



HIMACHAL PRADESH HIGH COURT  
Hon'ble Mr. Rakesh Kainthla, J.  
Cr. MMO No. 498/2018, Dt/- 23-6-2025

*M/s. Bectors Food Specialities*  
*v.*  
*Regional Provident Fund Commissioner & Anr.*

EMPLOYEES' PROVIDENT FUND SCHEME, 1952 – Paras 76(d) and 78 – Failure to submit bank details of employees for KYC – Whether punishable – The Provident Fund Inspector filed a complaint before the Trial Court for commission of an offence punishable under Para 76 of the EPF Scheme – It was asserted that the petitioner/accused had to submit bank account details in respect of all members of the fund to update the KYC details as per instructions issued under Paras 78(1) and 78(3) – The accused failed to comply with the notice and accused Nos. 2 and 3 are incharge and responsible to accused No. 1 for conduct of business – The Trial Court ordered issuance of summons against the accused – The present petition has been filed for quashing the complaint – It was contended that no opportunity was provided while granting the sanction and that the complaint is not maintainable – Held, a person can be punished if he is guilty of contravention or non-compliance with any requirement of the Scheme – No requirement of the Scheme provides mandatory KYC on the part of the employer and the provisions of section 76(d) are not attracted in this case – It was submitted that Para 78 empowers the Central Government to issue directions for proper implementation of the Scheme, or to remove any difficulty – It was submitted that the Central Government issued a direction to all Regional PF Commissioners to submit bank accounts of the members of the fund and since the employer failed to comply with these directions, it is punishable under Para 76(d) – However, Para 76(d) punishes a person who is guilty of contravention of non-compliance with the requirement of the Scheme and not with any other requirement or direction issued under the Scheme – It is impermissible to add the words 'direction issued under the Scheme' in Para 76(d) of the EPF Scheme and the allegation in the complaint do not attract the said provisions – The petition is allowed and the complaint is quashed. Paras 15 to 19

For Petitioner: Mr. Ajay Vaidya, Advocate.

For Respondents No. 1 & 2: Deleted vide order dated 30-11-2023.

For Respondent No. 3: Mr. Navlesh Verma, Advocate.

For Respondent No. 4: None.

#### IMPORTANT POINTS

- The employer cannot be held criminally liable for failing to submit the bank account details in respect of its employees to update their KYC details.
- A person can be punished if he is guilty of contravention or non-compliance with any requirement of the EPF Scheme.
- There is no requirement under the EPF Scheme providing for mandatory KYC on the part of the employer.
- Para 78 empowers the Central Government to issue directions for proper implementation of the Scheme, or to remove any difficulty.
- Para 76(d) punishes a person who is guilty of contravention of non-compliance with the requirement of the Scheme and not with any other requirement or direction issued under the Scheme.
- It is impermissible to add the words 'direction issued under the Scheme' in Para 76(d) of the EPF Scheme and the allegation in the complaint do not attract the said provisions.

#### JUDGEMENT

Rakesh Kainthla, J.–1. The petitioner has filed the present petition for quashing the complaint pending before the learned Judicial

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Magistrate, First Class, Court No. II, Una (learned Trial Court).

2. Briefly stated, the facts giving rise to the present petition are that the complainant-Provident Fund Inspector, filed a complaint before the learned Trial Court for the commission of an offence punishable under Para 76 of the Employees' Provident Funds and Miscellaneous Provident Fund Scheme (EPF Scheme), 1952. It was asserted that the petitioner/accused-M/s. Bector Food Specialities Limited is an establishment. It was allotted the PF Code No. HP-3715. Instructions were issued under Para 78(1) and 78(3) on 17-09-2014 to submit the bank account details in respect of all the members of the funds to update the Know Your Customer (KYC) details. The accused failed to comply with the notice. Accused Nos. 2 and 3 are incharge and responsible to accused No. 1 for the conduct of its business. The accused were required to comply with the provisions of the Act and the scheme framed thereunder; hence, the complaint was filed before the learned Trial Court for taking action as per the law.

3. The learned Trial Court ordered the issuance of the summons against the accused.

4. Being aggrieved by the filing of the complaint, the accused filed the present petition for quashing the complaint. It was asserted that no opportunity of hearing was provided while granting the sanction. Accused Anoop Bector is not responsible for the day-to-day affairs of the Company. The petitioner/accused complied with the norms. The mandatory linkage of KYC started in January 2017, whereas the inspection was carried out in December 2014. All the contributions were duly deposited. The complaint is not maintainable. Linking of Aadhar Card is not mandatory, and the learned Trial Court erred in issuing the summons; therefore, it was prayed that the present petition be allowed and the complaint pending before the learned Trial Court be quashed.

