

BEFORE THE REGIONAL PROVIDENT FUND COMMISSIONER

KOCHI (KERALA) & UT of LAKSHADWEEP

[KR/KCH/24115, RPFC Sectt. REGISTER NO. 246/2025]

**IN THE MATTER OF COMPLIANCE TO THE DIRECTIONS OF
THE HIGH COURT OF KERALA WHILE DISPOSING WP (C) No 1807 of
2016 TITLED VEEGALAND DEVELOPERS PVT LTD Vs. UOI**

O R D E R

1. Brief Background

1.1. Veegaland Developers Private Limited, a construction entity, filed a Writ Petition before the High Court of Kerala, challenging notices issued by the office of Regional Provident Fund Commissioner on November 16, 2015, and November 22, 2015. The petitioner here argued that construction workers are governed by the Buildings and Other Construction Workers (Regulation of employment and Conditions of Service) Act, 1996 (BOCW Act) rather than the earlier Employees' Provident Funds and Miscellaneous Provisions Act of 1952 (EPF Act). As a more recent and specialized statute, the BOCW Act, which mandates contributions from both workers and the government, should, in the petitioner's view, take precedence. However, the Employees' Provident Fund Organisation (EPFO) countered that the BOCW Act does not override the EPF Act; rather, Section 63 of the BOCW Act provides that any other legislation offering greater benefits would prevail, thereby upholding the applicability of the EPF Act.

1.2. The High Court while disposing the WP passed the following order:

6. It is no doubt that the Building and other Construction Workers Act is latter in time and Special Act to protect the interest of the construction workers engaged in the construction activity. However, Section 63 of the said Act provides that if the provisions of any other legislation are more

5

beneficial than the provisions or scheme framed under the Building and other Construction Workers Act, the provisions of the said Act would prevail over the provisions of Building and other Construction Workers Act, 1996. Section 63 of the Building and other Construction Workers Act reads as under:

"63. Saving of certain laws.

Nothing contained in this Act shall affect the operation of any corresponding law in a State providing welfare schemes which are more beneficial to the building and other construction workers than those provided for them by or under this Act. "

7. Section 63 is being a non-obstinate clause. The question whether the EPF Scheme framed under the EPF Act is more beneficial than the provisions of Building and other Construction Workers Act and Rules made thereunder are examined by the Provident Fund Commissioner, after considering the submissions on behalf of the petitioner.

8. In view thereof, this Writ Petition is disposed of directing the Provident Fund Commissioner - 3rd respondent to examine whether the provisions of the Building and other construction Workers Act and Rules made by the State Government, i.e., Building and other construction workers (Regulation and Employment & conditions of Service) Kerala

6

Rules are more beneficial than the EPF Scheme. If the Provident Fund Commissioner finds that the Scheme framed under the EPF Act is more beneficial than the provisions of the Building and other Construction Workers Act and Rules made thereunder, then appropriate action shall be taken against the petitioner. The Provident Fund Commissioner should give an opportunity of hearing to the petitioner, and the petitioner shall not take adjournment before the Commissioner. The entire proceedings have to be concluded within a period of two months from today. Interim order if any stands vacated.

1.3. The matter therefore was regarding appropriateness of applicability of the Social Security Acts and the associated rules in terms of benefits under the two and the Regional Provident Fund Commissioner was directed to decide the same, post hearing the

parties and to take further appropriate action against the petitioner by examining the Building and other Construction Workers (Regulation of Employment and Conditions of Service) Kerala Rules, 1998. (BOC Rules)

1.4. The preliminary hearing on 07.11.2024 was attended by the following.

ON BEHALF OF EPFO KOCHI

- | | |
|-----------------------|-----------------------------|
| 1. Sh Rohit Sreekumar | Regional PF Commissioner-II |
| 2. Sh Steve Jose | Enforcement Officer |
| 3. Sh K P Sajan | Enforcement Officer |
| 4. Sh Preethu T J | Accounts Officer |

ON BEHALF OF PETITIONERS and OTHER STAKE HOLDERS

1. Sh Abhinand S Vijay, Assistant Manager-Legal, Veegaland Properties
2. Smt Preethy C District Exe Officer, Kerala Building & Other Construction Workers Welfare Board, Ernakulam
3. Smt Raji K M, Assistant Labour Officer, Grade I, Ernakulam representing Labour Department

In this hearing, representatives from the Petitioners side requested an adjournment to prepare themselves and to seek approval of their management for presenting their take on the more beneficial nature of either of the Act i.e. Building and other construction Workers (Regulation of Employment and Condition of Services) Act, 1996, (BOCW in short) Building and other Construction Workers Welfare Cess Act, 1996 (Cess Act in short) and the Building and Other Construction Workers (Regulation of Employment of Conditions of Service) Kerala Rules, 1998 (BOC Rules in short) and the benefits of

the Employees' Provident fund and Miscellaneous Provisions Act, 1952 (EPF Act in short) and the Schemes framed thereunder.

