IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

MONDAY, THE TWENTY SIXTH DAY OF JULY
TWO THOUSAND AND TWENTY ONE

:PRESENT:
THE HON'BLE JUSTICE G.SRI DEVI

IA Nos. 1, 2, 4 & 6 OF 2021
IN
WP NO: 5877 OF 2021

Between:
Indus Viva Health Sciences Pvt. Ltd., Having its office at Viva Tower, No.36, Nandi Durga Road, Jayamahal Extension, Bangalore, Karnataka, India 560 046, Rep. by its authorised signatory Mr. Nishad Madampoil.

...Petitioner
(Petitioner in WP. No. 5877of 2021
on the file of High Court)

AND

1. State of Telangana, Rep. by its Principal Secretary, Home Department, Secretariat, Hyderabad
2. Commissioner of Police, Cyberabad, Old Mumbai Highway, Gachibowli
3. Inspector of Police, Economic Offences Wing, Gachibowli Police Station, Cyberabad, Telangana.
4. State Nodal Officer for Direct Selling/Multi-Level Marketing, Deputy Commissioner, Department of Consumer Affairs, Department of Food and Civil Supplies, Civil Supplies Bhavan, Hyderabad
5. Additional Director, O/o. Commissioner of Industries, Department of Industries, Secretariat. Hyderabad
6. Union of India, Rep. by its Secretary, Department of Consumer Affairs, Krishi Bhavan, New Delhi.
7. Axis Bank, Jayamahal Extension Branch, 12/4, DF Silverline Silverrock, Nandi Durga Main Road, Jayamahal Ext Bengaluru, Karnataka 560046
8. Axis Bank, R.T. Nagar Branch, No 174, Ground Floor, MLA Layout, Main Road, RT Nagar, Bengaluru, Karnataka, 560032.
9. Axis Bank, Nagawara Ring Road Branch, Ground Floor, 4th Block, HBR 2nd Stage BDA, Layout Nagawara Ring Road, Bangalore 560045
10. Axis Bank, Cochin Bank, Kasmisons Estate, Janatha Junction, Vytilla Kochi, Dist. Ernakulam Kerala, 682019.
11. Axis Bank, Axis Bank, New Delhi Branch, J-3 Vikaspuri, New Delhi
12. State Bank of India, L.C.Road Branch, 2, L.C. Road, Nagashetty Halli, Shivaji Nagar, Bengaluru, Karnataka 560094
13. HDFC Bank, Infantry Road Branch, 29, Empire, Infantry Rd, Bengaluru, Karnataka 560001
14. HDFC Bank, Jayamahal Branch, 25, Jayamahal Ext, 4th Cross, Main Rd., Nandidurga, Bengaluru, Karnataka 560046

...Respondents
(Respondents in-do-)

Counsel for the Petitioner (in the I.As)	:	**SRI S.RAVI, Senior Counsel, for M/s. AVULA KRISHNAVENI**
Counsel for the Respondent No.1 to 3	:	GP FOR HOME
Counsel for the Respondent No. 4	:	GP FOR CIVIL SUPPLIES
Counsel for the Respondent No. 5	:	GP FOR CIVIL INDUSTRIES

Counsel for the Respondent No. 6 : SRI NAMAVARAPU RAJESHWARA RAO, ASST. SOL. GENERAL

Counsel for the Respondent Nos. 7 to 11 : SRI K.B.RAMANNA DORA

Counsel for the Respondent Nos. 13 & 14 : SRI M.P.KASHYAP

I.A. NO.1 OF 2021:

Petition under Section 151 of CPC praying that in the circumstances stated in the affidavit filed in the writ petition, the High Court may be pleased to direct Respondents to defreeze the Petitioner's Bank Accounts with Axis Bank, Jayamahal Extension Branch, bearing Account Nos. 918020090628740 & 920020043649850, with Axis Bank, R.T Nagar Branch, Bengaluru bearing Account No.914020004117159, with Axis Bank, Nagawara Ring Road, Branch, Bengaluru bearing Account No. 9200020043421759, with State Bank of India, L.C Road Branch, Bengaluru bearing Account No. 33620992063, with HDFC Bank, Infantry Road branch, Bengaluru, bearing Account No. 50200004074795, with HDFC Jayamahal Branch, Bengaluru, bearing Account No. 59217300000001, with Axis Bank, Cochin Branch, bearing Account No. 919020059326536, and with Axis Bank, Vikaspuri Branch, New Delhi bearing Account No. 919020061615257, with ICICI Bank Bangalore, Jayamahal Branch bearing Account No. 343805000791 (Indusviva Healthcare Private Limited), with Axis Bank, Jayamahal Extension Branch in the name of Abilash Thomas bearing Account No. 914010019111424, with Axis Bank, Jayamahal Extension Branch in the name of Cheppattau Mohamed Abdulla Anzar bearing Account No. 919010092113307, with Axis Bank, Jayamahal Extension Branch in the Name of Cheppattu Mohamed Abdulla Anzar Joint Account bearing No. 920010035353045, with Axis Bank, Jayamahal Extension Branch in the name of M.Subramanyam bearing Account No. 918020068827999, pending disposal of WP No. 5877 of 2021, on the file of the High Court.

