

SECURITIES AND EXCHANGE BOARD OF INDIA

INTERIM ORDER CUM SHOW CAUSE NOTICE

UNDER SECTIONS 11(1), 11(4) AND 11B OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992, IN THE MATTER OF –

	NOTICEES	DIN/CIN	PAN
COMPANY –			
1.	J K S Projects Limited	U45400WB2011PLC157565	AACCJ5266A
DIRECTORS CUM PROMOTERS –			
2.	Bhola Choudhuri	03310136	-----
3.	Suman Singh	03310149	COBPS2672P
4.	Krishna Nandan Prasad	03310174	BBTPP7677P
5.	Dilip Kumar Pandey	03312079	AMLPP1263H
DIRECTORS –			
6.	Pintu Singh	03569630	CEKPS6290G
7.	Ramesh Prasad Gupta	03569632	AOGPG2613H
8.	Basanta Kumar Dey	03569635	AHQPD3945E
9.	Deepak Kumar Sinha	03581643	BCBPS1318D
10.	Anwar Sadat	03581647	CVNPS6323Q
11.	Mohd Ali Imam	03581649	ACIPI3318R
12.	Sudha Kumari	03587528	ATNPK0940M
13.	Debajyoti Chakraborty	06360200	AJXPC4970D
14.	Mritunjay Kumar Verma	06360203	AFQPV8716F
15.	Dinesh Prosad Bhagat	05128905	ANKPB4288J
16.	Rakesh Ranjan	06448600	AJVPR4961P
17.	Ramanuj Kumar	06514586	BHIPK9685D
18.	Tushar Ghosh	06551721	APCPG9678K
19.	Manabendra Sarkar	06551730	BVOPS6333N
20.	Pijush Kanti Ghosh	06551744	ADQPG7953F
PROMOTERS –			
21.	Kabita Kumari Sah	-	CXHPS0704D
22.	Rajabalbha Singh	-	DANPS8829H
23.	Sankar Bhattacharya	-	AZFPB1929H

1. Securities and Exchange Board of India (“SEBI”) received reference dated February 05, 2018, from the Economic Offences Wing of the Bihar State Police forwarding a complaint from Ms. Ragini Sharma against J K S Projects Limited (“JKSPL”). Vide the aforesaid complaint, the complainant has *inter alia* alleged non–repayment of amount collected by JKSPL by way of *Redeemable Preference Share Certificate*.
2. As a matter of preliminary inquiry, vide separate letters dated March 08, 2018, SEBI sought the following information from JKSPL and its Directors, –
 - i. Copy of Audited Balance Sheet and Annual Returns of the company for the last 3 years.
 - ii. Name, addresses, PAN and occupation of all the Promoters/Directors and Key Managerial Personnel of the company.
 - iii. Nature of business of the company.
 - iv. Other Information in respect of issue of Shares/Debentures:
 - a. Copy of Prospectus/Red Herring Prospectus/Statement in lieu of prospectus/Information Memorandum filed with RoC for issuance of Shares/Debentures.
 - b. Date of opening and closing of the subscription list for the said Shares/Debentures.
 - c. Details regarding the number of application forms circulated inviting subscription for Shares/Debentures and number of applications received.
 - d. Details of allottees in the format given below (in hard copy as well as soft copy).

SR. No.	DATE OF ALLOTMENT (DD/MM/YYYY)	FINANCIAL YEAR	NAME OF ALLOTTEE	ADDRESS OF ALLOTTEE/ CONTACT DETAILS	AMOUNT OF SHARES / DEBENTURES ALLOTTED (₹)
TOTAL					

- v. Copies of the minutes of Board/committee meeting in which the resolution has been passed for raising such additional capital and also for allotment of Shares/Debentures.
- vi. Copies of application forms, pamphlets, advertisements and other promotional material circulated for issuance of Shares/Debentures.
- vii. Terms and conditions of the issue of Shares/Debentures.
- viii. Whether the company has applied for listing of its securities with any of the Stock Exchanges.
- ix. Copies of Form 2 and Form 10 filed with the RoC.