Going by the Principles of natural justice, adjournment, as requested by all the parties present was allowed. In this hearing it was also argued that in recognition of the Court's intention to arrive at an outcome grounded in substantive benefit, it would be prudent to widen the consultation to include trade unions, beneficiary workers, and similar interested parties for a balanced and comprehensive perspective. In view of appreciation of this, it was ordered to reach out to Regional Committee members who oversee implementation of EPF Act in the state of Kerala and the Board Members of Kerala Building and Other Construction Workers Welfare Board who are responsible for delivery of benefits and Ministry of Labour & Employment, Government of India which is the owner of the Central Legislations and also the Government of Kerala that has framed the Building and other Construction Workers (Regulation of Employment of Conditions of Service) Kerala Rules, 1998.

2. Progress of the inquiry:

Hearings were held on 07.11.2024, 13.11.2024, 18.11.2024, 21.11.2024, 04.12.2024, 13.12.2024, 19.12.2024, and 08.01.2025, concluding on 10.01.2025.

Various stakeholders, including Regional Committee members, the Kerala Building and Other Construction Workers Welfare Board (KBOCWWB), the Builder's Association of India (Cochin Center), Sh. Shyam Veer Tonk (Executive Director and CVO, National Financial Reporting Authority, New Delhi), the Regional Labour Commissioner (Trivandrum), and Labour & Skills (J) Department, Government of Kerala (received on 3.04.2025) shared their views. No response however was received from the Ministry of Labour & Employment, Government of India despite follow up. The responses as received are annexed as "Responses (R)" to this order.

3. ARGUMENTS OF THE PARTIES

3.1 M/s VEEGALAND DEVELOPERS PVT LTD

The statement filed on 18.11.2024 is reproduced below.

"1. The Building and other Construction Workers (Regulation of Employment and Conditions of Service) Act 1996 (hereinafter referred to as the 'Act') is a special enactment applicable to building and other construction workers, intended for regulating their safety, health, welfare and other conditions of service. The Act envisages compulsory registration of establishments and building workers. Section 24 of the Act envisages creation of building and other construction workers welfare fund. The Act mandates providing drinking water, latrines and urinals, accommodation, creches, first aid, canteen, etc. in places where construction work is in progress. The Act also

provides for making Rules for safety and health of building workers.

2. By virtue of Building and other Construction Workers Welfare Cess Act 1996 an amount of not exceeding 2% but not less than 1% of the cost of construction incurred by the employer is to be remitted as cess for the purpose of Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act 1996.

3. In terms of the power conferred by the Act, the State of Kerala has made the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Kerala Rules 1998. The Rule provide for various benefits which includes maternity benefit (Rule 288), Pension (Rule 289), advance for purchase or construction of house (Rule 291), disability pension (Rule 292), loan for purchase of tools (Rule 293), funeral assistance (Rule 294), death benefit (Rule 295), accident benefit (Rule 295A), cash award (Rule 296), educational institution (Rule 297), Medical assistance (Rule 298), financial assistance for education (Rule 299), financial assistance for marriage (Rule 300), family pension (Rule 301), etc.

4. It is submitted that the benefits as above are far better than the benefits under the Employees' Provident Fund Scheme. It is also to be noted that a building or other construction worker is normally employed under different employers for short terms and contribution as envisaged under the EPF & MP Act 1952 will amount to only a meager accumulation which will not be of any succor to the workers vis a vis the benefits envisaged under the scheme. As per the EPF Scheme, there is no advance/financial assistance for maternity benefit. The members can avail only advances which will be proportionate to the contribution made to the fund. Similarly advances from the accumulated fund is provided as marriage assistance, treatment assistance, for repayment of loan, etc. The pension payable under the Pension Scheme also depends on the contribution made to the fund since only employer's contribution under Section 6 of the Act not exceeding 8 and 1/3% of the basic wages, dearness allowance of the concerned employee goes

to the pension fund. A construction/building worker whose employment is confined across an industry which does not guarantee even 180 days' work in a calendar year will not be able to contribute much to the provident fund or the pension fund. None of the Schemes under the EPF & MP Act provide for payment of benefit other than from a contributor's fund. Or in other words, the entitlement under the Scheme is always proportional to the contribution made since what is envisaged is only an advance from the accumulated fund in an employee's name. The payments are all advances and not as one time measure. Even the payment of death benefit under the employee's deposit linked insurance scheme is linked to the period of service and the contribution received.

