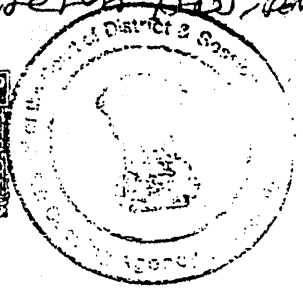
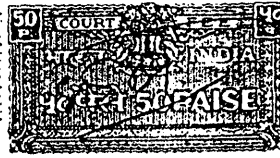
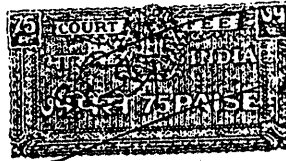


On the Court of the - D.D. Bera, Delhi.



IN THE COURT OF ADDITIONAL CHIEF METROPOLITAN  
MAGISTRATE, DELHI

CC NO: 1182 OF 2003

Securities and Exchange Board of India, a  
statutory body established under the  
provisions of Securities and Exchange  
Board of India Act, 1992, having its Head  
office at Mittal Court, B - Wing, 224  
Nariman Point, Mumbai 400 021  
represented by its Asst. General Manager,  
Rajesh Bhanot.

02/01/2024 372003

...Complainant

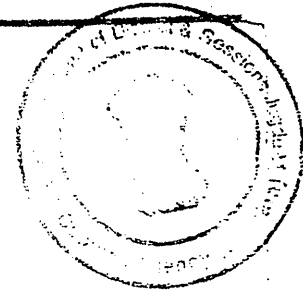
VERSUS.

1. Panacea Forest India Ltd. Company  
incorporated under the Companies Act,  
1956, having its Regd. Office at  
Panacea Forest India Ltd., 16/50,  
Street No.4, Tank Road, Bapa Nagar,  
Karol Bagh, New Delhi and Head  
Office at 1<sup>st</sup> Floor, Central Bank of India  
Bldg., New Dak Bunglow Road, Patna-  
600 001. And Admn. Office at 5574-A,  
II Floor, Business Plaza, Near  
Kohlaopur Road, Kashi Ram Market,  
Kamla Nagar, Delhi-110 007.
2. Shri Pankaj Kumar Patel, S/o Dr.  
Birendra Prasad, Director, Promoter

11P

13





and Sponsor of Accused No.1. R/o: 144, Type-II, Minto Road, New Delhi-110002.

3. Shri Pankaj Kumar Poddar S/o Shri U.Poddar, Director, Promoter and Sponsor of Accused No.1, R/o: Type-II, Minto Road, New Delhi-110002.

4. Shri Sanjeev Kumar Sinha, S/o Shri S.K. Sinha, Director, Promoter and Sponsor of Accused No.1, R/o: Asha Road, Kahajepur, Patna (Bihar).

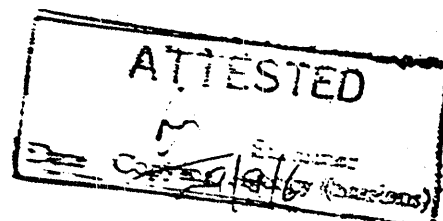
5. Shri Neeraj Kumar Poddar S/o Shri Poddar, Director, Promoter and Sponsor of Accused No.1, R/o: Shikohara, Post Barauni, Bihar.

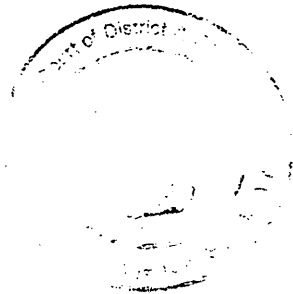
6. Ms. Dharam Sheela Sinha, D/o Shri B.Prasad, Director, Promoter and Sponsor of Accused No.1, R/o: 4F, Q.No. 3134, B.S. City, Bihar.

7. Smt. Bimla Devi, Director, Promoter and Sponsor of Accused No.1. R/o: Sandalpur, Kasturba Colony, Patna (Bihar).

8. Shri Pawan Kumar S/o Shri B.Prasad, Director, Promoter and Sponsor of Accused No.1, R/o: Street

121



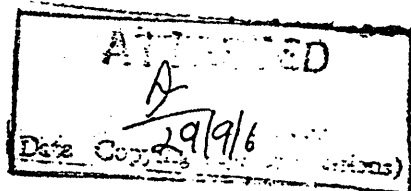
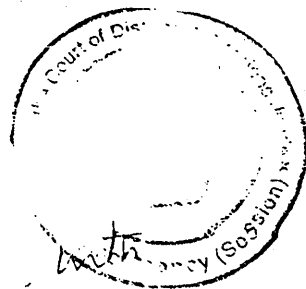


Cooperative Asiana Road, Patna, .....Accused  
(Bihar.

COMPLAINT UNDER SECTION 230 OF THE CODE OF CRIMINAL  
PROCEDURE, 1973 READ WITH SEC. 24(1), 27 OF SECURITIES AND  
EXCHANGE BOARD OF INDIA ACT, 1992

ATTESTED  
*A*  
Date: 28/11/17  
Copy to: Magistrate (Sessions)

25-9-06. Mr. Sh S.K. Singh, with  
A2-A8, also for A1.  
vide separate orders all are  
are connected vide separate orders,  
A 1, 2 & 3 are sentenced to  
fine of Rs 5000 each, in  
default of which A2 & A3  
shall undergo SI for  
three months.  
I sentence A 4, 5, 6, 7 & 8 to  
fine of Rs 2000 each, in  
default of which they shall  
undergo SI for one month  
each.  
On deposit of fine, the



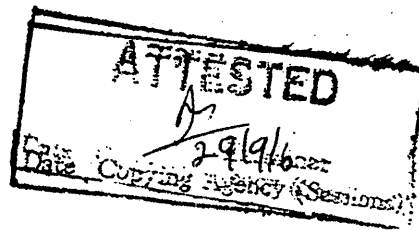
IP

personal bonds & surety bonds of the  
accused shall stand cancelled  
& sureties discharged -

file be assigned to the  
records

Announced in  
open court by  
25-9-06

Ashak Venay  
A.S.J. 25-9-06.



IN THE COURT OF MS. ASHA MENON: ASJ: DELHI.

CC NO.27/2005

SECURITIES & EXCHANGE BOARD OF INDIA, a statutory body established under the provisions of Securities and Exchange Board of India Act, 1992, having its Head office at Mittal Court, B - Wing, 224, Nariman Point, Mumbai 400 021 represented by its Asst. General Manager, Sh. Rakesh Bhanot.

... Complainant

VS.

1. PANACEA FOREST INDIA LTD. Company incorporated under the Companies Act, 1956, having its Regd. Office at Panacea Forest India Ltd., 16/50, Street No.4, Tank Road, Bapa Nagar, Karol Bagh, New Delhi and Head Office at 1st Floor, Central Bank of India Bldg., New Dak Bunglow Road, Patna 600 001. And Admn. Office at 5574-A, II Floor, Business Plaza, Near Kohlapur Road, Kashi Ram Market, Kamla Nagar, Delhi-110 007.
2. Sh. Pankaj Kumar Patel, S/o Dr. Birendra Prasad, Director, Promoter and Sponsor of accused no.1, R/o 144, Type-II, Minto Road, New Delhi-110002.
3. Sh. Pankaj Kumar Poddar S/o Sh. U.Poddar, Director, Promoter and Sponsor of accused no.1, R/o 144, Type-II, Minto Road, New Delhi-110002.
4. Sh. Sanjeev Kumar Sinha S/o Sh. S.K. Sinha, Director, Promoter and Sponsor of accused no.1 R/o Asina Road, Kahajepur, Patna (Bihar).
5. *Neeraj Kumar Poddar S/o U. Poddar*  
~~Ms. Dharam Sheela Sinha D/o Sh. Dr. B. Prasad~~, Director, Promoter and Sponsor of accused No.1, R/o Village, Shkohara, Post Barauni, Bihar.
6. Ms. Dharam Sheela Sinha, D/o Sh. Dr. B. Prasad, Director, Promoter and Sponsor of accused no.1, R/o Sector 4F, Q.No.3134, B.S. City, Bihar.
7. Smt. Bimla Devi Director, Promoter and Sponsor of accused no.1, R/o Sandalpur, Kasturba Colony, Patna (Bihar).
8. Sh. Pawan Kumar S/o Sh. Dr. B. Prasad, Director, Promoter and Sponsor of accused no.1, R/o Srinath, Cooperative Asiana Road, Patna, Bihar.

.... Accused

ATTESTED

Date

29/9/16

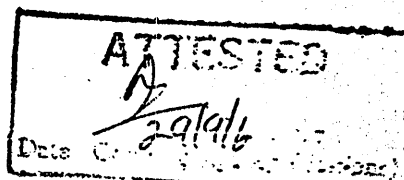
## JUDGMENT:

### BACKGROUND FACTS:

1. The complaint has been filed by the Securities and Exchange Board of India (hereinafter referred to as the SEBI) for short, alleging violation of the SEBI (Collective Investment Schemes) Regulations, 1999.
2. To give a brief background to the case, the Government of India had set up the SEBI under the Securities and Exchange Board of India Act, 1992 with the aim of protecting investor interests, in the backdrop of large scale floating of plantation and agro bonds by companies with no financial viability. The uncontrolled proliferation of such companies led to the duping of lakhs of gullible people who lost their money by investing in such non-viable projects.
3. This prompted the Government to intervene and the SEBI Act, 1992 came into force, under which SEBI itself was established. The SEBI has the obligation to regulate the securities and stock market and has been vested with extensive powers to discharge these obligations. Violations have been made criminal offences and the SEBI has to file criminal complaints against such violators.

### ALLEGATIONS IN THE COMPLAINT

- AM 4. Under the provisions of Section 12(1B) read with Section 30  
35 of the SEBI Act, the government announced its intentions to bring





out regulations in respect of Collective Investment Schemes specifically. It issued a public notice to this end on 26.11.1997 and 18.12.1997. Under the provisions of Section 12 of the SEBI Act, 1992 those entities which had been operating Collective Investment Schemes immediately prior to coming into effect of the provisions were given two month's time to apply for registration. By means of the public notice/press release, SEBI required all those interested in benefiting under the provisions of Section 12, to furnish all details about the company and the schemes and the amounts mobilized etc. to the SEBI.

5. The accused company had in response to the press release/public notice, apparently furnished their details to the SEBI. The SEBI (Collective Investment Scheme) Regulations were notified on 15.10.99. The SEBI asked all companies dealing with Collective Investment Schemes to issue information memorandum to all investors detailing the state of affairs of the schemes, the amount repayable to each investor and the manner in which such amount was determined. This was to be sent by 28.2.2000. This date was extended to 31.3.2000.
6. Under the regulations of 1999, 73(1) those existing Collective Investment Schemes which had not applied for registration were required to wind up their schemes and repay the investors. Under regulation 74 those entities which were not desirous of registering with the SEBI even provisionally were also obliged to draw up and formulate a scheme for repayment and

Am  
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ATTESTED  
29/9/6  
Date



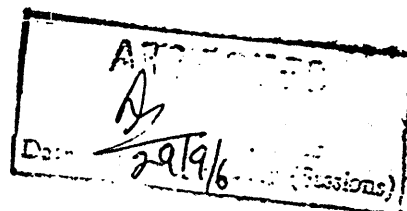
make the repayment in terms of the regulation 73.

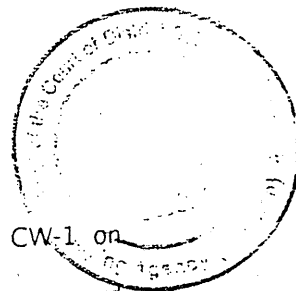
7. The allegation in the complaint is that the accused neither applied to the SEBI for registration nor took steps to wind up the schemes and repay the investors. Therefore, the SEBI Chairman directed the accused vide orders dated 7.12.2000 that they refund the money collected within a month in terms of the original offer. Yet, and despite repeated directions of the SEBI, the accused failed to comply with the regulations, as stated in the complaint.