3. Details concerning the above-mentioned letters dated March 08, 2018 issued by SEBI and replies received thereto, etc. are provided as under –

TABLE I		
SL. NO.	NAME	LETTER STATUS (RETURNED/ DELIVERED)
1.	JKS Projects Limited	Undelivered with the comment “Left”
2.	Bhola Choudhuri	Delivered
3.	Suman Singh	Delivered
4.	Krishna Nandan Prasad	Undelivered with the comment “No such person in this address”
5.	Dilip Kumar Pandey	Undelivered with no comments.
6.	Pintu Singh	Undelivered with the comment “Left without address”
7.	Ramesh Prasad Gupta	Undelivered with the comment “No such person is available”
8.	Basanta Kumar Dey	The letter sent has neither returned undelivered nor acknowledgement copy received.
9.	Deepak Kumar Sinha	Undelivered with the comment “Insufficient address”
10.	Anwar Sadat	Delivered
11.	Mohd Ali Imam	Undelivered with the comment “No such person in this address”
12.	Sudha Kumari	The letter sent has neither returned undelivered nor acknowledgement copy received.
13.	Dinesh Prosad Bhagat	Delivered
14.	Debajyoti Chakraborty	Delivered
15.	Mritunjay Kumar Verma	The letter sent has neither returned undelivered nor acknowledgement copy received.
16.	Rakesh Ranjan	Undelivered with the comment “Insufficient address”
17.	Ramanuj Kumar	The letter sent has neither returned undelivered nor acknowledgement copy received.
18.	Tushar Ghosh	Delivered
19.	Manabendra Sarkar	Delivered
20.	Pijush Kanti Ghosh	Delivered

4. Replies were received from four entities viz. Manabendra Sarkar, Bhola Choudhuri, Mohammad Ali Imam and Sudha Kumari. A brief synopsis of their replies is provided as under:

- i. Manabendra Sarkar vide letter dated 15.03.2018 has stated that he has no connection with the captioned company. He never held any post in the company and never got any remuneration. Further, he never engaged with the said company for any kind of work and never attended any meeting of the said company.

- ii. Bhola Choudhuri vide letter dated March 21, 2018 has stated that he was acting as a director in the company till 18.06.2012. He did not know about any transaction related information or issue of shares/debentures. He had also attached a copy of the resignation letter, copy of Form 32 and challan with his reply.
 - iii. Mohammad Ali Imam vide letter dated March 23, 2018 submitted his reply to SEBI wherein inter-alia he had stated that he had not signed any document or letter to be inducted as a Director of JKSPPL and that it appears to him that the documents and signature have been illegally used to make him a Director. He further stated that he is in the process of taking action in the matter against JKSPPL and would inform SEBI of the same in due course.
 - iv. Sudha Kumari vide letter dated March 20, 2018 submitted her reply to SEBI wherein inter-alia she had stated that she joined JKSPPL as a receptionist. After some time, she was informed by JKSPPL that she has been made a director in the company. Since, she has been made a director without her consent, she requested JKSPPL to remove her name as a director. Thereafter, on 01.03.2013 she tendered her resignation. She also submitted in her letter that she has no knowledge w.r.t. the information sought by SEBI.
5. Thereafter, a physical verification of the Registered Office address of JKSPPL i.e. 29B, Rabindra Sarani, 4th floor, Room No-412, Kolkata, West Bengal – 700 073 was conducted by SEBI, by a site visit, on March 15, 2018. However, JKSPPL could not be located at the aforesaid address.
6. During the intervening period, details pertaining to JKSPPL were sought to be procured by SEBI from the Ministry of Corporate Affairs' website i.e. *MCA 21 Portal*. The following relevant information was taken note of –
 - i. **DATE OF INCORPORATION:** January 18, 2011.
 - ii. **TYPE OF COMPANY:** Public Limited Company
 - iii. **CORPORATE IDENTITY NUMBER (CIN):** U45400WB2011PLC157565
 - iv. **PAN:** AACCCJ5266A
 - v. **REGISTERED OFFICE ADDRESS:** 29B, Rabindra Sarani, 4th floor, Room No-412, Kolkata, West Bengal–700 073.
 - vi. **DATE OF FILING OF LAST ANNUAL ACCOUNTS AND ANNUAL REPORTS –** 31.03.2012

