



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 31<sup>ST</sup> DAY OF MARCH, 2023**

**R**

**BEFORE**

**THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

**WRIT PETITION NO. 2042 OF 2023 (GM-RES)**

**BETWEEN:**

SRI K.SHANKARLAL

...PETITIONER

(BY SRI. CHANDRASHEKAR PATIL., ADVOCATE)

**AND:**

1. THE POSTMASTER HSG I  
INDIA POST,  
MALLESHWARAM POST OFFICE,  
MALLESHWARAM,  
BENGALURU - 560 003.
2. THE SENIOR SUPERINTENDENT  
OF POST OFFICES  
DEPARTMENT OF POSTS INDIA,  
BENGALURU WEST DIVISION,  
RAJAJINAGAR,  
BENGALURU - 560 086.
3. THE POSTMASTER GENERAL  
DEPARTMENT OF POSTS, INDIA,  
BENGALURU (HQ)

Digitally signed  
by PADMAVATHI  
B K

Location: HIGH  
COURT OF  
KARNATAKA





BEAU LIEU,  
PALACE ROAD,  
AMBEDKAR VEEDHI,  
BENGALURU - 560 001.

..RESPONDENTS

(BY SRI.H.SHANTHI BHUSHAN, DSGI FOR RESPONDENTS)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO - QUASH THE IMPUGNED DIRECTION ISSUED BY R-1 VIDE LETTER BEARING NO.MLM/SBDLGS/2020-21 DTD 23.09.2021 VIDE ANNEX-C AND ETC.,

THIS WRIT PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

**ORDER**

The petitioner is before this Court calling in question direction issued by the 1<sup>st</sup> respondent dated 23-09-2021 holding that the petitioner would not be entitled to any interest on the deposit made by him in the Public Provident Fund Scheme.



2. Heard Sri Chandrashekar Patil, learned counsel appearing for the petitioner and Sri H. Shanthi Bhushan, learned Deputy Solicitor General of India appearing for the respondents.

3. Facts adumbrated are as follows:-

The petitioner desirous of opening an account in the name of Hindu Undivided Family ('HUF' for short) in the Public Provident Fund Scheme ('the Scheme' for short) opened an account through an agent of the Provident Fund Organization who deals with such matters. The account was opened on 03.09.2009 and the maturity date of the said account is on 31.03.2025. The petitioner without fail has made deposits into the account which is now worth at ₹12,96,412/- inclusive of interest applicable under the said Scheme. After about 12 years of opening of the account on 23-09-2021, the 1<sup>st</sup> respondent/ Postmaster HSG-I, India Post communicates to the petitioner observing that the petitioner has opened a PPF account under the Scheme in the capacity of HUF after 31-05-2005. Hence, it was treated as an account that was irregularly opened and had to be closed without interest and issues a communication to the



2<sup>nd</sup> respondent as well to communicate to the petitioner that the account would be carrying no interest.

4. The petitioner replies to the said communication on 04-10-2021 to settle the amount along with interest as the petitioner was not aware of any policy of Government and was neither made aware of the same by officers of the Post Office at the time of opening of the account or remittances to the account. The respondents declined to accede to the request of the petitioner which resulted in causing a legal notice upon the respondents to pay the deposited amount with applicable rate of interest along with damages. After receipt of the legal notice, the 2<sup>nd</sup> respondent on 10-06-2022 issues instructions to close the PPF accounts which are opened in HUF capacity in the office of the 1<sup>st</sup> respondent including that of the petitioner. It is these actions that drive the petitioner to this Court in the subject petition.

5. The learned counsel appearing for the petitioner contends with vehemence that the petitioner opened the account on 03-09-2009, at which point in time no officer of the 1<sup>st</sup> respondent did ever mention that opening of the account



was irregular. The deposits have been made for the last 12 years during which period also the petitioner was not made known that the account was irregular. The petitioner on the desire of earning interest has invested his money in the PPF under the Scheme in HUF account. Therefore, he would submit that for no fault of the petitioner he is now being penalized without any interest that too after several years of receipt of amount.

6. On the other hand, the learned Deputy Solicitor General of India appearing for the respondents would vehemently refute the submissions to contend that the petitioner is a literate person. Knowing fully well that the Scheme did not exist has opened HUF account and invested his money in HUF account under the PPF Scheme and having signed on the dotted line he is bound by whatever be the policy or law of Government of India notified from time to time. It is his submission that HUF PPF Scheme account stood closed way back in the year 2005. Four years after the closure of the Scheme the account could not have been opened. Therefore, the petitioner will not get any amount as interest on the



investment. He would seek dismissal of the petition justifying the action of denying interest.

7. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

8. The afore-narrated facts are not in dispute. The Government of India through the 1<sup>st</sup> respondent had notified a Scheme called the Public Provident Fund Scheme, 1968. The Scheme was available for opening of accounts by HUF. The Scheme insofar as it concerns investments by HUF was subsisting up to 13-05-2005. On 13-05-2005 Government of India notifies Public Provident Fund (Amendment) Scheme 2005 by which the words "or a Hindu Undivided Family or an Association of persons" were omitted. Therefore, from 13-05-2005 no PPF account could be opened by an HUF. The amendments were notified and the amended Scheme was brought into effect.



9. Four years after the Scheme was got amended as observed hereinabove, it appears an agent approaches the petitioner and the petitioner agrees to open an account in application (SB) which deals with opening of HUF account in the Post Office Savings Bank. The agents name is one Sujatha Ramesh. After opening of the account, the petitioner went on depositing amounts into the account at intermittent intervals. He was also issued a passbook for opening of the account and the investment in the Scheme was to mature on 31.03.2025. Therefore, it is in operation from 03-09-2009 up to 31-03-2025.

10. In the year 2021 on scrutiny of documents, the 1<sup>st</sup> respondent discovers out of serendipity that the account of the petitioner was in HUF capacity and in terms of the amended Scheme dated 13-05-2005 the account could not have been opened by HUF after the said date. If it were to be an account opened earlier to 13-05-2005, it would have been valid till the date of maturity. Since it was opened on 03-09-2009, the 1<sup>st</sup> respondent treated it to be an irregular account and had to be closed without interest. Later the 1<sup>st</sup> respondent communicates



to the petitioner the said fact and the communication reads as follows:

"To,

Sri K.Shankar Lal  
No.268, 13<sup>th</sup> cross, 6<sup>th</sup> Main  
Vyalikaval  
Bengaluru – 560 003.

**No.MLM/SB dlgs/2020-21 dated @  
Malleswaram PO BG-03 the 23.09.2021**

Dear Sir,

Sub: Opening of PPF account in HUF Capacity – reg.

It is noticed that you have opened PPF account No.1204837577 by producing PPF Pan No.AACHS8100H on 03.09.2009.

It is instructed by the competent authority that as per Gazette notification GSR 291(E) dated 31.05.2005 issued by MOF (Ministry of Finance) and SB Order No.23/2010, PPF account opened in the name of HUF prior to 31.05.2005 will continue till maturity and which cannot be extended further. No further interest is allowed for the period after date of maturity.

Since you have opened PPF A/c in the capacity of HUF after 31.05.2005 i.e., on 03.09.2009, it is treated as account opened irregularly and needs to be closed without interest.

Accordingly, it is instructed by the competent authority that account has to be closed without interest.

Therefore, it is requested to close your account by producing original passbook along with KYC at the earliest.

Thanking you,"





The petitioner was shell shocked at the communication and replies that he was not aware of any Notification at the time when the account was opened and it has been in operation for the last 12 years and he needed the amount for utilizing it for his daughter's marriage and, therefore, it was invested. The petitioner requested payment of interest. The reply of the petitioner appears to have been transmitted to the 2<sup>nd</sup> respondent who has declined to accept the request. This results in a second communication on 19-01-2022 which reads as follows:

"To,

Sri K.Shankar Lal  
s/o K Amarnath  
No.268, 13<sup>th</sup> cross, 6<sup>th</sup> Main  
Vyalikaval  
Bengaluru - 560 003.

Sir,

No.MLM/SB/Dlgs dtd at Bengaluru - 560 003 the 19.01.2022

*Sub: Closure of PPF HUF accounts Reg.*

*Your request letter regarding PPF Account No.1204837577 was referred to higher authorities. In this regard the competent authority has not agreed to disburse SB Rate of interest for the deposits made in your account. In this regard you are hereby requested to visit this office and close the said account at the earliest.*

Sd/-  
Postmaster HSG I(NFG)  
Malleswaram PO



Bengaluru – 560 003

Copy to: The SSPO's, BG West, Bangalore – 560 036 for kind information.