5. It is reiterated that the benefits under the building and other construction workers (Regulation of Employment and Conditions of Service) Rules which has no nexus to the contribution made by the worker or the employer are better benefits when compared to the benefits that a worker would receive under the EPF & MP Act 1952 and the Schemes thereunder which are totally depended on the contribution made to the fund.

6. In the above circumstances, it may be held that the benefits available to construction worker under the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act 1996 and the Rules framed thereunder are better benefits than those available under the EPF & Act 1952 and the Schemes framed thereunder.”

An additional statement filed on 21.11.2024 is as below.

“1. The Honourable High Court by its judgment in WP (C) No. 1807/2016 has specifically directed this Honourable Authority to examine whether the provisions of the Act 1996 read with the Rules framed by the State Government are more beneficial than the EPF Scheme. The Honourable Court has also referred Section 63 of the Act 1996.

2. It is submitted that under the Building and Other Construction Workers

Welfare Cess Act, an amount of not less than 1% of the cost of construction incurred by the employer is to be remitted as a cess which is distributed to the members of Act 1996. The owner of a constructed building need to produce the payment receipt of Workers Welfare Cess before concerned local authority for getting Occupancy Certificate and Building number. The funds are being accumulated under the fund maintained by the authority under the Cess Act and an amount of Rs. 1600- is paid as pension every month. No minimum service has been fixed under the Act for receiving pension under the Act 1996. In the event of death of the pensioner, the family pension is paid to the spouse, @of Rs. 800/- per month. The members have to pay only an amount of Rs. 50-per month for being members under the Act 1996. Therefore, it is a fact that the funds under the Act 1996 is 1% cess remitted by the employer and hence Act 1996 is more beneficial than Act 1952.

3. It is submitted that the establishment Veegaland Developers Private Limited do not directly engage any workers and has no direct relationship with trade unions. We have given contract for construction of the buildings/structures to the contractors. The establishment also does not have any Unions to represent the workers. Therefore we are not in a position to make available any union representatives before this Honourable Authority as directed in the proceedings. The Officers under the Building and other Construction Workers' Welfare Board would be more competent to make available the presence of the union leaders.

4. It is submitted that the recordings in the proceedings dated 18/11/2024 to the effect that the counsel for the Veegaland submitted that if the monthly wage exceeds Rs. 15,000/-, then the construction workers would neither be covered by EPF schemes or the BOC Schemes is not correct. The submission was that the BOC Act was more beneficial since the monthly wages of the workers was above the ceiling limit prescribed under the Act 1952 and therefore they would be excluded employees under the said Act. Since BOC does not prescribe any ceiling limit for wages, the construction workers

would be getting a monthly pension of Rs. 1,600/- presently and in the alternative they will not be eligible and entitled for any pension under the Act 1952.

5. It is submitted that for a proper adjudication with respect to the above subject matter, it is suggested that this Honourable Authority be pleased to summon representatives of Contractors Association on behalf of all contractors undertaking works in Kerala since they are also the main stake holder.

6. It is further submitted that recognized trade unions in the State are also a necessary stakeholders in the above enquiry and it is respectfully requested that the authority be pleased to summon the leaders of the major Trade unions in the State. We also suggest that this Honourable Authority be pleased to conduct an empirical study of the beneficial effects of Cess Act & PF Act directly with the beneficiaries (Workers) and their families to determine which one is best for them. The sample size should be larger and study shall be conducted in all districts - both in rural and urban areas in order to get feedback from unorganised workers in rural areas.

7. A comparative study of BOC (Act 1996) and EPF & MP Act 1952 would substantiate that with respect to the construction workers, the Act 1996 is more beneficial since the construction workers in the unorganised sectors and in those establishments where less than 20 employees are employed are also eligible to receive pension and other benefits. A comparison of both Acts would convincingly prove the fact that Act 1996 is more beneficial for the Construction workers in the State of Kerala.”