vii. **TOTAL ISSUED CAPITAL OF THE COMPANY (AS ON 31.03.2018):**

- a. Equity Capital: Rs. 5,00,000/-
- b. Preference Capital: Rs. 1, 61,16,600/-

viii. **DETAILS OF RELEVANT BOARD MEETING: NOT AVAILABLE.**

7. From a perusal of the records available on *MCA21 Portal*, it was apparent that JKSPIL issued and allotted *Redeemable Preference Shares*. Details regarding the aforesaid as available on *MCA21 Portal* and other relevant material on record are reproduced as under –

A. ALLOTMENT DETAILS OF REDEEMABLE PREFERENCE SHARES [AS PER FORM 2] –

TABLE II – DETAILS OF REDEEMABLE PREFERENCE SHARES ISSUED			
FINANCIAL YEAR	NO. OF ALLOTTEES	VALUE OF ALLOTMENT (Rs.)	DATE OF ALLOTMENT
2011-12	58	45,29,000/-	29/03/2012
2012-13	346	1,15,87,600/-	30/11/2012

ISSUE FOR DETERMINATION –

8. The issue for determination in the instant matter is whether the mobilization of funds by JKSPIL through the *offer and allotment of Redeemable Preference Shares*, as detailed at paragraph 7, is in accordance with the provisions of the SEBI Act, 1992 and the Companies Act, 1956.
9. Section 67 of the Companies Act, 1956 deals with the conditions or circumstances under which an offer of shares/debentures by a company would be construed as one made to the public. Extracts of the relevant provisions of Section 67 of the Companies Act, 1956 dealing with offer of shares or debentures to the public, are reproduced as under:

“Construction of reference to offering shares or debentures to the public, etc.

67. (1) Any reference in this Act or in the articles of a company to offering shares or debentures to the public shall, subject to any provision to the contrary contained in this Act and subject also to the provisions of sub-sections (3) and (4), be construed as including a reference to offering them to any section of the public, whether selected as members or debenture holders of the company concerned or as clients of the person issuing the prospectus or in any other manner.

(2) Any reference in this Act or in the articles of a company to invitations to the public to subscribe for shares or debentures shall, subject as aforesaid, be construed as including a reference to invitations to subscribe for

them extended to any section of the public, whether selected as members or debenture holders of the company concerned or as clients of the person issuing the prospectus or in any other manner.

(3) No offer or invitation shall be treated as made to the public by virtue of sub-section (1) or sub-section (2), as the case may be, if the offer or invitation can properly be regarded, in all the circumstances-

(a) as not being calculated to result, directly or indirectly, in the shares or debentures becoming available for subscription or purchase by persons other than those receiving the offer or invitation; or

(b) otherwise as being a domestic concern of the persons making and receiving the offer or invitation.

Provided that nothing contained in this sub-section shall apply in a case where the offer or invitation to subscribe for shares or debentures is made to fifty persons or more:

Provided further that nothing contained in the first proviso shall apply to non-banking financial companies or public financial institutions specified in section 4A of the Companies Act (1 of 1956).”

10. For ascertaining whether the offer and allotment of Redeemable Preference Shares by JKSPIL will fall within the scope of Section 67 of the Companies Act, the number of persons to whom such offers were made by JKSPIL is crucial. In terms of the first proviso to Section 67(3), an offer of shares or debentures made to fifty persons or more would constitute an offer to the public. In this context, the following is noted from the information obtained from the MCA21 Portal and other relevant material available on record –

A. **Offer and allotment of Redeemable Preference Shares –**

- i. JKSPIL offered and allotted redeemable preference shares to 58 persons during the Financial Year 2011–12. JKSPIL mobilized approximately Rs. 45.29 Lakhs through such issuance.
 - ii. JKSPIL offered and allotted redeemable preference shares to 346 persons during the Financial Year 2012–13. JKSPIL mobilized approximately Rs. 115.87 Lakhs through such issuance.
11. From the above, it will follow that the above issues being made to more than 50 persons would constitute an offer to public and hence makes it imperative for JKSPIL to comply with the mandate of Section 73 of the Companies Act. Relevant extract of Section 73 of the Companies Act is reproduced as under:

“Allotment of shares and debentures to be dealt in on stock exchange.