(prayer is amended as per C.O. dt. 26-07-2021 in IA. No. 6 of 2021)

I.A. NO. 2 OF 2021:

Petition under Section 151 of CPC, praying that in the circumstances stated in the affidavit filed in the writ petition, the High Court may be pleased to direct Respondent Nos. 1 to 3 not to interfere with the day-to-day operations of the Petitioner in the absence of violation of the Telangana Direct Selling Guidelines Order, 2017 and in the absence of any material suggesting violation thereof - including by not harassing the Petitioner and/or its employees by registering cases under the Prize Chits and Money Circulation Schemes (Banning) Act, 1978; not indiscriminately arresting the employees and/or direct sellers of the Petitioner; not blocking the website of the Petitioner, not freezing the bank accounts of the Petitioner, not restricting access to the Petitioner's offices/premises, not blocking the phones and emails of the employees/management of the Petitioner; pending disposal of WP No. 5877 of 2021, on the file of the High Court.

I.A. NO. 4 OF 2021:

Petition under Section 151 of CPC, praying that in the circumstances stated in the affidavit filed in the writ petition, the High Court may be pleased to permit the petitioners to amend the main Writ prayer in the W.P. No. 5877 of 2021 as follows:

""For the reasons above-mentioned reasons and those reasons which may be adduced at the time of hearing, it is therefore prayed that this Hon'ble Court may be pleased to grant an order, direction, or writ, more so in the nature of Writ of Mandamus;

(a) declaring the actions of the Respondent No 1 to 3 Authorities in harassing the Petitioner its employees and/or its direct sellers by registering cases under the Prize Chits and Money Circulation Schemes Banning Act 1978 and preventing the Petitioner from carrying on its legitimate business as a Direct Selling Entity as being arbitrary illegal unjust and violative of Articles 14 19 and 21 of the Constitution of India and as being contrary to the Telangana Direct Selling Guidelines Order 2017;

(b) declaring 'the actions of the 3rd Respondent in issuing Notices dated 04. 03. 2021 bearing Nos. 124/E0W/Cyb/2021 to the Respondent Banks and directing them to freeze the Petitioners Bank Accounts with Axis Bank Jayamahal Extension Branch bearing Account Nos. 918020090628740 and 920020043649850 with Axis Bank R T Nagar Branch, Bengaluru bearing Account No 914020004117159 with Axis Bank Nagawara Ring Road Branch, Bengaluru bearing Account No 920020043421759 with State Bank of India L 0 Road Branch, Bengaluru bearing Account No 33620992063 with HDFC Bank Infantry Road Branch, Bengaluru bearing Account No 50200004074795 with HDFC Bank Jayamahal Branch, Bengaluru bearing Account No 59217300000001, with Axis Bank Cochin Branch bearing Account No 919020059326536 and with Axis Bank Vikaspuri Branch New Delhi bearing Account No 919020061615257, with ICICI Bank Bangalore Jayamahal Branch bearing Account No. 343805000791(Indusviva Healthcare Private Limited), with Axis Bank, Jayamahal Extension Branch in the name of Abhilash Thomas bearing Account No. 914010019111424, with Axis Bank, Jayamahal Extension Branch in the name of Cheppattu Mohamed Abdulla Anzar bearing Account No. 919010092113307, with Axis Bank, Jayamahal Extension Branch in the name of Cheppattu Mohamed Abdulla Anzar Joint Account bearing No. 920010035353045, with Axis Bank, Jayamahal Extension Branch in the name of M.Subramanyam bearing Account No. 918020068827999, as being arbitrary illegal unjust and violative of Articles 14 19 and 21 of the Constitution of India and consequently set aside the same; and

(c) direct Respondent Nos. 1 to 3 not to Interfere with the day today operations of the Petitioner in the absence of violation of the Telangana Direct Selling Guidelines Order 2017 and in the absence of any material suggesting violation thereof including by restraining the Respondents from harassing the Petitioner and/or its employees and/or its direct sellers by registering cases under the Prize Chits and Money Circulation Schemes Banning Act 1978 from indiscriminately arresting the employees and or direct sellers of the Petitioner from blocking the website of the Petitioner from freezing the bank accounts of the Petitioner from restricting access to the Petitioners offices/premises from blocking the phones and emails of the employees/management of the Petitioner;

(d) direct the Respondents to not leak any allegations pertaining to the Petitioner to the media pending investigation pursuant to FIR No. 124/2021 registered by the 3rd Respondent and thereafter during trial (if any); and

(e) direct the Respondent Police Officials to forthwith withdraw all allegations made during the Press Meet held by the 2nd Respondent on 06.03.2021 and the Press Note dated 06.03.2021, pending disposal of WP No. 5877 of 2021, on the file of the High Court.

I.A. NO. 6 OF 2021:

Petition under Section 151 of CPC praying that in the circumstances stated in the affidavit filed in the writ petition, the High Court may be pleased to permit to amend the prayer in I.A. No. 1 of 2021 in the W.P. No. 5877 of 2021

"Pending hearing and final disposal of the writ petition, it is prayed that this Hon'ble Court may be pleased to direct Respondents to defreeze the Petitioners Bank Accounts with Axis Bank, Jayamahal Extension Branch, bearing Account Nos. 918020090628740 920020043649850, with Axis Bank, R T Nagar, Branch, Bengaluru bearing Account No 914020004117159, with Axis Bank, Nagawara Ring Road, Branch, Bengaluru bearing Account No 920020043421759, with State Bank of India, L C Road Branch, Bengaluru bearing Account No 33620992063, with HDFC Bank, Infantry Road branch, Bengaluru, bearing Account No 50200004074795, with HDFC Jayamahal Branch, Bengaluru, bearing Account No 59217300000001, with Axis Bank, Cochin Branch, bearing Account No. 919020059326536 and with Axis Bank, Vikaspuri Branch, New Delhi bearing Account No 919020061615257, with ICICI Bank Bangalore Jayamahal Branch bearing Account No. 343805000791(Indusviva Healthcare Private Limited), with Axis Bank, Jayamahal Extension Branch in the name of Abhilash Thomas bearing Account No. 914010019111424, with Axis Bank, Jayamahal Extension Branch in the name of Cheppattu Mohamed Abdulla Anzar bearing Account No. 919010092113307, with Axis Bank, Jayamahal Extension Branch in the name of Cheppattu Mohamed Abdulla Anzar Joint Account bearing No. 920010035353045, with Axis Bank, Jayamahal Extension Branch in the name of M.Subramanyam bearing Account No. 918020068827999, pending disposal of WP No. 5877 of 2021, on the file of the High Court.

The court while directing issue of notice to the Respondents herein to show cause as to why this application should not be complied with, made the following. (The receipt of this order will be deemed to be the receipt of notice in the case).

THE HONOURABLE JUSTICE G. SRI DEVI

I.A.Nos.1, 2, 4 and 6 of 2021 in W.P.No. 5877 of 2021

COMMON ORDER:

I.A.No.1 of 2021 is filed seeking a direction to the respondents to defreeze the following bank accounts of the petitioner:-

Sl. No.	Account No.	Name of the Bank where the account is lying
1.	918020090628740	Axis Bank, Jayamahal Extension Branch
2.	920020043649850	Axis Bank, Jayamahal Extension Branch
3.	914020004117159	Axis Bank, R.T.Nagar Branch, Bengaluru
4.	920020043421759	Axis Bank, Nagawara Ring Road Branch, Bengaluru
5.	33620992063	State Bank of India, L.C. Road Branch, Bengaluru
6.	50200004074795	H.D.F.C. Bank, Infantry Road Branch, Bengaluru
7.	59217300000001	H.D.F.C. Bank, Jayamahal Branch, Bengaluru
8.	919020059326536	Axis Bank, Cochin Branch
9.	919020061615257	Axis Bank, Vikaspuri Branch, New Delhi

I.A.No.2 of 2021 is filed to direct respondents 1 to 3 not to interfere with the day-to-day operations of the petitioner in the absence of violation of the Telangana Direct Selling Guidelines Order, 2017 and in the absence of any material suggesting violation thereof; not to harass the petitioner and/or its employees by registering cases under the Prize Chits and Money Circulation Schemes (Banning) Act, 1978; not to arrest the employees and/or direct sellers of the petitioner; not to block the website of the petitioner; not to freeze the bank accounts of the petitioner; not to restrict the access to the petitioner's offices/premises; not to block the phones and e-mails of the employees/management of the petitioner.

I.A.No.4 of 2021 is filed to amend the prayer in the main writ petition, as follows:-

> "For the above mentioned reasons and the reasons, which may be adduced at the time of hearing, it is, therefore, prayed that this Court may be pleased to grant an order, direction, or writ, more so in the nature of Writ of Mandamus
>
> (a) declaring the actions of respondents 1 to 3 authorities in harassing the petitioner, its employees and/or its direct sellers by registering cases under the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 and preventing the petitioner from carrying on its legitimate business as a Direct Selling Entity as being arbitrary, illegal unjust and violative of Articles 14, 19 and 21 of the Constitution of India and as being contrary to the Telangana Direct Selling Guidelines Order, 2017;
>
> (b) declaring the actions of the 3rd respondent in issuing notices dated 04.03.2021 bearing Nos. 124/EOW/Cyb/ 2021 to the respondent banks and directing them to freeze the petitioners bank accounts with Axis Bank,