Sd/-  
Postmaster HSG I(NFG)  
Malleswaram PO  
Bengaluru – 560 003"

Aggrieved by the aforesaid action, the petitioner causes a legal notice upon the respondents demanding payment of interest for the investment made or the amount lying in the account which results in a communication to the petitioner dated 10-06-2022 that no interest would be admissible and the account will be treated as irregular and will be closed immediately. The communication reads as follows:

"To,

Sri K.Shankar Lal  
s/o K Amarnath  
No.268, 13<sup>th</sup> cross, 6<sup>th</sup> Main  
Vyalikaval, Malleswaram,  
Bengaluru – 560 003.  
Ph No. 9845230233

No.L2/PPF HUF/Dlgs/2022 dated at Bengaluru-  
560086 the 10.06.2022

Sir,

Sub: Closure of PPF HUF account  
No.120483757700-reg

Ref: Legal Notice received from  
Shri Chandrashekar Patil dated 10.02.2022



*This office letter dated 06.06.2022*

*A kind reference is invited to the legal notice cited above. It is to inform that after detailed examination of the case the Competent Authority has instructed to close the PPF account mentioned above which has been opened in HUF Capacity at Malleswaram PO as per SB Order No. 23/2010 dated 13.12.2010 wherein it is clearly stated at Para No.2 that **"PPF accounts opened in the name of HUF prior to 13.5.2005 will be closed on maturity i.e 31st March of the 16th Financial Year from the year in which account was opened. No further interest will be admissible. PPF accounts opened in the name of HUF prior to 13.5.2005 but have already been matured but not yet closed shall be closed on 31<sup>st</sup> March 2011 after which no further interest shall be admissible"**.*

*The said PPF account has been opened on 03.09.2009 in HUF capacity as per our records but opening of PPF HUF account was discontinued wef 13.05.2005 as per the order cited above. Hence the account is treated as irregular and has to be closed immediately.*

*It is hereby requested to contact Malleswaram Post Office to close the account as per the above cited order at the earliest.*

*With regards,*

*Yours sincerely,  
Sd/-*

*Senior Supdt. Of Post Offices  
Bengaluru West Division  
Bengaluru 560086"*

11. The respondents/authorities have filed detailed statement of objections justifying the action of treating the account as irregular and closing the account without interest. If the dates and link in the chain of events are noticed what would unmistakably emerge is that the petitioner is no way



responsible for the fault of the respondents/authorities. At the outset it was an agent who facilitated opening of the account; the account was opened. For 12 long years, the petitioner had deposited money into the account under the Scheme as HUF. After receiving the amounts for 12 years into the said account with eyes wide open, knowing full well that the Scheme has been amended and opening of the account itself was irregular, no fault can be laid at the doors of the petitioner.

12. If the authorities, who are to be aware of amendment of the Scheme, as also the fact that no HUF account could be opened under the Scheme, if have permitted to open and operate the account for 12 years, the petitioner, a common man cannot be blamed that too after 12 years of opening of the account. The 1<sup>st</sup> and 2<sup>nd</sup> respondents could not have permitted opening of the account and further could not have permitted deposits into the account for 12 long years. Having kept quiet, all along cannot pass the buck upon the petitioner and make the account irregular and deny interest for the investment. The petitioner desirous of accumulating money for his daughter's marriage opened the account and continues investment into the



account. The action of the respondents in denying interest on the said investment comes as a rude shock to the petitioner. The action of the respondents in denying interest and directing closure of the account holding it to be irregular does not behove its status being a State under Article 12 of the Constitution of India, as the impugned action is far from fairness.

13. The Apex Court in somewhat similar circumstances in the case of **BHAGWATI VANASPATI TRADERS v. SENIOR SUPERINTENDENT OF POST OFFICES**<sup>1</sup> has held as follows:

*"11. We find merit in the second contention advanced at the hands of the learned counsel for the appellant. It is indeed true, that the NSC was purchased in the name of M/s Bhagwati Vanaspati Traders. It is also equally true, that M/s Bhagwati Vanaspati Traders is a sole proprietorship concern of B.K. Garg, and as such, the irregularity committed while issuing the NSC in the name of M/s Bhagwati Vanaspati Traders, could have easily been corrected by substituting the name of M/s Bhagwati Vanaspati Traders with that of B.K. Garg. For, in a sole proprietorship concern an individual uses a fictional trade name, in place of his own name. The rigidity adopted by the authorities is clearly understandable. **The postal authorities having permitted M/s Bhagwati Vanaspati Traders to purchase the NSC in the year 1995, could not have legitimately raised a challenge of irregularity after the maturity thereof in the year 2001, especially when the irregularity was curable. Legally, Rule 17 of the Post Office Savings Bank***

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<sup>1</sup> (2015) 1 SCC 617