73. (1) Every company intending to offer shares or debentures to the public for subscription by the issue of a prospectus shall, before such issue, make an application to one or more recognised stock exchanges for permission

for the shares or debentures intending to be so offered to be dealt with in the stock exchange or each such stock exchange.

(1A)...

*(2) Where the permission has not been applied under subsection (1) or such permission having been applied for, has not been granted as aforesaid, the company shall forthwith repay without interest all moneys received from applicants in pursuance of the prospectus, and, if any such money is not repaid within eight days after the company becomes liable to repay it, **the company and every director of the company who is an officer in default shall, on and from the expiry of the eighth day, be jointly and severally liable to repay that money with interest at such rate, not less than four per cent and not more than fifteen per cent, as may be prescribed, having regard to the length of the period of delay in making the repayment of such money (Emphasis supplied) ...**"*

12. As the *offer and allotment of Redeemable Preference Shares* by JKSP is *prima facie* a public issue in accordance with the provisions of the Companies Act, the same will attract the requirement for such shares/debentures to be dealt on a recognized stock exchange in terms of Section 73 of the Companies Act, as stated above. I find that JKSP is *prima facie* in breach of the provisions of Section 73 as well.
13. Further, in connection with a public issue, Section 56 of the Companies Act, 1956 mandates that the prospectus issued by a company shall state the matters specified thereunder and Section 60 of the Companies Act mandates registration of such prospectus with the ROC. I find that there is no evidence on record to indicate that JKSP has complied with the provisions of Sections 56 and 60 of Companies Act, in respect of the *offer and allotment of Redeemable Preference Shares* by JKSP. In view of the same, I find that JKSP is *prima facie* in breach of the provisions of Sections 56 and 60 of the Companies Act in connection with the aforesaid *offer and allotment of Redeemable Preference Shares*.
14. In terms of Section 73(2), the Company and every director who is an officer in default is jointly and severally liable for repayment of the money raised in breach of provisions of Section 73(1). Further, in terms of Section 62 of the Companies Act, every person who *inter alia* is a director of the company at the time of the issue of the prospectus and every person who is a Promoter of the company, are liable to pay compensation to every person who subscribes for any shares or debentures on the faith of the prospectus for any loss or damage he may have sustained by reason of any untrue statement included therein.

15. As per the information available on the MCA21 *Portal*, the details of the present and past Directors and Promoters of JK SPL, including the dates of appointment/cessation as Directors, are as under:

SL. No.	Name of director	Designation	DIN/DP IN	PAN	Residential Address	Date of appointment	Date of cessation
1	Bhola Choudhuri	Promoter and Past Director	03310136	Not Found	17/8, Debi Mandir Lane, Bally, Howrah, West Bengal - 711204	18.01.2011	21.08.2012
2	Suman Singh	Promoter and Past Director	03310149	COBPS2672P	36/B, N.K. Banerjee Street, Rishra, Hooghly, West Bengal - 712248	18.01.2011	01.03.2013
3	Krishna Nandan Prasad	Promoter and Managing Director	03310174	BBTPP7677P	36/B, N.K. Banerjee Street, Rishra, Hooghly, West Bengal - 712248	18.01.2011	-
4	Dilip Kumar Pandey	Promoter and Past Director	03312079	AMLPP1263H	3-, Bahadurpur, Town/Vill - Patna, Anchal - Patna Sadar, Dist - Patna, Bihar - 800020, India	18.01.2011	11.12.2012
5	Pintu Singh	Past Director	03569630	CEKPS6290G	DD-38, Usha Apartment, 3rd Flr, Narayan (East), Aswani Nagar, Baguihati, Kolkata - 700059, West Bengal	15.07.2011	11.12.2012
6	Ramesh Prasad Gupta	Past Director	03569632	AOGPG2613H	6A, Rayland Road (Paschim), 25, Srirampore, Hooghly, West Bengal - 712202	15.07.2011	01.05.2013
7	Basanta Kumar Dey	Present Director	03569635	AHQPD3945E	Dakshinpara Jagatballavpur - 1, Jagatballavpur, Howrah, West Bengal - 711408	15.07.2011	-
8	Deepak Kumar Sinha	Present Director	03581643	BCBPS1318D	91, Shivpuri, Town/Vill - Patna, Anchal - Patna Sadar, Patna, Bihar - 800023, India	15.07.2011	-

