims from such investors whose total outstanding amount (Principal) with the PACL Limited was upto Rs.2,500/- and the window for submitting claim applications was kept open for three months from 2 January, 2018 to 31 March, 2018. After verification of claims, the Committee paid Rs.18.15 crore in respect of 1,89,103 claim applications. The Committee further note that in the second refund exercise, Justice (Retd.) R. M. Lodha Committee invited claim applications from all the investors of PACL Limited and the window was initially opened for around three months from 8 February, 2019 to 30 April, 2019; which was later extended till 31 July, 2019 so that the investors get enough time to make their claims. The second refund exercise also provided opportunity to such investors who could not file their claims in

the earlier refund exercise held in the year 2018. The Committee, in this regard, further note that approximately 1.50 crore refund claim applications had been received by 31 July, 2019. However, Justice (Retd.) R. M. Lodha Committee decided to make phase-wise and claim amount-wise payment to the investors after considering the funds available with their Committee.

17. During the briefing meeting held on 16 March, 2021 with the representatives of the Ministry of Finance (Department of Economic Affairs), Ministry of Corporate Affairs and the Chairman, SEBI, the Committee were informed that at that point of time, a total corpus of Rs. 630.90 crore was available with the Justice (Retd.) R. M. Lodha Committee and with that, the investors having claim amount up to Rs 10,000 to Rs. 12,000 could be paid. However, the Committee, at this juncture, are not in a position to gauge the exact financial situation of the fund available with the said Committee due to lack of relevant information. Notwithstanding the above, the Committee find it unsatisfactory that as on issuance of Public Notice dated 8.9.2020 on the status of refund effected to the investors of PACL Limited, payment of only Rs. 429.13 crore was effected in respect of a meager 1,89,103 claim applications which also included payment of Rs. 18.15 crore and Rs 1.91 crore in respect of 5682 re-submitted/rectified applications. Although, till February, 2021, the Committee had effected refund to 12,58,031 eligible applications, having claim amount upto Rs. 10,000/-, aggregating to Rs. 432.69 crore.

18. The Committee are constrained to note that even after a lapse of three years (from January, 2018 till February, 2021), only around 12.58 lakh eligible refund claim applications aggregating to Rs. 432.69 crore, have been settled whereas, the total number of the investors of PACL Limited is approximately 5.85 crore as informed by the Ministry of Finance (Department of Economic Affairs)/SEBI, which makes it evident that the process of refund is going on at a slow pace. The Committee, therefore, recommend the

of Finance (Department of Economic Affairs)/SEBI to take all appropriate and necessary efforts to adopt an appropriate methodology in order to expedite the process of refund and settlement in respect to claims of investors of PACL Limited. In this connection, the Committee further urge that the Ministry of Finance (Department of Economic Affairs)/SEBI should invite all the stakeholders for discussing on making the existing online refund portal more user friendly while regularly updating all the relevant data/information which are needed to be hosted on the web portal. On one hand, it would enable the disbursement of refund against the legitimate claims of the genuine investors more effective and quick and on the other hand, the investors of PACL Limited can be kept informed of the updated status on the refund process as well of the upcoming developments related thereto. The Committee would like to be apprised of the necessary steps taken/proposed to be taken on above aspects which could result into tangible outcomes, within three months from the date of presentation of this Report to the House.

Hassle-free online process for inviting/submission of claim application, verification, rectification, etc., in respect of refund to the PACL investors.

19. The Committee acknowledge that the entire process of refund through inviting claim application, verification and rectification of discrepancies, if any is being done through online/electronic mode. The Committee, however, in this regard urge the Ministry of Finance (Department of Economic Affairs)/SEBI to ensure that the entire online process involved in the refund of money to the PACL investors is free from complexities. With a view to making the entire process hassle-free, adequate assistance by way of publishing demo-videos and issuing of helpline numbers, e-mails, FAQs, etc., can be provided so that the investors could file claims which are devoid of defects. Further, necessary steps should also be taken to sensitize the States/UTs for providing all possible assistance to the investors in filing claim application through E-Seva Kendra or any other Agencies concerned on a regular basis. The modalities for the same could be

worked out by the Ministry of Finance (Department of Economic Affairs), in consultation with the SEBI and/or other stakeholders. The Committee would like to be apprised of the appropriate measures taken/proposed to be taken in this direction within three months from the date of presentation of this Report to the House.