Shri Varun S. Kumar, of M/s. Veegaland Developers, separately submitted that most construction workers are casual labourers who work at different sites within the same month. He emphasized that the BOC scheme caters to a highly unorganized sector compared to the formal structure of EPF. Many of these workers are migrant

labourers who return to their hometowns after completing a project. Under the BOC scheme, contributions can be withdrawn after the age of 58. However, since migrant workers contribute only until their contract ends, their participation is not continuous, unlike the contributory nature of the EPF Act. Further it is easier to administer, as the employer's responsibility ends with the payment of 1% of the employer value. The 'Sneha Sadanam' scheme, administered by the BOCWW Board provides comprehensive lifelong care, including medical assistance, free meals, and housing.

In brief, the summary of arguments is as below:

- a) **Lower Contributions:** Workers need to contribute only ₹50 per month to the BOC Welfare Fund, compared to 12% of wages under the EPF& MP Act. This translates into more hand in cash.
- b) **Flexible Pension Eligibility:** Workers can avail themselves of a pension after 60 years of age and just 90 days of work, without any certificate from the employer. Their 90 days of work can be certified by the Assistant Labour Officer (ALO) or District Labour Officer (DLO). On the other hand, EPFO's pension eligibility and pensions are determined by the member's pensionable service and salary.
- c) **Comprehensive Benefits:** The BOCW Act offers a wide range of benefits, including maternity benefits, tool purchase assistance, death benefits, accident benefits, children's education/marriage benefits, and family pension. Specific amounts for these benefits are clearly defined.

d) Wage Ceiling constraints

The construction workers in Kerala earn a minimum daily wage of Rs. 800. This translates to a monthly wage exceeding Rs. 15,000. While PF excludes employees earning wages above Rs. 15,000, the welfare board allows construction workers earning more than Rs. 15,000 to avail benefits under the welfare schemes framed by the Kerala Government. These workers are eligible for all benefits, irrespective of their earnings. This is the core factor making the BOCW Act beneficial for workers.

e) Quantum of benefits:

In EPF, remittance to pension fund, is not allowed after 58 years whereas in the Welfare Board, workers enjoy many ex-gratia benefits under the Scheme such as maternity benefits, accidents relief, cash awards for children, marriage benefits, benefits for disability due to accident, funeral benefits etc. These benefits are not from the contribution of the employee, indicating that the employees get more than what they contribute. PF gives all the benefits only from contributions collected from both employer and employee. Most construction workers draw more than Rs.15000 per month as wages and are entitled to a fixed monthly pension of ₹1600/-.

f) Funding:

The BOC scheme is largely a funded initiative, with the government responsible for its replenishment. Workers are not required to contribute substantially; except, for a nominal remittance of ₹50/-.

3.2 KERALA BUILDING & OTHER CONSTRUCTION WORKERS WELFARE BOARD, ERNAKULAM (KBOCWWB)

The statement filed by KBOCWWB on 13.11.2024 is below.

“The Kerala Building and Other Construction Workers' Welfare Board, constituted under the provisions of The Building and Other Construction Workers' (Regulation of Employment and Conditions of Services), Act 1996 and the Rules 1998 thereon, have a Chief Office and 14 District Offices. Various Welfare Schemes and benefits are provided for uplifting the living conditions social and educational standard of its members. Most of the benefits are sanctioned and disbursed at the district level as per the decision of the Board Meeting.

1. Pension

This is the most important social security benefit provided by the Board. On attaining the age of 60, a registered member worker with just one year of service is entitled to get pension. The pension is being disbursed monthly through the banks approved by the Board for the purpose. The pension is sanctioned and disbursed by the District Executive Officers. The Govt. has now fixed ₹ 1600/- as minimum pension to all category of pensioners.

2. Invalid Pension

Member/worker who is permanently disabled due to accident or disease will get Rs 1600 per month as invalid pension. In addition to this pension, ex-gratia payment up to ₹5000/- will be given depending upon the percentage of disability. Invalid pension is sanctioned by the Secretary with the approval of the Board on the basis of the medical certificate issued by a medical board and enquiry report of the District Executive Officer.

3. Family Pension

In the event of death of a pensioner, surviving spouse will get family pension. The pension amount will be 50 percentage of the pension received by the pensioner or ₹800/-whichever is higher. Any arrear of pension pending in the account of the pensioner will also be disbursed to the nominees/dependents. The amount of contribution remitted by the pensioner will be given to his nominee. In the absence of a nominee the amount will be paid to his legal heirs equally. Family pension is sanctioned and disbursed by the District Executive Officer. Now Govt. has increased the minimum pension as ₹800/- per month.