9	Anwar Sadat	Past Director	03581647	CVNPS6323Q	Bibekananda Palli, Englishbazar, Malda, West Bengal – 732101	15.07.2011	21.08.2012
10	Mohd Ali Imam	Present Director	03581649	ACIPI3318R	38, Golden Park, Rampura, Delhi – 110035, India	15.07.2011	-
11	Sudha Kumari	Past Director	03587528	ATNPK0940M	“VANI – NILAY”, Shivpuri, (Beur Road), P.O – Anisabad, P.S – Gardani Bag, Dist – Patna, Bihar – 800002, India	15.07.2011	01.03.2013
12	Debajyoti Chakraborty	Present Director	06360200	AJXPC4970D	P/86, Sri Krishnanagar Pally, Kamarhati-11, Belghoria, Kolkata – 700056, West Bengal	21.08.2012	-
13	Mritunjay Kumar Verma	Past Director	06360203	AFQPV8716F	Poshan Sah by Lane, Shakulla Chak, Bhagalpur, Bihar – 812001, India	21.08.2012	01.05.2013
14	Dinesh Prosad Bhagat	Past Director	05128905	ANKPB4288J	333 Dakshin Buxarah Village Road, Howrah, West Bengal - 711109	11.12.2012	01.03.2013
15	Rakesh Ranjan	Present Director	06448600	AJVPR4961P	10, Harnichakphulwar i Sharif, Patna, Bihar – 800002, India	11.12.2012	-
16	Ramanuj Kumar	Past Director	06514586	BHIPK9685D	145,Nchiri Tola, Gol Vigaha, Village – Chiri, Anchal – Ghoshi, Jahanabad, Bihar - 804432	13.08.2013	02.02.2015
17	Tushar Ghosh	Present Director	06551721	APCPG9678K	Madhya Maju-33, Jagatballavpur, Sadar, Howrah, West Bengal - 711414	12.04.2013	-

18	Manabendra Sarkar	Present Director	06551730	BVOPS6333N	Jadabbati – 35, Maju, Jagatballavpur, Howrah, West Bengal - 711414	12.04.2013	-
19	Pijush Kanti Ghosh	Present Director	06551744	ADQPG7953F	Madhya Maju - 33, Jagatballavpur, Sadar, Howrah, West Bengal - 711414	12.04.2013	-
20	Kabita Kumari Sah	Promoter	-	CXHPS0704D	21, Rayland Road (Paschim), Srirampore, Hooghly, West Bengal - 712202	-	-
21	Rajabalbha Singh	Promoter	-	DANPS8829H	67, Chilabilli, Phulwari Sharif, Town/ Vill-Chilabilli, Patna, Bihar- 804453	-	-
22	Sankar Bhattacharya	Promoter	-	AZFPB1929H	20/41, Satyasadhan Dhar Lane, Bally, Howrah, West Bengal – 711204	-	-

16. I note that the persons at serial nos. 1 to 13 in the above Table under paragraph 15 have been the directors of the company during the period of money mobilization through *offer and allotment of Redeemable Preference Shares* and hence are *prima facie* responsible for contravention of the abovementioned Public Issue requirements and are also *prima facie* liable for refund of money to the investors. The persons at sl. no. 14 to 19 in the above Table have become directors of the company post the money mobilization and the persons mentioned at sl. nos. 20 to 22 in the above Table are the promoters of JKSP, and hence, are liable for the alleged contraventions by JKSP.