Overcoming bottlenecks for initiating monetization of the immovable properties/assets of the PACL Limited for effecting refund to its investors

20. During the deliberations held with the representatives of the Ministry of Finance (Department of Economic Affairs)/SEBI on 5 April, 2022, the Committee were informed that as there was seemingly a cash crunch with the Justice (Retd.) R. M. Lodha Committee/SEBI and there was a need to monetize the assets of the Company viz., PACL Limited for effecting refund to its investors. The Committee had also been informed that the major challenges being faced by the Committee/SEBI in refunding the money to the PACL investors were as under:-

- (a) As per Supreme Court's Order, there is a prescribed process '*as is where is*' to be followed, which is actually very difficult to follow in practice;
- (b) Property Papers related to assets of the Company are sometimes not in original or not matching with the land records of the Revenue Office or of a disputed property or sometimes found to be encroached, which are practical problems in respect to monetization of the assets of the Company;
- (c) Rules related to selling of assets are not too conducive to attract large number of bids; and
- (d) Verification and validation of genuine refund claims are also cumbersome as sometimes the details of bank account(s) given by the investors do not match with the records of the Company and sometimes, the Certificate(s) issued by the Company are blurred and not legible.

21. In this sequel, the Committee were informed that in view of these challenges, SEBI had submitted a Petition to the Supreme Court, wherein it was requested to allow selling

of properties in different ways. Accordingly, SEBI had suggested two methods, viz., top thousand properties in terms of their value, which are apparently located in Metros may be liquidated at first instance and further, the assets of the Company may be liquidated District-wise.

22. During the deliberations held with the representatives of the Ministry of Finance (Department of Economic Affairs)/SEBI on 16 March, 2021, the Committee were also informed that the process of initiating bulk sale of immovable properties of the PACL Limited through Asset Reconstruction Company, which is regulated by RBI, or otherwise was very slow as it had to be approved by the Supreme Court.

23. In the considered opinion of the Committee, the Ministry of Finance (Department of Economic Affairs)/SEBI should put in their concerted efforts to take up the issues with the Authorities concerned in order to obtain the orders of Supreme Court in regard to initiating the process of bulk sale of immovable properties/assets of the PACL Limited and monetize the same through Asset Reconstruction Company or otherwise so that the corpus amount available with the Justice (Retd.) R. M. Lodha Committee/SEBI could be increased and there should not be any cash crunch for effecting refund to the PACL investors. The Committee would like to be apprised of the necessary steps taken/proposed to be taken in this regard within three months from the date of presentation of this Report to the House. The Committee would also like to be apprised of the judgment/order(s) passed by the Supreme Court of India in the matter of PACL Limited.

Timely identification of 'red flags' in respect to probable financial fraud and exercising enhanced due diligence while incorporation and operation of a Company.

24. Keeping in view the mushrooming of errant/fraudulent Companies which were found to be involved in financial irregularities and/or economic offences in recent times, including the instant case of PACL Limited, which amassed billions of rupees through unregulated Collective Investment Schemes (CIS) over a long period of time, the Committee are of the opinion that such misdemeanor by the errant/fraudulent Companies can be averted at the initial stage itself if the Agencies concerned are vigilant enough to identify the 'red flag indicators' such as promise of unreasonable returns, aggressive campaign/advertisement for attracting a large number of investors in a short period of time, unusual and sudden spike in cash/banking transactions, etc., and take suitable preventive measures. The Ministry of Corporate Affairs, being the Nodal Ministry for administration of the legal framework within which the Companies are registered, should also identify all these 'red flag indicators' in respect of probable financial fraud/irregularities and/or economic offences and at the same time, ensure that the administrative machinery concerned is more vigilant and exercise enhanced due diligence before according requisite approvals with regard to incorporation as well as during operation of the Companies involved in the financial sector, especially which deal in Collective Investment Schemes (CIS), similar to that of PACL.

Need for stringent Statutory and Regulatory Mechanism to prevent deceiving of investors by errant/fraudulent Companies

25. During the course of detailed examination of the representation(s) of Shri Gourav Kumar Soni and others on the subject, the Committee observe that the errant/fraudulent Companies involved in financial irregularities and/or economic offences, resort to circumventing the existing regulations and take advantage of statutory loop-holes to deceive the gullible investors of their hard-earned money. Keeping in view the above stated *modus operandi* being undertaken by the fraudulent Companies, the Committee are of the considered opinion that there is an emergent need for a stringent Statutory as