5. The petition is opposed by filing a reply taking preliminary objections regarding the lack of maintainability, the petition requiring the adjudication of the complicated question of law and facts, and the petition being without any factual or legal basis. The contents of the petition were admitted to the extent that the petitioner is an establishment and is covered under the Employees' Provident Funds and Miscellaneous Provident Fund Act (EPF Act), 1952. It was asserted that the Central Government (Ministry of Labour and Employment), Government of India, issued a direction under Para 78(1) of the EPF Scheme to the employer to submit the bank account details of the members. Another direction was issued to the employer to get the Universal Account Number (UAN) activated by the employees and seed the KYC details of the employees. The failure to adhere to the directions beyond September 2015 amounted to non-compliance. A notice was issued to the petitioners to comply with the directions; however, they failed to do so. Therefore, the complaint was filed before the Court. Anoop Bector was the Managing Director of the establishment and was responsible for the conduct of the business of the establishment. The complaint was rightly filed; therefore, it was prayed that the present petition be dismissed.

6. A rejoinder denying the contents of the reply and affirming those of the petition was filed.

7. I have heard Mr. Ajay Vaidya, learned counsel for the petitioner, and Mr. Navlesh Verma, learned counsel for respondent No. 3.

8. Mr. Ajay Vaidya, learned counsel for the petitioner, submitted that the proceedings initiated by the complainant are without jurisdiction. No offence has been committed by the petitioners. The continuation of the proceedings amounts to abuse of the process of the Court; therefore, he prayed that the present petition be allowed and the proceedings pending before the learned Trial Court be quashed.

9. Mr. Navlesh Verma, learned counsel for respondent No. 3, submitted that a direction was issued by the Central Government to the EPF authorities for mandatory linkage of Aadhaar. EPF authorities directed the petitioners to carry out KYC; however, the petitioners failed to do so. Therefore, the complaint was rightly filed against the petitioners.

10. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

11. The law relating to quashing of criminal cases was explained by the Hon'ble Supreme Court in *B.N. John v. State of U.P.*, 2025 SCC OnLine SC 7 as under:-

"7. As far as the quashing of criminal cases is concerned, it is now more or less well settled as regards the principles to be applied by the court. In this regard, one may refer to the decision of this Court in *State of Haryana v. Ch. Bhajan Lal*, 1992 Supp (1) SCC 335, wherein this Court has summarised some of the principles under which FIR/complaints/criminal cases could be quashed in the following words:

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends

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of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under section 156(1) of the Code except under an order of a Magistrate within the purview of section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable based on which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and to spite him due to a private and personal grudge.” ( *emphasis added* )

8. Of the aforesaid criteria, clause No. (1), (4), and (6) would be of relevance to us in this case.

In clause (1) it has been mentioned that where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused, then the FIR or the complaint can be quashed.

As per clause (4), where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order dated by the Magistrate as contemplated under section 155(2) of the CrPC, and in such a situation, the FIR can be quashed.

Similarly, as provided under clause (6), if there is an express legal bar engrafted in any of the provisions of the CrPC or the concerned Act under which the criminal proceedings are instituted, such proceedings can be quashed.”

**12.** This position was reiterated in *Ajay Malik v. State of Uttarakhand* , 2025 SCC OnLine SC 185, wherein it was observed:

“8. It is well established that a High Court, in exercising its extraordinary powers under section 482 of the CrPC, may issue orders to prevent the abuse of court processes or to secure the ends of justice. These inherent powers are neither controlled nor limited by any other statutory provision. However, given the broad and profound nature of this authority, the High Court must exercise it sparingly. The conditions for invoking such powers are embedded within section 482 of the CrPC itself, allowing the High Court to act only in cases of clear abuse of process or where intervention is essential to uphold the ends of justice.

9. It is in this backdrop that this Court, over the course of several decades, has laid down the principles and guidelines that High Courts must follow before quashing criminal proceedings at the threshold, thereby pre-empting the Prosecution from building its case before the Trial Court. The grounds for quashing, inter alia, contemplate the following situations: (i) the criminal complaint has been filed with *malafides*; (ii) the FIR represents an abuse of the legal process; (iii) no prima facie offence is made out; (iv) the dispute is civil in nature; (v) the complaint contains vague and omnibus allegations; and (vi) the parties are willing to settle and compound the dispute amicably (*State of Haryana v. Bhajan Lal* , 1992 Supp (1) SCC 335)

**13.** The present petition is to be decided as per the parameters laid down by the Hon'ble Supreme Court.

**14.** Para 76 of the EPF Scheme reads as under: –

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#### 76. Punishment for failure to pay contribution, etc. —

If any person—

- (a) deducts or attempts to deduct from the wages or other remuneration of a member the whole or any part of the employer's contribution, or
- (b) fails or refuses to submit any return, statement or other document required by this Scheme or submits a false return, statement or other document, or makes a false declaration, or
- (c) obstructs any Inspector or other official appointed under the Act or this Scheme in the discharge of his duties, or fails to produce any record for inspection by such Inspector or other official, or
- (d) is guilty of contravention of or non-compliance with any other requirement of this Scheme, he shall be punishable with imprisonment which may extend to one year, or with a fine which may extend to four thousand rupees, or with both.

15. It is apparent from the above that a person can be punished if he is guilty of contravention or non-compliance with any requirement of the scheme. No requirement of the scheme was brought to the notice of this Court, which provides the mandatory KYC on the part of the employer; therefore, the provisions of section 76(d) is not attracted to the present case.

16. It was submitted that Para 78 empowers the Central Government to issue directions for the proper implementation of the scheme, or to remove any difficulty. The Central Government issued a direction (Annexure R3/A) to all Regional PF Commissioners to submit the bank account details of the members of the fund. Since the employer failed to comply with these directions, therefore, it is punishable under Para 76(d). This submission cannot be accepted. Para 76(d) punishes a person who is guilty of contravention or non-compliance with the requirements of the scheme. Learned counsel wants this Court to read Para 76(d) as guilty of contravention of or non-compliance with any other requirement or direction issued under the scheme. It is impermissible to add the words direction issued under the scheme to the statute. Lord Atkin held in his dissenting judgment of *Liversidge v. Sir John Anderson and another* (1942) A.C. 206 that the strained meaning cannot be given to the ordinary words. It was observed:

"I protest, even if I do it alone, against a strained construction put on words with the effect of giving an uncontrolled power of imprisonment to the minister. To recapitulate: The words have only one meaning. They are used with that meaning in statements of the common law and statutes. They have never been used in the sense now imputed to them. They are used in the Defence Regulations in their natural meaning, and, when it is intended to express the meaning now imputed to them, different and apt words are used in the regulations generally and in this regulation in particular. Even if it were relevant, which it is not, there is no absurdity or no such degree of public mischief as would lead to a non-natural construction.

I know of only one authority which might justify the suggested method of construction. " 'When I use a word', Humpty Dumpty said in rather a scornful tone, 'it means just what I choose it to mean, neither more nor less'. 'The question is', said Alice, 'whether you can make words mean so many different things.' 'The question is', said Humpty Dumpty, 'which is to be master — that's all.' " ("Through the Looking Glass," c. vi.) After all this long discussion, the question is whether the words "If a man has" can mean "If a man thinks he has". I am of the opinion that they cannot, and that the case should be decided accordingly.

17. A similar view was taken by the Hon'ble Supreme Court in *P.D Jambekar v. State of Gujarat*, (1973) 3 SCC 524: 1973 SCC (Cri) 1088: 1973 SCC (L&S) 162: 1972 SCC OnLine SC 489, wherein it was observed at page 526:-

"8. As section 106 makes the date of knowledge of the commission of the offence the starting point of the period of limitation, we find it difficult to read the section so as to make the date on which the Inspector would or ought to have acquired knowledge of the commission of the offence had he been diligent, the starting point of limitation, especially where, as here the statute does not provide for an inquiry into the accident much less the period with which the inquiry has to be made. It is only in the jurisprudence of Humpty Dumpty that we can equate the "date on which the alleged offence came to the knowledge of an Inspector" with the date on which the alleged offence ought to have come to his knowledge. We think that the High Court was right in its conclusion." ( *Emphasis supplied* )

18. Therefore, it is impermissible to add the words direction issued under the scheme in para 76(d) of the EPF scheme and the allegations in the complaint, even if accepted to be correct, do not attract the provisions of section 76(d) of the EPF Scheme. Therefore, the proceedings initiated against the petitioners before the learned Trial Court cannot be permitted to continue.

19. In view of the above, the present petition is allowed and the complaint bearing registration No. 09/2015 pending before the learned

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Judicial Magistrate, Court No.-II, Una, H.P., is ordered to be quashed.

Ref: LLR

If you have any questions, feel free to reach out to us on WhatsApp at Jay Shah - +91 9167121333

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