**General Rules, 1981, would apply only when an applicant is irregularly allowed something more than what is contemplated under a scheme.** As for instance, if the scheme contemplates an interest of Y% and the certificate issued records the interest of Y+2% as payable on maturity, the certificate-holder cannot be deprived of the interest as a whole, on account of the above irregularity. He can only be deprived of 2% i.e. the excess amount, beyond the permissible interest, contemplated under the scheme. A certificate-holder, would have an absolute right, in the above illustration, to claim interest at Y% i.e. in consonance with the scheme, despite Rule 17. Ordinarily, when the authorities have issued a certificate which they could not have issued, they cannot be allowed to enrich themselves, by retaining the deposit made. This may well be possible if the transaction is a sham or wholly illegal. Not so, if the irregularity is curable. In such circumstances, the postal authorities should devise means to regularise the irregularity, if possible.

**12.** It is not possible for us to deny relief to the appellant, based on the judgments rendered by this Court in Prameelamma case [Deptt. of Posts v. Prameelamma, (1998) 9 SCC 706] and Arulmighu Dhandayudhapani swamy Thirukoil case [Arumighu Dhandayudhapaniswamy Thirukoil v. Deptt. of Posts, (2011) 13 SCC 220: (2012) 3 SCC (Civ) 435] in view of the fact that the matter was never examined in the perspective determined by us hereinabove. In neither of the two judgments, the amendment of the NSC was sought. The instant proposition of law, was also not projected on behalf of the certificate-holders, in the manner expressed above.

**13.** There was seriously no difficulty at all in the facts and circumstances of the present case, to regularise the defect pointed out because M/s Bhagwati Vanaspati Traders is admittedly the sole proprietorship concern of B.K. Garg. **The postal authorities should have solicited the change of the name in the NSC, through a representation by B.K. Garg himself. On receipt of such a representation, the alleged irregularity would have been cured, and the beneficiary of the deposit, would have legitimately reaped the fruits thereof. Rather than adopting the above simple course, the**



**postal authorities chose to strictly and rigidly interpret the terms of the scheme. This resulted in the denial of the legitimate claims of the sole proprietor of the appellant concern i.e. B.K. Garg, of the investment made by him.** In the above view of the matter, we consider it just and appropriate, in exercise of our jurisdiction under Article 142 of the Constitution of India, to direct the Senior Superintendent of Post Offices, Meerut, to correct the NSC issued in the name of M/s Bhagwati Vanaspati Traders, by substituting the appellant's name, with that of B.K. Garg."

*(Emphasis supplied)*

The case before the Apex Court was also opening of an account in the name of a partnership firm in the Post Office. It was held to be irregular. The Apex Court holds that unless opening of account was wholly illegal, the irregularity cannot lead to denial of interest to the investor, particularly, when the defect was curable. The judgment of the Apex Court would become applicable to the facts obtaining in the case at hand as they are some what identical.

14. In the light of unequivocal facts as narrated hereinabove and the judgment of the Apex Court in the case of **BHAGWATI VANASPATHI TRADERS** (*supra*), the petition deserves to succeed, *albeit*, in part. The petitioner would be entitled to interest under the Scheme, only up to the date on which the communication comes to the petitioner i.e.,



23-09-2021. On and from 23-09-2021 the account of the petitioner till its maturity shall carry interest at the scheduled Banks lending rate and not the rate of interest under the Scheme.

15. Parting observation in the facts and circumstances of the case would not be inapt. The 1<sup>st</sup> and 2<sup>nd</sup> respondents should set their house in order. In this digital age it is necessary that 1<sup>st</sup> and 2<sup>nd</sup> respondents update themselves with regard to such accounts and not wake up from slumber after several years and penalize the investors. The investor, as in the case at hand, is a common man and would not know the prevailing law. He was only interested in investment and in return wants to have interest on such investment. It is for the Authorities to detect such accounts which are opened irregularly as soon as they are opened, on intermittent scrutiny of the accounts and inform such investors immediately, failing which, the Officers who manage such accounts should be held responsible and accountable for such dereliction of duty. It is necessary for the respondents to issue these instructions to all the Post Offices who handle such accounts, so that the





***common man does not bear the brunt of unnecessary litigation.***

16. For the aforesaid reasons, I pass the following:

**ORDER**

- (i) Writ Petition is allowed in part.
- (ii) The impugned order dated 23-09-2021 stands quashed.
- (iii) The petitioner is held entitled to interest under the Scheme upto 23-09-2021. On and from 23-09-2021 till the payment, he would become entitled to the interest at which the Banks would lend.

**Sd/-  
JUDGE**

BKP  
List No.: 1 Sl No.: 38