

**GOVERNMENT OF INDIA
COMPANY AFFAIRS
LOK SABHA**

STARRED QUESTION NO:168

ANSWERED ON:16.07.2004

VIOLATION OF COMPANIES ACT, 1956

Paranjpe Shri Prakash Vishwanath;Shaheen Shri Abdul Rashid

Will the Minister of COMPANY AFFAIRS be pleased to state:

- (a) whether the Government is aware that many public limited companies which raise fixed deposits from Public do not adhere to the norms and regulations laid down by the Government and the Reserve Bank of India;
- (b) if so, the details thereof and the steps taken by the Government to enforce compliance of the norms;
- (c) the number of prosecutions initiated by the Ministry of Company Affairs on the errant companies which have violated the Companies Act, 1956 in the last three years, year-wise;
- (d) the progress of the cases filed;
- (e) whether the Ministry has approached the Company Law Board in regard to the pending cases of violation;
- (f) if so, the details thereof; and
- (g) if not, the reasons therefor ?

Answer

MINISTER OF COMPANY AFFAIRS (SHRI PREM CHAND GUPTA)

(a) to (g) A statement is laid on the table of the House.

STATEMENT REFERRED TO IN ANSWER TO LOK SABHA STARRED QUESTION NO. 168 FOR REPLY ON 16.07.2004 REGARDING VIOLATION OF COMPANIES ACT, 1956.

(a) Government are aware that some public limited companies did not adhere to the statutorily prescribed norms and regulations relating to acceptance and repayment of fixed deposits from the public.

(b) Norms have been prescribed for acceptance of deposits under the provisions of the Companies Act, 1956 and the Reserve Bank of India Act, 1934. For companies coming under the purview of the Companies Act, the norms, inter alia, are :

- Advertisement is to be issued in the prescribed form;
- Deposits can be accepted for a period of minimum six months but not more than thirty six months.
- Total deposits can not exceed 35% of paid up capital and free reserves .
- Interest rate should not exceed the maximum prescribed by Reserve Bank of India for Non-Banking Financial Companies.
- Maintenance of Liquid Assets of atleast 15% of deposits maturing during the year.

The norms, inter alia, in respect of companies coming under the purview of RBI are: -

- No company can commence business without a Certificate of Registration from the Reserve Bank of India for which the Company's Net Owned Fund should not be less than Rs. 200 lakhs.
- Compliance with the deposit acceptance norms, like minimum investment grade credit rating where applicable, ceiling on quantum of public deposits, minimum and maximum period of deposits, the ceiling rate of interest, etc.
- Besides, prudential norms including capital adequacy ratio akin to those applicable to banks have been prescribed for such NBFCs.
- Maintenance of Liquid Assets at 15% of public deposits.

- Reporting requirements and furnishing returns at periodical intervals.

Government have taken action including launching of prosecutions against public limited companies both in relation to violation of Rules in acceptance of deposits and defaults in repayments. Special provisions were inserted in the Companies Act in December, 2000 in relation to defaults in repayment to small depositors and now the public limited companies have to mandatorily report to the Company Law Board any such default made. Directors of a company which has failed to repay its deposits shall not be capable of being appointed Directors of another company in accordance with the provisions of Section 274 (1) (g) of the Companies Act. Auditors are specially required to make a statement whether any Director is disqualified from being appointed as Director. In regard to the companies falling under the purview of RBI also, there are suitable provisions to deal with the acceptance and refund of public deposits and for penalties/prosecutions on account of violation/default.

(c) & (d) the details of prosecutions launched under the Companies Act against companies for non-compliance of provisions relating to fixed deposits during the last 3 years are as follows:

Financial Year	No. of prosecutions launched
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2001-02	52
2002-03	57
2003-04#	38

The figures are provisional.

These cases are in the Courts in different stages of hearing

(e), (f) & (g) As per the provisions of the Companies Act, 1956, the Company Law Board is a quasi-judicial body which can initiate proceeding either on its own motion or on the application of the depositor. Ministry receives periodic reports from the Company Law Board regarding the pendency and disposal of various cases before it under the Companies Act. CLB also furnishes copies of the orders passed in regard to violation of refund of deposits to the Ministry for follow up and taking action for non-compliance of their orders. Prosecutions have been launched by the Ministry for violation of CLB orders.