

The Prize Chits and Money Circulation Schemes (Banning) Act, 1978

(ACT NO. 43 OF 1978)

(The text of the Act printed herein is as o 31-07-1984]

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STATEMENT OF OBJECTS AND REASONS

In June 1974, the Reserve Bank of India had constituted a Study Group under the Chairmanship of Shri James S. Raj, the then Chairman, Unit Trust of India, for examining in depth the provisions of Chapter III – B of the Reserve Bank of India Act, 1934, and the directions issued thereunder to non-banking companies in order to assess their adequacy in the context of ensuring the efficacy of the monetary and credit policies of the country and affording a degree of protection to the interests of the depositors who place their savings with such companies. In its report submitted to the Reserve Bank in July 1975, the Group observed that the prize chit / benefit / savings schemes benefit primarily the promoters and do not serve any social purpose. On the contrary the Groups has stated that they are prejudicial to the public interest and affect the efficacy of the fiscal and monetary policies of the country.

2. Prize chits would cover any kind of arrangement under which moneys are collected by way of subscriptions, contributions etc. and prizes, gifts, etc.

are awarded. The prize chit is really a form of lottery. Its basic feature is that the foreman or promoter who ostensibly charges no commission collects regular subscriptions from the members. Once the member gets the prize, he is very often not required to pay further installments and his name is dropped from further lots. The institutions conducting prize chits are private limited companies with a very low capital base contributed by the promoters, directors or their close relatives. Such schemes confer monetary benefit only on a few members and on the promoter companies. The Group had, therefore, recommended that prize chits or money circulation schemes, by whatever name called, should be totally banned in the larger interests of the public and suitable legislative measures should be undertaken for the purpose.

3. The Bill proposes to implement the above recommendation of the Group by providing for the banning of the promotion or conduct of any prize chit or money circulation scheme, by whatever name called, and of the

participation of any person in such chit or scheme. The Bill provides for a period of two years within which the existing units carrying on the business of prize chits or money circulation schemes may be wound up and

provides for penalties and other incidental matters. The repeal of the existing State Legislations on the subject has also been provided for in the Bill – Gaz of Ind., 15-5-1978. Pt. II S.2. Ext., P. 649.

[THE] PRIZE CHITS AND MONEY CIRCULATION SCHEMES (BANNING) ACT,
1978

(ACT NO. 43 OF 1978)

[12th December, 1978]

An Act to ban the promotion or conduct of prize chits and money circulation schemes and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:-

[a] For Statement of Objects and Reasons, see Gaz of India; 15-5-1978, Part II, S.2, Ext., p.649

1. Short title and extent – (1) The Act may be called THE PRIZE CHITS AND MONEY CIRCULATION SCHEMES (BANNING) ACT, 1978.
(2) It extends to the whole of India except the State of Jammu and Kashmir.

Preamble

- (1) The State is not wrong in its assertion bases upon expert opinions that a concessive blow. Therefore Act cannot be struck down on the score of Art. 19 (1) (f) and (g) of the Constitution. A 1981 SC 504 (509).
- (2) It cannot be said that conventional chits and prize chits are substantially similar and, therefore, permission to continue 'conventional chits' and prohibition of prize chits altogether is discriminatory. Not only do the definitions show the differentiation between the two schemes but the Raj Report

also brings out the fact that 'conventional chits' and 'prize chits' are different categories with different financial features and different' damaging effect. Hence there is no violation of Art. 14. A 1981 SC 504 (509).

- (3) Act is not ultra vires Parliament on ground that in pith and substance it falls in the state List (Entry 34, List II). A 1981 SC 504 (509, 510).
- (4) The main object of the Act is to ban promotion or conduct of any prize chit or money circulation scheme, by whatever name called, and of the participation of any person in such chit or scheme. A 1982 SC 949 (973): 1982 Cri LJ 819.

2. Definitions – In this Act, unless the context otherwise requires, -
 - (a) "conventional chit" a transaction whether called chit, chit fund, kuri or by any other name by or under which a person responsible for the conduct of the chit enters into an agreement with a specified number of persons that every one of them shall subscribe a certain sum of money (or certain

quantity of grain instead) by way of periodical installments for a definite period and that each such subscriber shall, in his turn, as determined by lot or by auction or by tender or in such other manner as may be provided for in the chit agreement, be entitled to a prize amount.

Explanation – In this clause “prize amount” shall mean the amount, by whatever name called, arrived at by deducting from out of the total amount paid or payable at each installment by all the subscribers.

- (i) the commission charged as service charges as a promoter or a foreman or an agent and
 - (ii) any sum which a subscriber agrees to forego, from out of the total subscriptions of each instalments, in consideration of the balance being paid to him.
- (b) “money” includes a cheque, postal order, demand draft, telegraphic transfer or money order,
- (c) “money circulation scheme” by whatever name called, for the making of quick or easy money, or for the receipt of any money or valuable thing as the consideration for a promise to pay money, on any event or contingency relative or applicable to the enrolment of members into the scheme, whether or not such money or thing is derived from the entrance money of the members of such scheme or periodical subscriptions;
- (d) “prescribed” means prescribed by rules made under this Act;
- (e) “prize chit” includes any transaction or arrangement by whatever name called under which a person collects whether as a promoter, foreman, agent or in any other capacity, monies in one lump sum or in installments by way of contributions or subscriptions or by sale of units, certificates or other instruments or in any other manner or as membership fees or admission fees or service charges to or in respect of any savings, mutual benefit, thrift or any other scheme or arrangement by whatever name called, and utilizes the monies so collected or any part thereof or the income accruing from investment or other use of such monies for all or any of the following purposes; namely:-

Section 2 (c)

- (1) Where a firm enrolled members for receipt of money and offered articles worth triple the amount received after expiry of 3 months in lieu of money paid by members, the firm would be considered to be engaged in a scheme for making quick money failing under S.2 (c). (1984) 1 Recent Cri Rep 36 (37,38): (1984) 1 Rec Cri R 64 (P&H).

- (2) Where a firm carried on the activity of receiving deposits from various individuals and after expiry of the stipulated period used to return the principal amount along with interest at the fixed rate, the activity amounted to simple loan transaction and did not amount to a “scheme” or a money circulation scheme within the meaning of S.2 (c). a 1981 (1) Cal HN 324.
- (3) Money circulation scheme – Firm indulging in high risk

investments – Payment of interest in excess of stipulated rate – Not a scheme for making easy and quick money. A 1982 SC 949 (954): 1982 Cri LJ 819.

- (4) Where a firm pays regularly interest to its depositors at the rate of 36 percent per annum though the loan certificate show the rate of interest to be 12% only the payment of the excess 24% per annum by the firm to its depositors in cash, cannot be called “gift” within the meaning of S.2 (e). the business undertaken by the firm cannot come within the meaning of “prize chit” 1981 Cri LJ (NOC) 96: a 1981 Cal 157 (171): 1981 (1) Cal HN 324.

Section 2 (e)

(1) “Prize Chit” – Business of collecting money under a scheme from subscribers and depositing part of it in bank in their names – Remaining amount appropriated for holding lucky draws in order to award prizes to subscribers – Held, the scheme does not fall within the meaning of “prize chit”. A 1984 All 28 (39) (DB).

[But see a 1983 MP 128 (129): 1983 MPLJ 435 (DB)

(f) “Reserve Bank” means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934.

3. Banning of prize chits and money circulation schemes or enrolment as members or participation therein – No person shall promote or conduct any prize chit or money circulation scheme, or enroll as a member to any such chit or scheme, or participate in it otherwise, or receive or remit any money in pursuance of such chit or scheme.
4. Penalty for contravening the provisions of section 3. – Whoever contravenes the provisions of section 3 shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both;

(Prize chit – Collection of Rs.200 under a scheme from depositors and depositing

- (i) giving or awarding periodically or otherwise to a specified number of subscribers as determined by lot, draw or in any other manner, prizes or gifts in cash or in kind, whether or not the recipient of the prize or gift is under a liability to make any further payment in respect of such scheme or arrangement;
- (ii) refunding to the subscribers or such of them as have not won any prize or gift, the whole or part of the subscriptions, contributions or other monies collected with or without any bonus, premium, interest or other advantage by whatever name called on the termination of the scheme or arrangement or on or after the expiry of the period stipulated therein, but does not include a conventional chit;

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, the imprisonment shall

Section 2 (e) (contd.)