4. Payment of 'Santhwanam' benefit

In the case of death of a member (normal death or accident), the board shall sanction an amount of ₹1600/-(Rupees One thousand and Six hundred only) per month to the dependents of deceased member towards Santhwanam Benefit.

5. Financial Assistance for Education

The children of the members of the welfare board will get annual scholarship for their higher education for different courses. Student should have secured at least 45 percentage of marks from Government recognized educational institutions. Students in the self-financing professional colleges can also avail this assistance. Even if the worker retires after the student is awarded scholarship for the first year of the course, scholarship will continue till the completion of that course. The amount sanctioned for this purpose is between ₹ 1000 and ₹ 3,000.

6 Financial Assistance for Coaching of Entrance test for Professional Courses

Children of member of the board shall get ₹5000/- as tuition fee to attend coaching classes for the entrance test for professional courses including Medical and Engineering. The applicant member should have 3 years of service

and the student must secure at least 50 percentage of marks for Higher Secondary or VHSC.

7. Cash Award

Children of member workers who score highest marks in the S.S.L.C. examination shall get cash awards at the rate of ₹3000/-

8. S.S.L.C. Cash Assistance

Children of member workers of the Board who are studying for S.S.L.C. shall get ₹1000/- as Cash Assistance to purchase study materials.

9. Financial Assistance for Marriage

Member workers having minimum one year of service will get financial assistance for their own marriage and a member having continuous membership for three years shall be eligible for financial assistance for the marriages of his two children. Women and men will get ₹10,000/- under this scheme. In a family, if both the parents are members of the Board, only one person is eligible for this assistance.

10. Maternity Benefit

Female workers will get ₹15000/- as maternity benefit. A member gets this assistance only twice during her service. Vide GO (MS) No.52/2012/labour dated 27.03.2012, the maternity benefit scheme for the women labourers in the unorganized sector is implemented. The administrative sanction has been accorded for the scheme, vide GO(MS) No.53/2012/Labour dated 27.03.2012. The 145th meeting of the Board decided to implement this scheme in our Board. As per this, a female member is eligible for minimum wage for three months or ₹15000, whichever is lower, as maternity benefit.

11. Financial assistance for treatment of ordinary disease

A worker who is hospitalized for 5 or more days due to ordinary disease will get ₹800/- for first five days and ₹150/- each for the remaining days subject to

a maximum of ₹5000/- as financial assistance for treatment. The District executive officer verifies the application and sanctions the amount.

12. Financial assistance for accident treatment

A member worker who is hospitalized for 5 or more days due to accident will get ₹ 1500/- for the first 5 days and ₹200/-each for the remaining days subject to a maximum of ₹20,000/-. This assistance will also be given to a worker who met with an accident and put in plaster/K-wire/ clavicle brace/immobilizer/ cervical collar/ elasto plant/ collar belt/ compression badge/ splint/ jays distraction/ spiral brace/ tailors brace etc. and taking rest at his residence This financial assistance is sanctioned by the DEO after verifying the medical records.

13. Financial Assistance for Treatment of Fatal diseases

Member workers confronted with fatal diseases like Cancer, Cardiac ailments, Kidney Brain diseases, Paralysis, T.B. etc. shall get an amount of ₹50,000/- as financial assistance, This amount is sanctioned by the DEO's based on the medical bills and medical records produced by the worker.

14. Benefit of Rs. 4 Lakhs for Accident death

If a worker succumbs to death due to an accident in or during the course of employment, the nominees or dependents will get ₹4 lakhs towards accident death benefit. The same amount will be given to the dependents of a worker who dies due to snake bite while at work. This amount is sanctioned by the Board on the basis of the FIR, postmortem report, the enquiry report of the Executive officer etc.

15. Permanent disability caused on account of the accident occurred during Work place- Amount will be sanctioned on the basis of the disability percentage subject to a maximum of ₹1 lakh as financial assistance based on the certificate produced from the Medical Board. This benefit is sanctioned by the Secretary after getting the approval of the Board.

16. Death Benefit

In the event of death of a member worker, the nominees or dependents will get ₹50,000/- as death benefit.

17. Financial Assistance for Funeral

In the event of death of a member, the nominee or dependents shall get ₹ 4000 and at the death of a pensioner ₹ 3000/- towards the expense for the funeral. This benefit is sanctioned by the District Executive Officer.