DIRECTIONS –

17. In view of the foregoing, I, in exercise of the powers conferred upon me under Sections 11, 11(4) and 11B of the SEBI Act hereby issue, with immediate effect, the following directions, which shall remain in force until further orders:-

- i. JKSPPL and its Directors/Promoters, viz. Bhola Choudhuri, Suman Singh, Krishna Nandan Prasad, Dilip Kumar Pandey, Pintu Singh, Ramesh Prasad Gupta, Basanta Kumar Dey, Deepak Kumar Sinha, Anwar Sadat, Mohd Ali Imam, Sudha Kumari, Dinesh Prasad Bhagat, Debajyoti Chakraborty, Mritunjay Kumar Verma, Rakesh Ranjan, Ramanuj Kumar, Tushar Ghosh, Manabendra Sarkar, Pijush Kanti Ghosh, Kabita Kumari Sah, Rajabalbha Singh and Sankar Bhattacharya shall not access the securities market or buy, sell or otherwise deal in the securities market, either directly or indirectly, or associate themselves with any listed company or company intending to raise money from the public;
 - ii. JKSPPL and the above named Directors/Promoters shall neither dispose of, alienate or encumber any of its/their assets nor divert any funds raised from public through the *offer and allotment of Redeemable Preference Shares*;
 - iii. JKSPPL and the above named Directors/Promoters shall co-operate with SEBI and shall furnish all information/documents in connection with the *offer and allotment of Redeemable Preference Shares* sought vide letter dated March 08, 2018.
18. The preliminary findings contained in paragraphs 12,13 and 16 of this Order are made on the basis of the information obtained from *MCA21 Portal* and other relevant material on record. JKSPPL and the above named Directors/Promoters are hereby called upon to show cause as to why suitable directions/prohibitions under Sections 11, 11(4), and 11B of the SEBI Act should not be issued/imposed, including the following directions, viz. –
- i. JKSPPL and its Directors, viz. Bhola Choudhuri, Suman Singh, Krishna Nandan Prasad, Dilip Kumar Pandey, Pintu Singh, Ramesh Prasad Gupta, Basanta Kumar Dey, Deepak Kumar Sinha, Anwar Sadat, Mohd Ali Imam, Sudha Kumari, Debajyoti Chakraborty and Mritunjay Kumar Verma to jointly and severally refund the money collected through the *offer and allotment of Redeemable Preference Shares to the extent liable*, with an interest of 15% per annum (the interest being calculated from the date when the repayments became due in terms of Section 73(2) of the Companies Act till the date of actual payment);
 - ii. The money refunded should be supported by a certificate of two independent Chartered Accountants to the satisfaction of SEBI (to be submitted to SEBI within 7 days of completion of the refund); and
 - iii. The Noticees to be restrained/prohibited from accessing the securities market and buying, selling or otherwise dealing in securities in any manner whatsoever, directly or

indirectly, for a period of four years from the date of effecting the refund as directed above.

19. The Noticees may, within 21 days from the date of receipt of this *Interim Order–cum–Show Cause Notice*, file their respective replies. JKSPIL and the above named Directors/Promoters are directed to furnish an inventory of their assets in their reply. In the event the Noticees intend to avail an opportunity of personal hearing, they may do so by seeking a confirmation in writing from SEBI for the same within 90 days from the date of receipt of this Order. In the event of the respective Noticees failing to file replies or requesting for an opportunity of personal hearing within the said 90 days, the preliminary findings at paragraphs 12,13 and 16 of this Order and directions at paragraphs 18 above shall become final and absolute against the respective Noticees automatically, without any further orders. JKSPIL and the above named Directors/Promoters shall comply with the directions at paragraph 18 above within a period of 90 days from the date of this Order becoming final. Upon the expiry of the period of 90 days from the date of this Order being deemed final against the respective Noticees, SEBI may initiate appropriate enforcement action under SEBI Act including Recovery proceedings, Adjudication or Prosecution in addition to making a suitable reference to State Government/Local Police.
20. This Order is without prejudice to any other action that SEBI may initiate under securities laws, as deemed appropriate.
21. Copy of this Order shall be forwarded to the recognized stock exchanges and depositories for information and necessary action. A copy of this Order may also be forwarded to MCA/concerned RoC for their information and necessary action with respect to the directions imposed on JKSPIL and the above named Directors/Promoters.

Date: February 26, 2019

Place: Mumbai

**G. MAHALINGAM
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA**