IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

WPA 5063 of 2026

M/s. North Brook Jute Company Ltd.
Vs
Regional Provident Fund Commissioner, Howrah & Ors.

For the Petitioner	:	Mr. Partha Sarathi Sengupta, Ld. Sr. Adv. Mr. Kallol Basu, Mr. Subhadeep Bhattacharyya, Mr. Bratin Kr. Dey, Ms. Shreejita Sen, Mr. Subhankar Banerjee.
For the Respondent No.6	:	Mr. Victor Chatterjee, Mr. Pramitava Nath.
For the Respondent No.5	:	Mr. Ranjay De, Ld. Sr. Adv. Mr. B. Banerjee, Mr. A. A. Bose.
For the P. F. Authority	:	Mr. S. C. Prasad.
Judgment reserved on	:	12.08.2026
Judgment delivered on	:	09.09.2026

Shampa Dutt (Paul), J.:

1. The writ application has been preferred challenging the order vide Notification No-I/73573/2025/LABR-25024/6/2023 – LWMW, dated

27.01.2026 passed by the Special Secretary to the Government of West Bengal and the show cause vide no. 348-LW/PF-27/10 dated 06.05.2011.

2. The petitioner's case in short is that the petitioner assails the Notification dated 27.01.2026 bearing No. 1/73573/2025/LABR-25024/6/2023-LWMW issued by the Special Secretary to the Government of West Bengal, whereby the exemption granted to the petitioner establishment under Section 17(1)(a) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, vide Notification No. 1167-LW/LW/IA-184/58 dated 24.02.1960 (PF Code No. WB/HWR/72), has been cancelled with retrospective effect from the date of the original notification.

3. It is the case of the petitioner that the impugned order is founded upon a provision which is not applicable to the petitioner and thus is a foundational error. The impugned Notification proceeds, inter alia, on the **alleged violation of "Condition No. 25" under Para 27AA of the Employees' Provident Fund Scheme, 1952.** The petitioner is, however, an establishment which has continuously enjoyed exemption under Section 17(1)(a) of the Act since 24.02.1960. The very foundation of the impugned action is therefore legally misconceived.

4. It is stated that the issue has now been authoritatively considered by this Hon'ble Court in **WPA 6138(W) of 2009, *Caledonian Jute & Industries Ltd. & Anr. v. Union of India & Ors.***, dated 20.04.2026 along with 19 connected writ petitions. ***The Court has held that Para 27AA read with Appendix A is not applicable to establishments***

exempted under Section 17 unless and until the conditions of exemption are modified by an amendment to the exemption notification published in the Official Gazette.

5. It is thus stated that the petitioner's case is on all fours with the aforesaid judgment. The petitioner was granted exemption in 1960 and there is no amendment to the original exemption notification incorporating Para 27AA or Condition No. 25 as an enforceable condition of the petitioner's exemption. Consequently, an alleged violation of Para 27AA cannot constitute a breach of the petitioner's conditions of exemption.

6. Statutory mechanism Section 17 contemplates that exemption is granted by the appropriate Government through notification in the Official Gazette and subject to conditions specified in that notification. The judgment dated 20.04.2026 specifically holds that, without such conditions being incorporated into the exemption notification, provisions of the Scheme cannot automatically be imposed upon an establishment enjoying exemption under Section 17.

7. Para 27AA cannot automatically rewrite a pre-existing exemption The respondents cannot retrospectively introduce a new condition into a decades-old exemption merely by relying upon an amendment to the statutory Scheme. The appropriate Government must first modify the exemption notification in accordance with Section 17 and publish such modification in the Official Gazette.

8. The judgment dated 20.04.2026 relies upon the Supreme Court decision in ***Jiyajeerao Cotton Mills Ltd. v. Dev Kumar Holani & Ors.,***

(1998) AIR SC 2480, holding that revised terms and conditions do not become automatically applicable to exempted establishments and must be incorporated by the appropriate Government in the notification granting exemption under Section 17(1)(a).

9. The petitioner further argues that the impugned cancellation under Section 17(4) is also unsustainable on the ground that no enforceable breach of Section 17(4) can be invoked mechanically on the basis of an alleged violation of a condition which never became legally applicable to the petitioner. If Para 27AA was not applicable, the alleged violation thereof could not furnish a lawful basis for cancellation of the exemption.