C

Jayamahal Extension Branch bearing Account Nos. 918020090628740 and 920020043649850, with Axis Bank, R.T.Nagar Branch, Bengaluru bearing Account No. 914020004117159, with Axis Bank, Nagawara Ring Road Branch, Bengaluru bearing Account No. 920020043421759, with State Bank of India, L.C. Road Branch, Bengaluru bearing Account No. 33620992063, with H.D.F.C. Bank, Infantry Road Branch, Bengaluru bearing Account No. 50200004074795, with H.D.F.C. Bank, Jayamahal Branch, Bengaluru bearing Account No. 59217300000001, with Axis Bank, Cochin Branch bearing Account No. 919020059326536, with Axis Bank, Vikaspuri Branch bearing Account No. 919020061615257, with ICICI Bank, Bangalore Jayamahal Branch bearing Account No. 343805000791 (Indusviva Healthcare Private Limited), with Axis Bank, Jayamahal Extension Branch in the name of Abhilash Thomas bearing Account No.914010019111424, with Axis Bank, Jayamahal Extension Branch in the name of Cheppattu Mohamed Abdulla Anzar bearing Account No.919010092113307, with Axis Bank, Jayamahal Extension Branch in the name of Cheppattu Mohamed Abdulla Anzar Joint Account bearing No.920010035353045, with Axis Bank, Jayamahal Extension Branch in the name of M.Subramanyam bearing Account No.918020068827999, as being arbitrary, illegal, unjust and violative of Articles 14, 19 and 21 of the Constitution of India and consequently set aside the same; and

(c) direct respondent Nos.1 to 3 not to interfere with the day today operations of the petitioner in the absence of violation of the Telangana Direct Selling Guidelines

Order, 2017 and in the absence of any material suggesting violation thereof including by restraining the respondents from harassing the petitioner and/or its employees and/or its direct sellers by registering cases under the Prize Chits and Money Circulation Schemes (Banning) Act, 1978; from indiscriminately arresting the employees and or direct sellers of the petitioner; from blocking the website of the petitioner from freezing the bank accounts of the petitioner; from restricting access to the petitioner's offices/premises; from blocking the phones and e-mails of the employees/management of the petitioner;

(d) direct the respondents not to leak any allegations pertaining to the petitioner to the media pending investigation pursuant to F.I.R.No.124 of 2021 registered by the 3rd respondent and thereafter during trial (if any);

(e) direct the respondent police officials to forthwith withdraw all allegations made during the Press Meet held by the 2nd respondent on 06.03.2021 and the Press Note dated 06.03.2021;

(f) and pass such other order or orders as this High Court deems fit and proper in the circumstances of the case and in the interest of justice."

I.A.No.6 of 2021 is filed to amend the prayer in I.A.No.1 of 2021 in W.P.No.5877 of 2021, as follows:-

"Pending hearing and final disposal of the writ petition, it is prayed that this Court may be pleased to direct the respondents to defreeze the petitioners bank accounts with Axis Bank, Jayamahal Extension Branch bearing Account Nos. 918020090628740 and 920020043649850, with Axis Bank, R.T. Nagar Branch, Bengaluru bearing Account No. 914020004117159, with Axis Bank, Nagawara Ring Road Branch, Bengaluru bearing Account No. 920020043421759, with State Bank of India, L.C. Road Branch, Bengaluru bearing Account No. 33620992063, with H.D.F.C. Bank, Infantry Road Branch, Bengaluru bearing Account No. 50200004074795, with H.D.F.C. Bank, Jayamahal Branch, Bengaluru bearing Account No. 59217300000001, with Axis Bank, Cochin Branch bearing Account No. 919020059326536, with Axis Bank, Vikaspuri Branch, New Delhi, bearing Account No. 919020061615257, with ICICI Bank, Bangalore Jayamahal Branch bearing Account No.343805000791 (Indusviva Healthcare Private Limited), with Axis Bank, Jayamahal Extension Branch in the name of Abhilash Thomas bearing Account No.914010019111424, with Axis Bank, Jayamahal Extension Branch in the name of Cheppattu Mohamed Abdulla Anzar bearing Account No.919010092113307, with Axis Bank, Jayamahal Extension Branch in the name of Cheppattu Mohamed Abdulla Anzar Joint Account bearing No.920010035353045, with Axis Bank, Jayamahal Extension Branch in the name of M.Subramanyam bearing Account No.918020068827999 and pass such other order or orders as this Court may deem fit and proper in the circumstances of the case."

Heard Sri S.Ravi, learned Senior Counsel appearing on behalf of Ms. Avula Krishnaveni, learned Counsel for the petitioner; learned Government Pleader for Home for respondents 1 to 3;

learned Government Pleader for Civil Supplies for respondent No.4; learned Government Pleader for Industries for respondent No.5; Sri Namavarapu Rajeshwara Rao, learned Assistant Solicitor General for respondent No.6; Sri K.V.Ramananda Rao, learned Standing Counsel for respondent Nos.7 to 11; Sri M.P.Kashyap, learned Counsel for respondent Nos.13 and 14; and perused the record.