8. On these allegations the SEBI submitted in the complaint that the accused had violated Regulations 68(1), 68(2), 73 & 74, read with Regulation 5 (1) of the SEBI Regulation 1999 read with Section 11B & 12(1B) of the SEBI Act, 1992 punishable under Section 24 read with Section 27 SEBI Act, 1992. Vide orders dated 16.12.2003, the accused and Panacea Forest India Ltd. Company, and its directors Sh.Pankaj Kumar Patel, Pankaj Kumar Poddar, Sanjeev Kumar Sinha, Neeraj Kumar Poddar, Smt. Dharmasheela Sinha, Smt. Binila Devi and Sh. Pawan Kumar were summoned to face trial for these violations.

9. On their appearance notice of allegations were served upon the accused under Section 251 Cr.P.C to which they pleaded not guilty. The complainant examined Sh. Rakesh Bhanot as its witness. The statements of the accused were recorded u/S 313 Cr.P.C. and they examined accused Pankaj Kumar Poddar as a witness on their behalf.

EVIDENCE

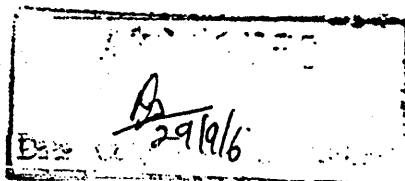




10. Sh. Rakesh Bhanot, AGM was examined as CW-1 on behalf of the SEBI. During his testimony he has brought on record the letter dated 19.12.97 sent by the accused to the SEBI as Ex.CW1/1. The accused had informed the SEBI through this letter that they had mobilized Rs.5.168 lacs under its CIS. The letter contained the names of the promoters and sponsors of the Scheme Sh.Pankaj Kumar Patel, Pankaj Kumar Poddar, Sanjeev Kumar Sinha, Neeraj Kumar Poddar, Smt. Dharmasheela Sinha, Smt. Bimla Devi and Sh. Pawan Kumar. It also enclosed copies of offered documents of the various Schemes.

11. He further deposed that the SEBI had sent various letters to the accused company informing it about the requirements under the regulations after they were notified and which were returned undelivered to the SEBI. He has brought on record all the undelivered letters along with their envelopes. He also deposed that when show cause notice dated 12.5.2000 was issued, that was also returned undelivered. He deposed that the format for winding up was also sent to the accused company and once again the communication returned undelivered to the SEBI. He deposed to the public notice issued in the Hindustan Times listing the accused company at serial no.321. He deposed to the non-compliance by the company and the accused directors till the filing of the complaint despite the public notices.

10/ 12. In his cross examination the witness admitted that the matter regarding the accused no.1 company had been referred for



auditing to the CA by the SEBI in respect of the amount received by the company and disbursed to the investors. He admitted that the SEBI had received the auditor's report. He stated that as per the record the CA had verified that the entire amount collected from the investors had been returned to them. The original report of the CA has been placed on the record as Ext.CW1/DA. He admitted that no complaints had been received against the accused in this case. He stated that prior to the filing of the complaint no verification had been done from any investor as to repayments. He admitted that the audit report disclosed that the money had been collected between 1997-98. However, he was unable to state whether most of the repayments had been effected by the accused prior to 7.12.2000. He deposed that the SEBI had learnt about the new address of the accused only from their communication dated 4.1.2005. He however, admitted that the letter Ext.CW1/1 contained two other addresses of the accused company. He denied that the accused had not committed any offence.

13. The accused Pankaj Kumar Poddar when examined as DW1 deposed that he alongwith accused Pankaj Kumar Patel were the directors of the accused company while other accused were only promoters of the company. He further stated that only he and the accused Pankaj Kumar Patel had been looking after the day to day affairs of the accused company while the others were not participating in running the company. He deposed that the company had received investment from investors till March, 1998. He

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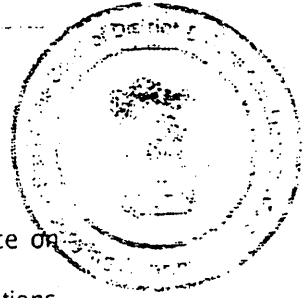
Date Closing of books (Company)

deposed that thereafter the company had been functioning for the purpose of repayment of money to the investors and most investors have been paid by 7.12.2000 while the balance payment had been effected by March, 2001.

14. The DW1 deposed that he had submitted the balance sheet to SEBI alongwith other details and documents of payment to investors. He deposed that though SEBI had insisted that interest be also paid to the investors. The financial position of the company was such that interest could not be paid. He deposed that the investors had given certificates in respect of the repayments made to them. He deposed that the company nevertheless paid interest to the investors and submitted the winding up report to the SEBI. He deposed that the letters from the SEBI had not been received at the Delhi Office as the attendant who was looking after the office in Delhi was preoccupied and was not vigilant enough. He deposed that they had another office at Patna. He deposed that since most of the investors belonged to that place they had gone to Patna to settle all claims.

15. During his cross examination the witness deposed that they had sent information of repayment to investors to the SEBI in the year 2005. He stated that the balance sheets and other details were also sent to the SEBI in January, 2005. He deposed that they had filed the certificate of repayment in August, 2005 and the winding up report on 21.10.05. He admitted that they had informed the SEBI of the shift in the office in the year 2005 and disclosed that the

ATTESTED  
29/9/6



compliance in that specific manner. Clearly, on the evidence on record compliance has not been in accordance with the regulations till the year 2005, during pendency of this case.

CONCLUSION:

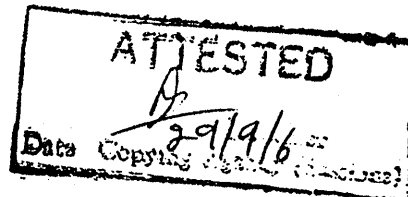
22. I, therefore, hold the accused company Panacea Forest India Limited, its Directors/accused Sh. Pankaj Kumar Patel, Pankaj Kumar Poddar, Sanjeev Kumar Sinha, Neeraj Kumar Poddar, Smt. Dharmasheela Sinha, Smt. Bimla Devi and Sh. Pawan Kumar guilty for the violations of Regulation 5(1) read with Regulations 68(1), 68(2), 73 & 74 of the SEBI (CIS) Regulations 1999 read with Section 24 r/w S.27 of the SEBI Act 1992. They are entitled to be heard on sentence:

Announced in the Open Court.  
Dated: 25.9.06

(ASHA MENON)  
Addl. Sessions Judge:  
Delhi.

Copy given to counsels in the court  
at 10:00 on dt: 25/9/06  
25/9/06

*2 copies*



IN THE COURT OF MS. ASHA MENON: ASJ: DELHI.  
CC NO.27/2005  
SEBI VS. PANACEA FOREST INDIA LTD & ORS.

ORDER ON SENTENCE:

I have heard Sh. S.K. Singh counsel for the accused on the quantum of sentence. Learned counsel submits that all investors have been repaid and therefore, a lenient view may be taken in the matter.

Keeping in mind the circumstances that the accused had repaid investors, though even upto 2001, I consider that a sentence of fine would suffice to meet the ends of justice and there is no need to sentence any of the accused to any term of imprisonment though provided under Section 24 of the SEBI Act, 1992.

The accused Pankaj Kumar Poddar and Pankaj Kumar Patel have themselves admitted that they were incharge of the affairs of the company. Therefore, their responsibility would be greater than that of the accused Sanjeev Kumar Sinha, Dharam Sheela Sinha, Bimla Devi, Pawan Kumar and Neeraj Kumar Poddar.

I accordingly, sentence the accused no.1 company Panacea Forest India Limited, accused no.2 Pankaj Kumar Patel and accused no.3 Pankaj Kumar Poddar to fine of Rs.5000/- each, in default of which accused no.2 and 3 shall undergo SI for three months. I further sentence the accused no.4,5,6,7 and 8 to a fine of Rs.2000/- each in default of which they shall undergo SI for one month each.

On deposit of fine the personal bonds and surety bonds of accused shall stand cancelled and sureties are discharged.

File be consigned to the records.

Announced in the Open Court

Dated:25.9.06.

*Asha Menon*  
(ASHA MENON)

Addl. Sessions Judge: Delhi.

Copy given to convicts in the  
Court at Foc on dt: 25/9/06  
115

*[Signature]*