10. It is stated that the defect is not merely one of calculation or appreciation of evidence. The impugned order proceeds on an impermissible legal premise. **Once the foundational condition is held inapplicable, the consequential cancellation necessarily becomes unsustainable.**

11. It is further stated that the proceedings has been delayed for more than 13 years. Relying upon ***Caledonian Jute & Industries Ltd. (Supra),*** the petitioner submits that the said judgment is fully applicable to the present case.

12. The petitioner thus prays for quashing and setting aside the Notification dated 27.01.2026 bearing No. 1/73573/2025/LABR-25024/6/2023-LWMW holding that Para 27AA of the Employees' Provident Fund Scheme, 1952 and Appendix A thereto could not be applied to the petitioner in the absence of a valid amendment/modification of the original exemption notification in accordance with Section 17 of the Act and quashing all consequential proceedings/actions founded upon the alleged violation of Para 27AA/Appendix A.

13. **The respondent nos. 1 and 2** have countered the argument of the petitioner by filing their written notes stating therein that M/s. Northbrook Jute Company Limited is covered under the EPF & MP Act, 1952. The establishment was granted exemption vide a Notification No. 1167-LW/LW/1A-184/58 dated 24.02.1960 issued by the Government of West Bengal under Section 17(1)(a) of the Act, on the condition that the employees of the establishment enjoy Provident Fund benefits which as a whole shall not be less favourable than the benefits provided under the Act or any Scheme in relation to the employees in any other establishment of a similar character.

14. The Regional Provident Fund Commissioner-II (Exemption) vide No. C-EX/32(6)/10/HWR/CE/EX-23035 dated 16.08.2011 requested to initiate necessary action for cancellation of exemption.

15. The Labour Department, Government of West Bengal, vide No. 323(2)/LW/PF-27/10 dated 22.04.2013 informed the North Brook Jute Co. Ltd. and Regional Provident Fund Commissioner-II (Exemption) to attend a hearing on 06.05.2013 at 3:00 p.m. at the chamber of Principal Secretary to the Government of West Bengal Department with all relevant documents.

16. It is stated that considering the proposal of the EPFO authority and the correspondences, documents, it may be deduced that the Cancellation of Exemption of M/s. North Brook Jute Co. Ltd. Of 1, G.T. Road, Champdany, P.O. Baidyabati, Hooghly-712222, against P.F. Code No. WB/72 seems to stand solid and valid.

17. It is further stated that it is quite clear from their various reply letters that, there were Gross irregularities in their (the petitioner's) establishment and the said company failed to constitute BOT after completion of its tenure and also failed to transfer P.F. contribution to the BOT for the period of 2007-08 to 08-09. They even failed to make interest as per the pattern of investment for the year 2008-09.

18. Under the said circumstances, it is to be concluded that the violation of condition No. 25 were noticed as enunciated in para 27AA of the EPF Scheme 1952, which led to the cancellation of the exemption by Labour Department, Government of West Bengal.

19. It is submitted that Section 17(4) speaks, that the exemption granted under Section 17 may be cancelled by the authority which granted it, if an employer fails to comply with the conditions of exemption. When an exemption is cancelled, the amount of accumulations to the credit of every employee to whom such exemption applied, in the Provident Fund shall be transferred within such time and in such manner as may be specified in the scheme i.e. pension scheme or the insurance scheme to the credit of his account in the Fund or the Pension Fund or Insurance Fund as the case may be.

20. It is finally submitted that, therefore, the action of the appropriate Government is well justified in the facts and circumstances of the case. The exemption granted to the employer in relation to the establishment is not in safe hands. In the name of exemption the petitioner is depriving the poor subscribers. The writ petition is thus liable to be dismissed both in law and in fact.

21. By way of filing a supplementary affidavit, the petitioner states that the election for employee representatives in the Board of Trustees for the petitioner company was done and announced via Notice dated 08.02.2023 and the same was communicated to the Respondents by a letter dated 09.02.2023, vide Da Ref: NBJ/LO/LT/23/333.

22. It is further stated that there had been reconstitution of the Board of Trustees in case of the Provident Fund Trust of the petitioner company as per the minutes of the meeting dated 05.12.2025.

23. Thus, on hearing the learned counsels for the parties and on perusal of the materials on record and also the judgment of this Court dated 20.04.2026 in **WPA 6138(W) of 2009, *Caledonian Jute & Industries Ltd. & Anr. v. Union of India & Ors.***, wherein this Court considered cases similarly placed, and **held as follows:-**

> *"33. ....*
> *a) Section 17 of the Employees Provident Funds and Miscellaneous Provision Act, 1952, lays down the power of the appropriate government to exempt.*
> ***Section 17 EPF Act: Power to exempt.****-(1) The appropriate Government may,* ***by notification in the Official Gazette and subject to such conditions as may be specified in the notification,*** *[exempt, whether prospectively or retrospectively, from the operation] of all or any of the provisions of any Scheme........."*
> *b)* ***Para 27AA of the Employees Provident Funds Scheme lays down:-***
> ***"27-AA. Terms and conditions of exemption. All exemptions already granted or to be granted*** *hereafter under Section 17 of the Act or under paragraph 27-A of the scheme shall be subject to the terms and conditions as given in the appendix A."*

c) Para 27AA of the EPF scheme has been brought in by way of an amendment (with effect from 06.01.2021) to the scheme and made applicable to the exemption granted under Section 17 of the EPF Act.

d) ***One option*** *would be to cancel or surrender or withdraw the exemption which has been granted to the establishments under Section 17 of the Act, by the appropriate government, if the terms and conditions of Para 27AA of the scheme are more favourable,* ***than the conditions specified in the notification granting exemption under 17 of the Act.***

e) ***The other option*** *would be that, though Para 27AA of the EPF scheme lays down the terms and conditions of exemption and also makes it applicable to all exemptions* ***already granted or to be granted*** *under Section 17 of the Act or under Para 27A of the scheme, which shall be subject to the terms and conditions as given in appendix 'A',* ***the same can be made applicable to an exempted establishment,*** *only by the appropriate government, which granted exemption to an establishment,* ***by modification of and or amendment*** *to the* ***notification granting exemption*** *in the* ***official gazette, on such conditions as may be specified in the notification and while doing so could exempt, whether prospectively or retrospectively from the operation of all or any of the provisions of the scheme.***

f) Thus Section 17 EPF Act gives strength to the argument of the petitioners that when such exempted establishments have been exempted from the provision of the scheme, an amendment to the said scheme (Para 27AA) would also not apply to such establishment. But the mischief here has been caused by the wording in Para 27AA of the scheme. ***The said mischief can be undone only by acting as per Section 17 of the EPF Act, which granted the initial exemption.***

g) As such, by way of an (amended) exemption notification in the official gazette, by the appropriate government herein, Para 27AA of the EPF scheme can be made applicable to such exempted establishments, granted exemption under Section 17 of the Act.

34. *Section 17 of the EPF Act, by itself is very specific and clear to the extent that:-*

i. Such exemption has to be granted by the appropriate government, by notification in the official gazette.
ii. Such exemption has to be subject to such conditions as may be specified in the notification.
As such without the conditions being specified in the notification, the same cannot be made applicable to an establishment being granted exemption under Section 17 of the Act.
iii. The said notification granting exemption could be prospective or retrospective, from the operation of all or any of the provisions of any scheme.
As such for such conditions and provisions of any scheme to be made applicable to an exempted establishment, the same would have to be done by the appropriate government by notification in official gazette, *as per Section 17 of the EPF act and without compliance of the provision of Section 17 EPF act, the provision of the scheme herein, being para 27AA, is not applicable to the establishments, who have been granted exemption under Section 17 of the EPF Act.*

35. *The following observations of the Supreme Court in* ***Jiyajeerao Cotton Mills Ltd. vs Dev Kumar Holani & Ors., (1998) AIR (SC) 2480,*** *are clear on the said issue:-*
"9. ....unless the appropriate Government issued a notification amending the exempted scheme and published the same in the Official Gazette, Condition 4 did not apply to them. Admittedly, no such notification amending the exempted scheme framed by the appellant and Respondent 10 was issued by the State Government.".........
9. ...."The revised terms and conditions did not and could not have become applicable automatically, and in order to make them applicable, they were required to be incorporated by the appropriate Governments in the notification granting exemption under Section 17(1)(a)."
19. The appropriate government in these cases however has not varied the conditions of exemption but on the other hand the statutory scheme itself has been amended, from following which the concerned establishments exempted.................."

24. Vide the impugned order dated 27.01.2026, the authority under the government of West Bengal, has referred to the show cause dated 06.05.2011 and stated as follows:-

> *"Whereas, the Regional Provident Fund Commissioner-II(Exemption) on their letter No C.EX/32(6)/10/WB/HWR/CE/EZ dated 16/06/2010 stated that they have noticed the following violations of the conditions against the establishment namely M/s North Brook Jute Co. Ltd(WB/72).*
> *i) Declared interest rate lower that the statutory rate during the year 2003-04 to 2005-06.*
> *ii) Failed to reconstitute the BOT after compliance of its tenure.*
> *iii) Failed to transfer P.F. Contribution to the BOT for the period of 07-08 to 02-09.*
> *iv) Failed to make interest as per pattern of investment for the year 2008-09.*
> *Whereas, violation of the condition No. 25 were noticed as enunciated in to Para -27AA of the EPF Scheme, 1952 and thus the Show Cause Notice was issued against the establishment by this Department Vide No 348/LW/PF-27/10 dated 06/05/2011 and a letter to the establishment to submit their reply Vide No. 04/LW /LW/PF-27/10 dated 03/01/2012.*
> *Whereas, RPFC-II (Exemption) vide No. C-EX/32(6)/10/HWR/CE/EZ-23035 dated 16/08/2011 requested to initiate necessary action for cancellation of Exemption."*

25. A report enclosed by the Special Secretary notes as follows:-

> *"Therefore it is quite clear from their various reply letters that, there were the Gross irregularities in their establishment and it is also pertinent to mention here the said company failed to constitute BOT after completion of its tenure and failed to transfer P.F. contribution to the BOT for the period of 2007-08 to 08-09. They failed to make interest as per the pattern of investment for the Year 2008-09.*

Perhaps under the above circumstances, it is to be concluded that the violation of condition no. 25 were noticed as enunciated in to para -27 AA of the EPF Scheme 1952 which led to cancellation of the exemption by Labour Department, GoWB."

26. The authority finally held:-

"Therefore, after considering the proposal of the EPFO authority and the correspondences, documents, it may be deduced that the Cancellation of Exemption of M/s North Brook Jute Co. Ltd of 1, G.T Road, Champdany, P.O-Baidyabati, Hooghly, 712222, against P.F Code No. WB/72 seems to stand solid and valid.

Now, the Governor is hereby pleased to cancel formally the granted Exemption in favour of M/s North Brook Jute Co. Ltd of 1, G.T Road, Champdany, P.O-Baldyabati, Hooghly. 712222, against P.F Code No. WB/72 vide Notification No.1167-LW dated 24/02/1960 as per section 17(4) of the Employees' Provident Fund & Miscellaneous Act, 1952 and as per 27 A of the Employees' Provident Fund Scheme, 1952 from the date of issuance of the notification.

By order of the Governor

Sd/-

Secretary to the Government of West Bengal."

27. It is thus clear that the authority has applied Para 27AA of the EPF scheme and held that it is violation of the said provision and proceeded to cancel the exemption.

28. In view of the judgment in ***Caledonian Jute & Industries Ltd. & Anr. (Supra)*** the said provision under Para 27AA of the EPF Scheme is not applicable to exemptions granted under Section 17 of the EPF

Act, unless and until, the conditions of exemption is modified by way of an amendment in a notification published in official gazette making the provision of Para 27AA of the EPF scheme applicable to such exempted establishment, which is the situation in the present case.

29. Thus the impugned order vide Notification No-I/73573/2025/LABR-25024/6/2023 – LWMW, dated 27.01.2026 passed by the Special Secretary to the Government of West Bengal and the show cause vide no. 348-LW/PF-27/10 dated 06.05.2011, **being bad in law are quashed and set aside.**

30. WPA 5063 of 2026 is thus allowed.

31. Applications, if any, connected thereto stand disposed of consequently.

32. Interim order, if any, stands vacated.

33. Photostat certified copy of this Judgment, if applied for, be given to the parties on priority basis upon compliance of all formalities.

(Shampa Dutt (Paul), J.)