The case of the petitioner is that the petitioner is a direct selling entity and is in the business of Direct Selling of world class exclusive herbal products ranging from food, beverages, health supplements, personal care and franchisee sales in India and abroad and that he possessed appropriate licences to sell such products; that the petitioner is also approved and recognized by the Central Government as a *bona fide* Direct Selling Entity involved in the business of multi-level marketing and the name of the petitioner appears in the list of approved entities; that pursuant to a complaint filed by the complainant that he had paid an amount of Rs.12,500/- to the petitioner, but has not received any commission, a case in Crime No.No.124 of 2021 was registered by the 3rd respondent and that respondent Nos.1 to 3 have initiated investigation and ceased all the bank accounts of the petitioner and have brought the entire business of the petitioner to a stand still. It is the case of respondents 1 to 3 that the business model of the petitioner classified as a pyramid scheme as defined in the Telangana Direct Selling Guidelines Order, 2017. Clause 1 (11) of the Guidelines defines pyramid scheme and from the definition it is evidently clear that if the business model of the petitioner complies with all of the seven requirements of a multi level marketing scheme, then it would not be a pyramid scheme. The petitioner specifically complies with all of the seven requirements and the evidences in respect of the same are tabulated below:-

Clause	
(a) It has no provision that a Direct Seller will receive remuneration or incentives for the recruitment/enrolment of new participants.	The terms and conditions of the petitioner clearly states that no commission is payable merely on enrolment of new participants.
(b) It does not mandatorily require a participant to purchase goods or services: (i) for an amount that exceeds an amount for which such goods or services can be expected to be sold or resold to consumers; (ii) for a quantity of goods or services that exceeds an amount that can be expected to be consumed by, or sold or resold to consumers	Clause No.4 of the terms and conditions clearly state that the Customers have the right to, but SHALL NOT BE OBLIGATED. Therefore, there is no mandatory requirement of participant to either purchase goods or services.
(c) It does not require a participant to pay any entry/ registration fee, cost of sales promotion equipment and materials or other fees relating to participation	No registration fee is charged. Any and all amounts paid by the particulars is only towards the purchase of goods. No separate registration fee is paid.
(d) It provides a participant with a written contract describing the 'material terms' of participation	The contract is filed at Page No.65.

(e) It allows or provides for a participant a reasonable cooling off period to participate or cancel participation in the scheme and receive a refund of any consideration given to participate in the operations	The cooling off period is mentioned at Clause 7 of the Contract.
(f) It allows or provides for a buy-back or repurchase policy for "currently marketable" goods or services sold to the participant at the request of the participant at reasonable terms	Clause 11 provides for refund or exchange of products
(g) It establishes a grievance redressal mechanism for consumers, more particularly described in under the definition of direct selling entity herein	The petitioner maintains a customer care service and an adequate grievance redressal mechanism.

Therefore, once the above conditions are complied with, the question of classifying the business model of the petitioner as a pyramid scheme does not apply. Without even making an observation with regard to the above conditions, respondents 1 to 3 have frozen all the bank accounts of the petitioner and crippled the entire business. There is an inherent distinction between multi-level marketing companies and pyramid schemes. If a business plan focuses on rewarding participants for recruitment only, rather than for selling products/services to the end customers and makes money from things other than selling products, then it may be illegal. On the other hand, legitimate direct selling companies do not require large upfront investment or buying a large quantity of inventory and the services provided by them are legitimate one.

Companies like Amazon, Flipkart and eBay etc., are the examples of direct selling modules. Since these were not traditional marketing modules world-wise, there is certain confusion in relation to channelizing of multi level marketing/network marketing etc. Multi-level marketing being un-chartered territory in India, an advisory was issued by the Government of India to the States and Union Territories by the Ministry of Consumer Affairs, Food and Public Distribution vide notification dated 26.10.2016, which envisages the principles to be considered for regulating the business of direct selling and multi-level marketing (MLM) and strengthening the existing regulatory mechanism on direct selling and multi-level marketing in order to prevent commission of any fraud and protect the legitimate right and interest of consumers. In support of the same, learned Counsel relied on the judgment of Punjab and Haryana High Court in the case of **Shilpa Ajwani and others v. U.T.Chandigarh**[1]. The allegations in the complaint and the F.I.R. are too cryptic, vague, non-specific and without any particulars at all to show even *prima facie* how the business of the company is against the Prize Chits and Money Circulation Scheme (Banning) Act, 1978. There is no allegation of any element of speculation or lottery. There is no joining fee involved, but only the price of the products. It is obvious that this is being done by the