well as Regulatory Mechanism so that the affairs/activities of such Companies are regulated in an efficient and ingenious manner while maintaining reasonable balance between the same and ease of doing business. The Committee, therefore, strongly recommend the Ministries of Corporate Affairs and Finance (Department of Economic Affairs) to formulate an impregnable firewall by way of formulating stringent rules, regulations, and guidelines in consultation with other stakeholders such as SEBI, Reserve Bank of India (RBI), etc., so that the innocent investors, which are particularly from the vulnerable lower and middle income groups, are not cheated by any such errant/fraud-lent Companies in future. Besides, whenever any complaint related to unregulated deposit schemes, fraudulent default in regulated deposit schemes or wrongfully inducing depositors into such schemes as well as clandestine activities/affairs of a Company, etc., come to the notice of Authorities/Agencies concerned, the Ministries of Corporate Affairs and Finance (Department of Economic Affairs) should proactively take cognizance of the matter with utmost alacrity and seriousness so that prompt consequent action(s) could be initiated by referring the matter to appropriate Investigation/Law Enforcement Agencies, such as Enforcement Directorate (ED), Serious Fraud Investigation Organisation (SFIO) or even the Central Bureau of Investigation (CBI) for conducting detailed investigation into such cases. The Committee would like to be apprised of the necessary steps taken/proposed to be taken in this regard within three months from the date of presentation of this Report to the House.

NEW DELHI;

HARISH DWIVEDI,
Chairperson,
Committee on Petitions.

08 August, 2023

17 Sravana, 1945 (Saka)

**MINUTES OF THE SIXTEENTH SITTING OF THE COMMITTEE ON PETITIONS
(SEVENTEENTH LOK SABHA)**

The Committee met on Tuesday, 16 March, 2021 from 1500 hrs. to 1730 hrs. in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Dr. Virendra Kumar - Chairperson

MEMBERS

2. Shri Brijendra Singh
3. Shri Sushil Kumar Singh
4. Dr. Bharati Pravin Pawar
5. Shri Prabhubhai Nagarbhai Vasava

SECRETARIAT

1. Shri T.G. Chandrashekhar - Joint Secretary
2. Shri Raju Srivastava - Director

WITNESSES

*** *** *** *** ***

**MINISTRY OF FINANCE
(DEPARTMENT OF ECONOMIC AFFAIRS)
AND
SECURITIES & EXCHANGE BOARD OF INDIA (SEBI)**

1. Shri Anand Mohan Bajaj - Additional Secretary
2. Ms. Rose Mary K. Abraham - Director (PM & CD)
3. Shri Ajay Tyagi - Chairman, SEBI -
4. Shri Anand Baiwar - ED, SEBI & Member of Justice (Retd.)
R. M. Lodha Committee

MINISTRY OF CORPORATE AFFAIRS

1. Smt. Anjali Bhawra - Special Secretary
2. Shri Keshav Chandra - Director, SFIO

2. At the outset, the Hon'ble Chairperson welcomed the Members to the sitting of the Committee.

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[The representatives of the Ministry of Finance (Department of Economic Affairs), the Ministry of Corporate Affairs and SEBI were, then, ushered in]

9. After welcoming the representatives of the Ministry of Finance (Department of Economic Affairs), the Ministry of Corporate Affairs and the Chairman, SEBI, the Hon'ble Chairperson drew their attention to Direction 55(1) of the Directions by the Speaker, Lok Sabha regarding confidentiality of the proceedings of the Committee. *** *** *** ***

10. Thereafter, the Committee were briefed by the representatives of the Ministry of Finance (Department of Economic Affairs), the Ministry of Corporate Affairs and the Chairman, SEBI on the representation of Shri Gourav Kumar Soni alleging Securities & Exchange Board of India's high-handedness in refunding the money to investors of Pulse Agro Corporation Limited (PACL). The major issues put forth before the Committee by these witnesses, were as follows:-

- (i) PACL Limited had mobilised approximately Rs, 49,100 crore from the investors in violation of provisions of the SEBI - Collective Investment Schemes (CIS) Regulations through CIS Scheme. The first complaint against the Company was received by SEBI in the year 1998. Next year, in 1999, SEBI issued Show Cause Notice to the Company, which went to the Rajasthan High Court. The High Court

ordered that the Schemes, in question, are not CIS and SEBI's intervention is inappropriate. Thereafter, SEBI appealed to the Supreme Court, and it was only in the year 2013 that the Hon'ble Supreme Court observed that the Schemes are CIS and directed SEBI to initiate further necessary action in furtherance to the Notice issued to the Company.