Rs.100 out of it in a nationalised bank in their names – Rs.100 collected from depositors, utilized for giving prizes periodically to a specified number of persons as determined by lot – Held, scheme was a prize chit.]]

- (2) Prize chit – Scheme for awarding scooterette to members – members paying monthly installments for fixed period – Held, the scheme falls within the definition of prize chit: a 1983 Madh Pra 153 (155): 1983 MOLJ 572 (DB)

Section 3

- (1) Money circulation scheme – Firm indulging in high risk investments and advancing monies to political parties – Payment of interest in excess of stipulated rate – Not a money circulation scheme. A 1982 SC 949 (977): 1982 Cri LJ 819.
- (2) “Prize chit” – Business of collecting money under a scheme from subscribers and depositing part of it in bank in their names – Remaining amount appropriated for holding lucky draws in order to award prizes to subscribers – Scheme does not fall within the ambit of S.2 (e). a 1984 all 28 (39).
- (3) Prize chit – Scheme for awarding scooterette to members – Members paying monthly installments for fixed period – Held the scheme fell within the definition of prize chit. A 1983 Madh Pra 153 (155): 1983 MPLJ 572 (DB) .

- (4) Scheme promoted by firm – Collection made by promoter under the scheme which contravened the Act – Scheme outside M.P. Lottery (Niyanttran Tatha Kar) Adhinyam (1973) – Collector has no power under Central Act to direct refund of amount collected under the Scheme. A 1983 Madh Pra 153 (157): 1983 MPLJ 572 (DB).
- (5) Where a firm enrolled members for receipt of money and offered articles worth triple the amount received after expiry of 3 months in lieu of money paid by members, the firm was engaged in a scheme for making quick money falling under S.2 (c). (1984) 1 Ree Cri R 64 (P&H).

Section 4

- (1) Two conditions must be satisfied before a person can be held guilty of an offence under S.4 read with Ss.3 and 2 (c) of the Act, in the first place, it must be proved that the making of quick or easy money and secondly, the chance or opportunity of making quick or easy money must be shown to depend upon an event or contingency relative or applicable to the enrolment of members into that scheme. A 1982 SC 949 (953): 1982 CriLJ 819.
- (2) Appeal against decision of High Court quashing investigation against a money circulating firm and its partners – F.I.R. not disclosing any offence – Quashing of investigation upheld – Firm likely to secret large funds and

destroy incriminating documents if returned to it – In the interest of countless small depositors documents were directed to be retained by police for two months. A 1982 SC 949 (964, 961): 1982 CriLJ 819.

- (3) Where a firm enrolled members for receipt of money and offered articles worth triple the amount received after expiry of 3 months in lieu of money paid by members. Held, the firm must be considered to be engaged in a scheme for making quick money falling under S.2 (c): (1984) 1 Recent Cri Rep 36 (37,38): (1984) 1 RecR Cri 64 (P&H).

Not be less than one year and the fine shall not be less than one thousand rupees.

5. Penalty for other offences in connection with prize chits or money circulation schemes. – Whoever, with a view to the promotion or conduct of any prize chit or money circulation scheme in contravention of the provisions of this Act or in connection with any chit or scheme promoted or conducted as aforesaid, -
- (a) prints or publishes any ticket coupon or other document for use in the prize chit or money circulation scheme; or
 - (b) sells or distributes or offers or advertises for sale or distribution, or has in his possession for the purpose of sale or distribution any ticket, coupon or other document for use in the prize chit or money circulation scheme; or
 - (c) Prints, publishes or distributes, or has in his possession for the purpose of publication or distribution –
 - (i) any advertisement of the prize chit or money circulation scheme; or
 - (ii) any list, whether complete or not, of members in the prize chit or money circulation scheme; or
 - (iii) any such matter descriptive of, or otherwise relating to the prize chit or money circulation scheme, as is calculated to act as an inducement to persons to participate in that prize chit or money circulation scheme or any other prize chit or money circulation scheme; or
 - (d) brings, or invites any person to send, for the purpose of sale or distribution any ticket, coupon or other document for use in a prize chit or money circulation scheme or any advertisement of such prize chit or money circulation scheme; or
 - (e) uses any premises, or causes or knowingly permits any premises to be used, for purposes connected with the promotion or conduct of the prize chit or money circulation scheme; or
 - (f) causes or procures or attempts to procure any person to do any of the above-mentioned acts, shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to three thousand rupees, or with both:

provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, the imprisonment shall not be less than one year and the fine shall not be less than one thousand rupees.

6. Offences by companies –

- (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

- (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officers of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation – For the purpose of this section –

- (a) “company” means any body corporate and includes a firm or other association of individuals; and
(b) “director” in relation to a firm, means a partner in the firm.

7. Power to enter, search and seize –

- (1) It shall be lawful for any police officer not below the rank of an officer in charge of a police station, -

- (a) to enter, if necessary by force, whether by day or night with such assistance as he considers necessary, any premises which he has reason to suspect, are being used for purposes connected with the promotion or conduct of any prize chit or money circulation scheme in contravention of the provisions of this Act;
(b) to search the said premises and the persons whom he may find therein;
(c) to take into custody and produce before any Judicial Magistrate all such persons as are concerned or against whom a complaint has been made or credible information has been received or a reasonable suspicion exists of their having been concerned with the use of the said premises for purposes connected with, or with the promotion or conduct of, any such prize chit or money circulation scheme as aforesaid;
(d) to seize all things found in the said premises which are intended to be used, or reasonably suspected to have been used, in connection with any such prize chit or money circulation scheme as aforesaid.

- (2) Any officer authorised by the State Government in this behalf may –

- (a) at all reasonable times, enter into and search any premises which he has reason to suspect, are being used for the purposes connected with or conduct of, any prize chit or money circulation scheme in contravention of the provisions of this Act;
(b) examine any person having the control of, or employed in connection with, any such prize chit or money circulation scheme;
(c) order the production of any documents, books or records in the possession or power or any person having the control of, or employed in connection with, any such prize chit or money circulation scheme; and
(d) inspect and seize any register, books of accounts, documents or any other literature found in the said premises.

- (3) All searches under this section shall be made in accordance with the provisions of the Code of Criminal Procedure, 1973.

8. Forfeiture of newspaper and publication containing prize chit or money circulation scheme – Where any newspaper or other publication contains any material connected with any prize chit or money circulation scheme promoted

or conducted in contravention of the provisions of this Act or any advertisement in relation thereto, the State Government may, by notification in the Official Gazette, declare every copy of the newspaper and every copy of the publication containing such material or the advertisement to be forfeited to the State Government.

9. Power to try offences – No court inferior to that of a Chief Metropolitan Magistrate, or as the case may be Chief Judicial Magistrate, shall try any offence punishable under this Act.
10. Offences under this Act to be cognizable – All offences punishable under this Act shall be cognizable.
11. Act not to apply to certain prize chits or money circulation schemes – Nothing contained in this Act shall apply to any prize chit or money circulation scheme promoted by –
 - (a) a State Government or any officer or authority on its behalf; or
 - (b) a company wholly owned by a State Government which does not carry on any business other than the conducting of a prize chit or money circulation scheme whether it is in the nature of a conventional chit or otherwise; or
 - (c) a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949, or a banking institution notified by the Central Government under section 51 of that Act or the State Bank of India constituted under section 3 of the State Bank of India Act, 1955, or a subsidiary bank constituted under section 3 of the State Bank of India (Subsidiary Banks) Act, 1959, or a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or a Regional Rural Bank established under section 3 of the Regional Rural Banks Act 1976, or a co-operative bank as defined in clause (bii) of section 2 of the Reserve Bank of India Act, 1934; or
 - (d) any charitable or educational institution notified in this behalf by the State Government, in consultation with the Reserve Bank.
12. Transitional provisions –
 - (1) Notwithstanding anything contained in this Act, a person conducting a prize chit or money circulation scheme at the commencement of this Act may continue to conduct such chit or scheme or such period as may be necessary for the winding up of the business relating to such chit or scheme, so however that such period shall not in any case extend beyond a period of two years from such commencement:

Provided that the said person shall furnish to the State Government or to such officer as may be authorised by it in this behalf and to such office of the Reserve Bank as may be prescribed in such form and within such period as may be prescribed, full information regarding the chit or scheme along with a winding up plan prepared in accordance with the provisions of any rules that may be made by the State Government in this behalf under this Act:

Provided further that if the State Government is satisfied, on an application made by the person conducting the prize chit or money circulation scheme, that that chit or scheme cannot be wound up within the period fixed in the winding up plan furnished to the State Government under the foregoing proviso, it may, in consultation with the Reserve Bank, permit such person

to continue to conduct the business relating to the said chit or scheme for such further period as may be considered necessary having regard to the circumstances of the case and the interests of the members of the said chit or scheme.

- (2) The State Government may, in consultation with the Reserve Bank, approve the winding up plan furnished under sub-section (1) with or without modifications or reject the same and may grant or refuse to grant permission to continue to conduct that chit or scheme:
Provided that no such winding up plan shall be modified or rejected without giving an opportunity of being heard to the person who conducts such prize chit or money circulation scheme.
- (3) If any person fails to furnish full information regarding the said chit or scheme along with its winding up plan in the form and within the period prescribed, he shall forfeit his right to continue the business relating to the said chit or scheme on the expiry of such period.
- (4) Notwithstanding anything to the contrary contained in any agreement or arrangement entered into between any person conducting any such chit or scheme and the subscriber, the person conducting the chit or scheme shall, within such period as may be prescribed refund the monies or the subscriptions collected till the date of default referred to in sub-section (3).
- (5) If any person fails to comply with the provisions of sub-section (4), he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to three thousand rupees, or with both:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, the imprisonment shall not be less than one year and the fine shall not be less than one thousand rupees.

13. Power to make rules –

- (1) The State Government may, by notification in the Official Gazette and in consultation with the Reserve Bank, make rules for the purpose of carrying out the provisions of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for –
 - (a) the office of the Reserve Bank to whom full information regarding any prize chit or money circulation scheme may be furnished under the first proviso to sub-section (1) of section 12, and the form in which and the period within which such information may be furnished ;
 - (b) the particulars relating to the winding up plan of the business relating to prize chits or money circulation schemes.

[a] For some of the Rules – See

1. Prize Chits and Money Circulation Schemes (Banning) (Delhi) Rules, 1980 – Delhi Gaz. 19-05-80, Pt. IV, Ext., p.468.

2. Prize Chits and Money Circulation Schemes (Banning) (M.P.) Rules, 1980 – M.P. Gaz. 29-08-80, Pt. 4 (Ga), p.370.
3. – do – (Manipur) Rules, 1978 – Manipur Gaz., 6-1-81, Ext., p.1
4. – do – (Meghalaya) Rules, 1980 – Megha Gaz., 5-12-80, Pt. VA, Ext., p.439
5. – do – (Tamil Nadu) Rules, 1980 – T.N. Govt. Gaz., 5-11-80, Pt. II-1(a).Ext., p.1(No.309).
6. – do – (West Bengal) Rules, 1979 – Cal. Gaz., 28-7-79, Pt. I, Ext., p.1477.

14. Repeals and saving –

- (1) The Andhra Pradesh Money Circulation Scheme (Prohibition) Act, 1965, as in force in the State of Andhra Pradesh, and in the Union territory of Chandigarh and the Madhya Pradesh Dhan Parichalan Skeem (Pratishedh) Adhiniyam, 1975, are here repealed.
- (2) Notwithstanding the repeal of any Act referred to in sub-section (1), anything done or any action taken under the provision of any such Act shall, in so far as such thing or action is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the provisions of this Act as if the said provisions were in force when such thing was done or such action was taken and shall continue in force accordingly until superseded by anything done or any action taken under this Act.

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