[1] CWP NO. 19355 of 2015

company for promoting sale of its products and expansion of business and the company offers various incentives/gifts at different levels on achieving specified targets. This pattern of business is to encourage performance, promote efficiency and discourage complacency and expand the business, which is for the common benefit of all participants in the business. This pattern of business does not come within the ambit of 'money circulation scheme' or 'prize chit' as defined in Section 2 of the Prize Chits and Money Circulation Scheme (Banning) Act, 1978. The petitioner has a well furnished office at Bangalore with all facilities with full time access to direct sellers where they can interact with the entity and also, there is a designated Call Centre available for direct sellers/customers to interact without even visiting the office. In order to comply with the Telangana guidelines, the petitioner started its office in Hyderabad and then submitted the undertaking to the Nodal Officer. The delay in submission of documents to the Nodal Officer occurred due to its determination to comply with all the points mentioned in the guidelines and the last point was only to have its own office at the State. It has an office at Bangalore which can be considered for the operation in the State with jurisdiction. The company decided to serve the people of the state better with its office within the state. The allegation that the representatives do not sell products to the customers is totally false and baseless and there is no material to substantiate the same. It is also submitted that without prejudice to the above and assuming without admitting, even if the allegations are taken to be true, the same does not classify the business model of the petitioner as a 'pyramid scheme'. The respondents have made an allegation stating that the petitioner does not classify as a multilevel marketing scheme and have not made any allegation stating that the petitioner has not complied with the conditions mentioned in proviso to clause 1 (8), in the absence of such allegations or findings, the action of respondents 1 to 3 in freezing the bank accounts of the petitioner is totally baseless and without any justification. The petitioner's business model is a multilevel marketing scheme which complies with all the specifications mentioned in the guidelines and, therefore, the activity of the petitioner is permitted under the said guidelines. It is also submitted that to freeze the bank accounts of the petitioner, respondents 1 to 3 have exercised the power under Section 102 of Cr.P.C. However, for exercising the power under Section 102 of Cr.P.C., the police have to establish that there is direct nexus between the property seized and the commission of the offence. In the present case, one complaint has been filed alleging that an amount of Rs.12,500/- was paid and no commission was given. The entire basis for investigation is the said complaint. The respondents have now seized all the bank accounts of the petitioner for the alleged offence of Rs.12,500/-. There is no basis for the respondents to freeze all the bank accounts of the petitioner and that there is no nexus between the alleged offence and seizure of entire bank accounts of the petitioner. Reliance is placed on the judgment of the Delhi High Court in ***Sunil Bhargava v. CBI***[2] and the judgment of the Apex Court in ***M.R.Enrica Lexie and another v. Dorama and others***[3]. The respondents have unnecessarily and highhandedly blocked the online business platform of the petitioner, which is affecting the livelihood of thousands of people.

Learned Counsel appearing for respondents 1 to 3 would submit that the investigation done so far and as per the confessional statement, the petitioner company enrolled about 9.4 lakhs of persons across the Country to the tune of more than 1500 Crores on promotion of their illegal money circulation scheme. In order to protect the interests of the victims and to save their hard-earned money till now the investigating agency could freeze various bank accounts of the accused including the company as per the evidence collected during the investigation and the same was intimated to the Court as per procedure. He has submitted the reasons for freezing of the accounts of the petitioner are as under:-

[2] W.P.(CRL) 1304/2017 (Delhi High Court)
[3] Civil Appeal No.4167 of 2021 (SC)

(a) the accused, who are the Directors and promoters of the petitioner company have been working for company and motivating the other promoters of the company to enroll more and more new members into their illegal ponzi schemes and got themselves benefited hugely besides causing wrongful gain to the company and all the benefits were transferred to the accounts of the petitioner, which were frozen during the course of investigation.

(b) the petitioner may influence the people concerning with the case using the illegal money gained through the ponzi scheme business.

(c) the petitioner may influence the witnesses with money power.

(d) the petitioner may not attend the Court process and there is every possibility of escaping from India with the frozen money to evade prosecution.

(e) Lacks of students, unemployed youth, retired persons and house wives from several states are also approaching the investigating agencies against the illegal scheme of the company and requesting to redress their grievances, investments which need to be verified in this case.

(f) The scheme is so designed ingeniously and there is every possibility of the accused wiping out the evidences/data if he gets any kind of relief at this crucial stage of investigation of the case.

(g) As the value of cheating is huge and its impact is very severe on the society as number of gullible people have been affected by the Ponzi scheme of cheating.