- (ii) The Hon'ble Supreme Court *vide* its Order dated 2, February, 2016 had directed SEBI to constitute a Committee under the Chairmanship of Justice R.M. Lodha (former CJI) for disposing of the land purchased by PACL Limited so that the sale proceeds can be paid to the investors, who have invested their funds in the Company. Accordingly, SEBI has constituted a Committee under the Chairmanship of Justice (Retd.) R.M. Lodha.
- (iii) The said Committee, in furtherance of its mandate, initiated the process of refund to the investors of PACL Limited in the year 2018. SEBI has extended administrative and secretarial assistances to the said Committee.
- (iv) Considering large number of investors spread across the entire country, they were requested to file their claim applications through online portal, which was generally kept open for three months. Upon closing of receipt of claim applications, the same had been verified and at the conclusion of verification process, the refund are credited directly to the bank accounts of the investors.
- (v) Periodic Reports containing *inter alia* details of refund to the investors, are submitted to the Hon'ble Supreme Court.
- (vi) At the first stage (January, 2018 to March, 2018), the Committee invited claims, wherein the total outstanding amount was up to Rs. 2500/-. After verification of claims, Rs.18.15 crore was paid in respect of 1,89,103 claims. Thereafter, at the second stage (February, 2019 to July, 2019), claim applications were invited from all the investors of PACL Limited. In response thereto, around 1.50 crore applications amounting to Rs. 28,733 crore were received. It was, then, decided to make phase-wise/claim amount-wise payments to the investors after considering the funds available with the Committee.
- (vii) The Committee has effected refund in respect of 12.63 lakhs eligible claim applications, having claim amount up to Rs. 10,000/-, aggregating to Rs. 434.90 crore.
- (viii) At present, the total corpus of Rs. 630.90 crore is available with the Committee and with that, the investors having claim amount up to Rs 10,000 to Rs. 12,000 could be paid.

- (ix) The process of initiating bulk sale of immovable properties of the PACL Limited through Asset Reconstruction Company, which is regulated by RBI, or otherwise is very slow as it has to be approved by the Hon'ble Supreme Court, which is awaited.

11. After hearing the views of the representatives of the Ministry of Finance (Department of Economic Affairs), the Ministry of Corporate Affairs and the Chairman, SEBI, the Committee expressed their views, as under:-

- (i) Since the process of refunding the money to the investors of PACL Limited is very slow as only 12.63 lakh eligible claim applications aggregating to Rs. 432.69 crore, have been settled against approximately 1.5 crore claims, rest of the payments may be expedited with the corpus amount of Rs. 630.90 crore available and money generated through sale proceeds from PACL properties.
- (ii) Monetization of properties of PACL Limited through bulk sale or through Asset Reconstruction Company may be expedited by taking the issue with the concerned Authorities so as to increase the corpus amount available with the Committee.
- (iii) Hassle-free process of refunding the investors' money be maintained by way of seeking the requisite assistance from the Agencies of the State Government(s).

[The representatives of the Ministry of Finance (Department of Economic Affairs), the Ministry of Corporate Affairs and SEBI then withdrew]

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The Committee, then, adjourned.

*** Does not pertain to this Report

**MINUTES OF THE TWENTIETH SITTING OF THE COMMITTEE ON PETITIONS
(SEVENTEENTH LOK SABHA)**

The Committee met on Tuesday, 5 April, 2022 from 1500 hrs. to 1700 hrs. in Committee Room No. 3, Block A, Parliament House Annexe (Extension), New Delhi.

PRESENT

Shri Harish Dwivedi - Chairperson

MEMBERS

2. Shri Anto Antony
3. Shri Hanuman Beniwal
4. Shri P. Ravindhranath
5. Shri Arvind Ganpat Sawant
6. Shri Brijendra Singh
7. Shri Sushil Kumar Singh
8. Shri Prabhubhai Nagarbhai Vasava

SECRETARIAT

1. Shri Raju Srivastava - Director
2. Shri G.C. Dobhal - Additional Director

WITNESSES

*** *** *** *** ***

**MINISTRY OF FINANCE
(DEPARTMENT OF ECONOMIC AFFAIRS)
AND
SECURITIES & EXCHANGE BOARD OF INDIA (SEBI)**

1. Shri Anand Mohan Bajaj - Additional Secretary
(Financial Market Division)
2. Smt. Madhabi Puri Buch - Chairperson, SEBI
3. Shri Anand R. Baiwar - Executive Director, SEBI

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[The representatives of the Ministry of Finance (Department of Economic Affairs) and the Chairperson, SEBI were ushered in]

10. After welcoming the representatives of the Ministry of Finance (Department of Economic Affairs) and the Chairperson, SEBI, the Hon'ble Chairperson drew their attention to Direction 55(1) of the Directions by the Speaker, Lok Sabha regarding confidentiality of the proceedings of the Committee. However, before hearing the views of the representatives of the Ministry/Securities and Exchange Board of India (SEBI), the Committee while recapitulating the discussion held with the representatives of the Ministry of Ministries of Finance (Department of Economic Affairs) and Corporate Affairs and the then Chairman SEBI on the representation of Shri Gourav Kumar Soni alleging Securities & Exchange Board of India's high-handedness in refunding the money to investors of Pulse Agro Corporation Limited (PACL) during their sitting held on 16.03.2020 and sought clarifications from them on the following aspects:-

- (i) It has been now more than six years since a Committee under the Chairmanship of Justice (Retd.) R.M. Lodha was constituted by the SEBI for disposing of the land purchased by PACL so that refund, out of the sale proceeds, can be made to the investors. At present, how much refund has been effected to the investors? Further, what is the total volume of the investment made by the investors in the Company?
- (ii) What are the difficulties being faced by the said Committee/SEBI in returning the money to the investors and what are the strategies that have been made/being formulated to overcome such difficulties and whether such strategies are effective or not?

- (iii) In the opinion of the Ministry/SEBI, how much it would take to return the entire money to the investors of PACL?
- (iv) What are the reasons on the basis of which the Companies like Sarda, Sahara, PACL, etc., have been successful in duping the hard earned money of the investors in spite of the existing Regulatory Mechanisms/Bodies such as SEBI?
- (v) Why not timely intervention by the Regulatory Bodies/Law Enforcement Agencies is possible so that such scams by the errant and dubious Companies could be averted at the beginning itself?

11. The Committee were then, briefed by the representatives of the Ministry of Finance (Department of Economic Affairs) and the Chairperson Securities and Exchange Board of India (SEBI) on the progress made till date in refunding the money to investors of the Pulse Agro Corporation Limited (PACL) raised by Shri Gourav Kumar Soni in his representation dated 18 January 2021. The major issues put forth before the Committee by these witnesses were, as under:-

- (i) The total number of investors in the Pulse Agro Corporation Limited is 1.5 crore. Till date, approximately Rs. 450 crore have already been refunded to around 13 lakh investors in first round after the constitution of the Committee headed by Justice (Retd.) R.M. Lodha to oversee the refund process. These investors were those who had invested less than Rs. 10,000 in the Company.
- (ii) Second round has also been started which has the target date of 30.06.2022 for the investors who have invested the amount between Rs. 10,000 and Rs. 15,000. After refund of the money against the valid claims, third round would start wherein, those investors would be refunded who have invested more than Rs. 15,000. However, before that, as there is cash crunch in the Committee/SEBI, there is need to monetize the assets of the Company.
- (iii) Following are the major challenges being faced by the Committee/SEBI in refunding the money to the PACL investors:-
 - (a) As per Supreme Court's Order, there is a prescribed process '*as is where is*' to be followed, which is actually very difficult to follow in practice;
 - (b) Property Papers related to assets of the Company are sometimes not in original or not matching with the land records of the Revenue

Office or of a disputed property or sometimes found to be encroached, which are practical problems in respect to monetization of the assets of the Company;

- (c) Rules related to selling of assets are not too conducive to attract large number of bids.
 - (d) Verification and validation of genuine refund claims are also cumbersome as sometimes the details of bank account(s) given by the investors do not match with the records of the Company and sometimes, the Certificate(s) issued by the Company are blurred and not legible.
- (iv) In view of these challenges, SEBI has submitted a petition to the Supreme Court, wherein it has been requested to allow selling of properties in different ways. SEBI has suggested two methods, viz., top thousand properties in terms of their value, which are apparently located in Metros may be liquidated at first instance and further, the assets of the Company may be liquidated District wise. The next hearing in the matter would be held on 08.04.2022.
- (v) There is a regulatory gap on the basis of which the errant Companies take advantage to dupe the investors.

12. After hearing the views of the representatives of the Ministry of Finance (Department of Economic Affairs) and the Chairperson, SEBI, the Committee expressed their views, as under:-

- (i) Since the process of refunding the money to the investors of PACL is very slow at present, only 13 lakh eligible claim applications aggregating to around Rs. 450 crore have been settled against approximately 1.5 crore investors, rest of the payments may be expedited through money generated from sale proceeds in respect of PACL properties.
- (ii) The Ministry of Finance (Department of Economic Affairs) may furnish the details of investors who have not refunded the money *vis-a-vis* money available with the Committee/SEBI and money generated through liquidation of PACL properties.
- (iii) Hassle-free process of refunding the investors' money be maintained by way of seeking the requisite assistance from the Agencies of the State Government(s).

[The representatives of the Ministry of Finance (Department of Economic Affairs) and the Chairperson, SEBI then withdrew]

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The Committee, then, adjourned.

*** Does not pertain to this Report