



ALL INDIA ESIC SC/ST OFFICERS' & EMPLOYEES' FEDERATION

PANCHDEEP BHAWAN, WING NO. 4, SHIVPURI, PREM NAGAR, DEHRADUN, U.K. – 248007

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www.myesic.com

"Affiliated with All India Confederation of SC/ST Organisations"

(Regd.No. S/27858 of 1995)

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Mob. No. 09868241160

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INTERNAL AUDITORS
KULDEEP KUMAR
KAILASH CHAND

(PUBLIC INTEREST DISCLOSURE UNDER SECTION 4(1) OF WHISTLE BLOWERS PROTECTION ACT, 2014)

F.No. AIESIC.SC/ST.FED.2015-055 Dated 05thApril,2019.

To,

Shri K.V. Chowdary
Central Vigilance Commissioner,
Central Vigilance Commission,
SatarkataBhawan, A-Block,
GPO Complex, INA,
New Delhi 110023.

Subject: **Large Scale Corruption in ESIC / Gross violation of the ESI Act, 1948 and its subordinate laws for extracting benefit by awarding work of Portfolio Manager to M/s Reliance Nippon Life Asset Management Limited a Company promoted by Shri Anil D. Ambani for managing ESIC's Fund worth Rs. 59,382.99 Crores.**

Sir,

With due regard, I would like to submit that a large scale corruption in ESIC vis-a-vis Gross Violation of the ESI Act, 1948 and allied rules and regulations were reported to the Director General, ESIC and other forums on various occasions.

Recently the ESIC had initiated revolutionary action of engaging professionals to manage and upkeep Employees' State Insurance Corporation's Fund worth Rs. 59,382.99 Crores by engaging the followings :-

1. Portfolio Managers for managing the funds.**(RFP Enclosed from page No. 1 – 46 of Annexures)**
2. Custodian of Securities.
3. External Concurrent Auditor

In this regard, I would like to invite your kind attention on following facts :

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1. That, the Sub Rule (1) of Rule 27 of ESI (Central) Rules, 1950 prescribes that :

“all money belonging to the Fund which are not immediately required for expenses properly defrayable under the Act, may, subject to the approval of the Standing Committee, be invested by the Director General –

- i) In Government securities including Treasury Deposit Receipt; or
- ii) In securities mentioned or referred to in clauses (a) to (d) of Section 20 of the Indian Trusts Act, 1882 (II of 1882); or
- iii) As fixed deposit in the Reserve or the State Bank of India or any of its subsidiaries or a corresponding new bank constituted under Section 3 of the Banking Companies (Acquisition and Transfer of Undertakings Act, 1970 (5 of 1970)]”

(Extract of relevant Rule enclosed at page No. 47 of Annexures)

2. That, the Sub Rule (2) of Rule 27 of ESI (Central) Rules, 1950 prescribes that :

“Money belonging to the Fund shall not be invested in any other manner except with the prior approval of the Central Government.”

(Extract of relevant Rule enclosed at page No. 47 of Annexures)

3. That, the Sub Rule (7) of Rule 27 of ESI (Central) Rules, 1950 prescribes that :

“The approval under sub rules (1) and (2) of the Standing Committee or the Central Government, as the case may be, may be given with or without any conditions either generally or in any particular case”

(Extract of relevant Rule enclosed at page No. 48 of Annexures)

4. From above facts, it is quite clear that the mandate for making investment out of ESIC fund is provided by Act to the Director General and that also with prior approval of Standing Committee of ESIC.

5. Whereas, with the engagement of Portfolio Manager we have shifted these mandates to new portfolio manager which is a gross violation of Sub Rule (1) of Rule 27 of ESI (Central) Rules, 1950.**(Page No. 47 of Annexures)**

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6. It is clear that the detail of securities as prescribed in Terms of reference in Section 3.1 of RFP for appointment of Portfolio Managers **(Page No. 6 of Annexures)** is grossly different from the detail of securities prescribed in Sub Rule (1) of Rule 27 of ESI (Central) Rules, 1950**(Page No. 47 of Annexures)**.
7. The Section 4.12.1 of RFP documents provides mandate to portfolio manager to purchase or sell securities not exceeding 5 % through any broker**(Page No. 7 of Annexures)**. It is loosely framed terms to favour the Portfolio Manager in violation of Rule 27 of the ESI (Central) Rules, 1950**(Page No. 47 & 48 of Annexures)**.
8. The Section 4.12.1 of RFP documents also provides mandate to portfolio manager to purchase or sell securities exceeding 5 % through any broker by recording in writing the justification for exceeding the aforesaid limit and report all such investments to the ESIC on a quarterly. It is also loosely framed terms to favour the Portfolio Manager in violation of Rule 27 of the ESI (Central) Rules, 1950**(Page No. 47 & 48 of Annexures)**.
9. The Federation has come to know through National Newspapers that M/s Reliance Nippon Life Asset Management Limited has received a mandate from the Employees' State Insurance Corporation (ESIC) to manage its funds worth Rs. 59,382.99 Crores.**(Page No. 49 to 55 of Annexures)**.
10. While examining the pre-qualification criteria for selection of portfolio managers it is observed that the above mandated bidder was not fulfilling criteria as mentioned in Section 7.1.4 and 7.1.5 of RFP document**(Page No. 15 of Annexures)**.
11. On the date of submitting their bid the selected bidder's associated firm M/s Reliance Communication Limited was a defaulter in discharging its contractual obligation worth approximately Rs. 55,100 Crores in violation of terms of Service Level Agreement signed under Indian Contract Act, 1872. Such a large scale of default by their associate company was quite sufficient to effect their performance of any obligations under this assignment and hence the bidder was not fulfilling criteria as mentioned in Section 7.1.4 of RFP **(Page No. 15 of Annexures)**.

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12. On the date of submitting their bid the selected bidder's associated firm M/s Reliance Communication Limited was a defaulter in discharging its contractual obligation worth approximately Rs. 55,100 Crores in violation of terms of Service Level Agreement signed under Indian Contract Act, 1872, and **some legal case under Section 9 of the Insolvency and Bankruptcy Code, 2016 filed by some of the operational creditors to this effect were pending for decision in Hon'ble National Company Law Tribunal on that date.** Such a large scale of default by their associate company is reasonably expected to have a material adverse effect on its ability to perform the obligation under this assignment and hence the bidder was not fulfilling criteria as mentioned in Section 7.1.5 of RFP also **(Page No. 15 of Annexures).** These legal cases were filed in Hon'ble National Company Law Tribunal with following case numbers:
- a) Case No. C.P. (IB) 1385(MB)/2017**(Page No. 56 of Annexures).**
 - b) Case No. C.P. (IB) 1386(MB)/2017**(Page No. 57 of Annexures).**
 - c) Case No. C.P. (IB) 1387(MB)/2017 **(Page No. 58 of Annexures).**
13. That, Shri Anil D. Ambani was the individual promoter having control of M/s Reliance Communications Limited and M/s Reliance Nippon Life Asset Management Limited during year 2017-18. A copy of relevant pages of Annual Report of M/s Reliance Communications Limited for year 2017-18 is enclosed from **page No. 59 to 62 of Annexures.** A copy of relevant pages of Annual Report of M/s Reliance Nippon Life Asset Management Limited for year 2017-18 is enclosed from **page No. 63 to 66 of Annexures).**
14. **The promoter of these firm is also facing contempt petition in Hon'ble Supreme Court for non-fulfilling of its commitment. (Enclosed page No. 67 to 107.**
15. The Joint Lender's Forum of M/s Reliance Communications Limited are also initiating sale of assets of the company independently for recovering Rs. 55100 Crore.

In view of above, it is quite clear that **the bidder who is shorted out as Portfolio Manager i.e. M/s Reliance Nippon Life Asset Management Limited cannot be trusted as a person of sound character antecedent in view of such a large scale of default.**



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Hence, In view of above facts, you are requested to kindly do the following needful actions:-

1. To terminate the mandate of Portfolio Manager given to M/s Reliance Nippon Life Asset Management Limited immediately by terminating the agreement as the bidder is not fulfilling the required criteria and such appointment is also violative of Sub-Rule 1 of Rule 27 of the ESI (Central) Rules, 1950.
2. Issue direction for immediate scrapping of the process of Appointment of Custodian of Securities, External Concurrent Auditor and any further Portfolio Managers, until appropriate amendments are incorporated in the ESI Act, 1948 and the ESI (Central) Rules, 1950.
3. To fix responsibility of those officers who are responsible for allowing third parties to transgress the powers bestowed with the DG(ESIC), Standing Committee of ESIC and Central Government.
4. To examine and direct ESIC to take action against those officers who are responsible for engaging a chronic defaulter as Portfolio Manager for managing ESIC's Fund to the tune of Rs. 59,382.99 Crores.

Sir, all the above information are based on trustable documents openly available in public domain. However, the public scrutiny of related files and tender document are still pending.

Hoping for a prompt action to save the world's largest Social Security Scheme i.e. ESIC and the Nation.

Yours faithfully,

(Heera Singh)
Secretary General

Enclosed: As above.