It is submitted that as the investigation is still incomplete and it is in progress in the above crime, if the bank accounts are defreezed, it would hamper the investigation, as there is every possibility of the accused diverting the said amounts to some other source. In support of his contention he placed reliance on the judgment of the Apex Court in ***Teesta Atul Setalvad v. The State of Gujarat***[4] and also the judgment of this Court passed in W.P.Nos.13363 and 10565 of 2020, dated 03.12.2020. It is also submitted that it is beyond pale of doubt that the bank account is also the property and falls within the ambit of Section 102 of Cr.P.C. From the plain reading of this Section, it is apparent that property can be seized by the Police Officer if it is alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of offence. It is part of investigation into the crime. The Investigating Officer can seize the property, which is suspected to have been involved in crime, at any stage of the investigation. Once it is seized, it is the duty of the Investigating Officer to preserve the said property so that evidence is not tampered/destroyed frustrating the investigation and trial. In ***Nevada Properties Private Limited through its Directors v. State of Maharashtra and another***[5] the Apex Court was considering the scope of Section 102 of Cr.P.C., particularly, what is meant by 'any

[4] (2018) 2 SCC 372
[5] 2019 Law Suit (SC) 1661

C

property'. It is further submitted that the Apex Court held that unless investigation is completed, the Court cannot consider the prayer for defreezing the Bank Accounts. Therefore, the interim relief for defreezing the bank accounts cannot be considered and prayed to dismiss the same. In support of his contentions, he relied upon the following judgments of the Apex Court.

(1) *Teesta Atul Setalvad case (4 supra)*

(2) *Kuriachan Chaco and others v. State of Kerala*[6]

(3) *State of Haryana and others v. Bhajanlal and others*[7]

(4) *Vihaan Direct Selling (I) Pvt. Ltd., and others v. Union of India and others*[8]

(5) *State of Bihar and others v. Jain Plastics and Chemicals Ltd.*[9]

(6) *Govind Raju Sami, Managing Partner of M/s. Bollywood Chillyes, Hyderabad v. State of Telangana rep. by its Secretary, Home Department, Hyderabad and others*[10]

(7) *M/s. Neeharika Infrastructure Private Limited v. State of Maharashtra*[11]

The material available on record reveals that on the complaint made by one Sapuri Naveen Reddy, a case in Crime No.124 of 2021 of Gachibowli Police Station, Cyberabad, was registered against the petitioner company and others for the offences punishable under Sections 406 and 420 of I.P.C. and

---

[6] (2008) 8 SCC 708
[7] 1992 Supp (1) SCC 335
[8] W.P.(Crl.) No.31 of 2017, dt. 03.04.2019
[9] (2002) 1 SCC 216
[10] (2019) 3 ALT 139 (TS)
[11] AIR 2021 SC 1918

Sections 3 to 6 read with Section 2 (C) of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978. It is alleged by the complainant in the said complaint that believing the words of company people i.e. M/s. Indus Viva Health Sciences Private Limited, Bangalore, he paid Rs.12,500/- to the company promoters namely Hariprasad and Rajabanoth and they gave him one User ID and Password, but the company people did not pay the monthly commission to him as they promised.

A perusal of the documents available on record, the petitioner is engaged in the business of marketing its products through the genuine and legitimate direct selling channel for the past seven years or more. The products of petitioner are not sold from retail outlets and are only sold through independent individuals called distributors appointed on a principal-to-principal basis in terms of the distributorship agreement and the rules of conduct prescribed by Indus Viva. Any income received by the distributors is paid from the proceeds of the sale of products and retail margins. Hence, the allegation that a new member is not entitled to purchase products directly from the company without joining is not true. It is the case of the petitioner that any customer can buy the products directly from a product website without joining in the business plan. Even after joining the business plan, it is not mandatory to buy the products. Out of 9.4 lakhs distributors

C

as mentioned by the police, nearly 1.5 lakhs distributors did not even purchase a single product. The business of the petitioner company is purely of selling products and no investment received from anyone and the company does not promise any return. Only the commission is paid based on the products sold by the distributors and their net work of direct selling and not in any other manner. The company enters into standard written agreements, with its direct sellers/distributors, the terms of which, *inter alia,* do not provide that a distributor will receive remuneration for recruitment of new distributors and do not require a distributor to pay any entry/registration fees as per clause 4 of the Guidelines, 2017. In company's business model, it is not possible for a direct seller/distributor to earn money merely by introducing new direct sellers/distributors. Therefore, in any case, it cannot be said that it is a money circulation scheme or a pyramid scheme. The company maintains records of the business dealings including details of goods, services, terms of contracts etc; including those of direct sellers in 'Register of Direct Sellers' along with verified proof of address, proof of identity and PAN number, qualifying all the conditions for direct selling business envisaged under clause 3 of the Guidelines Order, 2017. The distributors can only generate income if hard work is put in consistently and there is no scope to earn quick and easy money. The bonafides and the intent of

Petitioner Company is to establish and operate a genuine business of selling its quality products in India as per the applicable legal frame work on a long term basis cannot be doubted.

In order to regulate the direct selling activity, the Government of Telangana issued guidelines through G.O.Ms.No.29, Consumer Affairs, Food & Civil Supplies (CS.I-CSS) Department, dated 01.12.2017 in relation to the direct selling activities.

The learned Government Pleader for Home would submit that if the petitioner adheres to the guidelines in consonance with the above G.O. dated 01.12.2017 in relation to the conduct of its business activity and carries on such activity within the time work provided in the G.O., the respondent authorities would not interfere with the same.

Even a plain reading of the complaint in F.I.R.No.124 of 2021 would show that the complainant had paid only an amount of Rs.12,500/-, but the respondents have seized all the bank accounts of the petitioners for the alleged amount of Rs.12,500/-. Since the entire accounts have been frozen by the investigating agency, the day-to-day transactions of the petitioner company have been stalled.

In view of the submissions made by the learned Counsel for the respective parties and in view of the aforesaid discussion, there shall be a direction to the respondents restraining them from interfering with the continuation of the business of the petitioner including the business operations of the petitioner company through online mode, subject to the petitioner complying with the guidelines issued by the Government of Telangana vide G.O.Ms.No.29, Consumer Affairs, Food & Civil Supplies (CS.I-CSS) Department, dated 01.12.2017.

The bank accounts that have been frozen by the respondents are ordered to be defreezed and the same shall be operative subject to the petitioner depositing a sum of Rs.5.00 Lakhs before the trial Court, within fifteen days from the date of release of accounts.

The petitioner has also filed a memo stating that the stock of the petitioner company has been seized by the official respondents.

The learned Counsel for the petitioner fairly submits that the said stock, which has been lying in the premises, has an expiry date and the same shall be useless for consumption after the said date of expiry.

Going by the allegations, in the F.I.R., I am of the view that the stocks so available in the seized premises shall be returned to the petitioner for continuation of business. For the purpose of investigation, the petitioner shall make available 50 items of each of the items available in the seized premises. This does not preclude any lawful agency to initiate action regarding the stock in case of any violation.

Accordingly, I.A.No.1 and 2 of 2021 are allowed to the extent indicated above. Since the prayers (a), (c), (d), (e) and (f) in I.A.No.4 of 2021 and the prayers in (a), (c), (d), (e) and (f) in W.P.No.5877 of 2021 are one and the same and as such I.A.No.4 of 2021 is ordered only to the extent of permitting the petitioner to amend the main prayer (b) in the Writ Petition. I.A.No.6 of 2021, which is filed to amend the prayer in I.A.No.1 of 2021 is also ordered.

SD/- K.SHYLESHI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Home Department, State of Telangana, Secretariat, Hyderabad
2. The Commissioner of Police, Cyberabad, Old Mumbai Highway, Gachibowli
3. The Inspector of Police, Economic Offences Wing, Gachibowli Police Station, Cyberabad, Telangana.
4. The State Nodal Officer for Direct Selling/Multi-Level Marketing, Deputy Commissioner, Department of Consumer Affairs, Department of Food and Civil Supplies, Civil Supplies Bhavan, Hyderabad
5. The Additional Director, O/o. Commissioner of Industries, Department of Industries, Secretariat. Hyderabad
6. The Secretary, Department of Consumer Affairs, Union of India, Krishi Bhavan, New Delhi.
7. Axis Bank, Jayamahal Extension Branch, 12/4, DF Silverline Silverrock, Nandi Durga Main Road, Jayamahal Ext Bengaluru, Karnataka 560046
8. Axis Bank, R.T. Nagar Branch, No 174, Ground Floor, MLA Layout, Main Road, RT Nagar, Bengaluru, Karnataka, 560032.
9. Axis Bank, Nagawara Ring Road Branch, Ground Floor, 4th Block, HBR 2nd Stage BDA, Layout Nagawara Ring Road, Bangalore 560045
10. Axis Bank, Cochin Bank, Kasmisons Estate, Janatha Junction, Vytilla Kochi, Dist. Ernakulam Kerala, 682019.

11. Axis Bank, Axis Bank, New Delhi Branch, J-3 Vikaspuri, New Delhi
12. State Bank of India, L.C.Road Branch, 2, L.C. Road, Nagashetty Halli, Shivaji Nagar, Bengaluru, Karnataka 560094
13. HDFC Bank, Infantry Road Branch, 29, Empire, Infantry Rd, Bengaluru, Karnataka 560001
14. HDFC Bank, Jayamahal Branch, 25, Jayamahal Ext, 4th Cross, Main Rd., Nandidurga, Bengaluru, Karnataka 560046 (Addressees 1 to 14 BY RPAD)
15. Two CCs to GP for Home, High Court of Telangana, at Hyderabad (OUT)
16. Two CCs to GP for Civil Supplies, High Court of Telangana, at Hyderabad (OUT)
17. Two CCs to GP for Industries, Home, High Court of Telangana, at Hyderabad (OUT)
18. Two CCs to Sri Namavarapu Rajeshwar Rao, Asst. Sol. Gen. High Court of Telangana, at Hyderabad (OUT)
19. one CC to M/s. A.Krishnaveni, Advocate (OPUC)
20. One CC to Sri M.P.Kashyap, Advocate (OPUC)
21. One Spare Copy

HIGH COURT

GSD,J

DATE: 26-7-2021

ORDER

I.A.NOS. 1, 2, 4 & 6 OF 2021
IN
WP. NO. 5877 OF 2021

DIRECTION