18. Old Age Home

The Board has established an Old age Home named as "Snehasadanam" for catering to the needs and requirements of the destitute construction workers. The objective of this project is to provide shelter and care to the aged construction workers who have retired from service at the age of 60 and who suffer a lot due to lack of care from close relatives. "Snehasadanam" provides permanent shelter, food and medical care to the old and sick workers. There are two separate wings for male and female workers. The entire funds required for the project is met by the Board itself.

19. Housing Loan up to ₹50,000

Member of the welfare board will get an amount up to ₹ 50000/- for the outright purchase or construction of a house. This amount shall be recovered in equal installments

20. Loan of ₹ 10,000/- to buy working tools

Member of the welfare board will get ₹ 10,000/- as loan to buy working tools necessary for work specified in the identity card.

21. Financial Assistance for Treatment of Eye Operation, Chickenpox, Rabies, Snake bite diseases

Member workers confronted with Eye operation, Chickenpox, Rabies, Snake bite shall get an amount of ₹4,000/- as financial assistance, This amount is

sanctioned by the District Executive Officer's based on the medical records produced by the worker.

22. Death occurred while on duty due to heart attack or by collapse while removing plants, shrubs and other obstructions-

Eligible for ₹1 lakh to the nominee.”

A statement was separately filed by Secretary, KBOCWWB on Source of Fund on 21.11.2024 as reproduced below:

“Source of Fund

The Board's main revenue is acquired through cess collection. According to the Building and Other Construction Workers Welfare Cess Act, 1996 (Central Act No.28) and the Rules 1998, the Board is eligible to collect 1% of the total cess of all construction workers except for residential building where the constructions cost is less than ₹10 lakhs. The details of cess collection from 2020-21 to 2022-2023 is furnished as follows.

2020-2021 - 229.60 Crores

2021-2022 - 285.60 Crores

2022-2023 - 370 Crores

2023-2024 - 395 Crores

The Board also collect ₹50/- per month towards monthly Subscription.

It may be noted that approximately ₹ 62 crores is required for disbursing monthly pension. Another 10 crores is required for disbursing welfare benefits and for administrative expenses. It is admitted that on account of the financial stringency, Board finds it difficult to disburse the pension and other benefits promptly. During the current month pension is disbursed for the month of August 2023.

As per GO no.23/24/LSGD dtd 14-02-2024, Building Cess collection was entrusted with the Local self Government Department. As per the above order, occupancy

certificate can be issued after ensuring the matter that the building Cess was remitted by the concerned party. It is expected that based on the above process, cess collection can be enhanced and benefits can be disbursed in a timely manner.”

**KERALA BUILDING AND OTHER CONSTRUCTION WORKERS
WELFARE BOARD**

Various Benefits Schemes for BOC Workers

Name of the Social Security scheme/benefit	Quantum and frequency of benefit Cash of kind
Pension	Rs.1600/p.m
Invalid Pension	Rs.1600/p.m
Family Pension	Rs.800/p.m
Santhwanam Benefit	Rs.1600/-p.m
Financial assistance for higher education	Rs. 1000/- to 3000/-
SSLC Cash Award	Rs. 3000/-
SSLC Cash Assistance	Rs.1000/-
Financial assistance for coaching for professional courses	Rs.5000/-
Financial Assistance for Marriage	Rs.10000/- for marriage of members, and for marriage of their Daughters/Sons
Maternity benefit	Rs.15000/- (Rs.12000/- State Govt.Assistance) for two deliveries
Financial Assistance for treatment of ordinary diseases	up to Rs.5000/-
Financial Assistance for accident treatment	up to Rs.20000/-
Financial Assistance for Treatment of Fatal diseases	up to Rs. 50000/-
Accident death	Rs.400000/-
Disability due to accident (depend on the percentage of disability)	up to Rs.100000/-
Death benefit	Rs.50000/-
Funeral Assistance	Rs.3000/- (Pensioners) Rs.4000/- (death of a member)
Snehasadanam	Life long care (Free food, accomodation and Medical assistance)
Eye operation, Chickenpox, Rabbies, Snake bite	Rs.4000/-
Death occurred while on duty due to heart attack or by collapse while removing plants, shrubs and other obstructions-	Eligible for Rs.1 lakh to the nominee

The summary of the arguments is as below:

The construction workers are enrolled independently and are not linked to specific construction companies. The only requirement is having worked for 90 days and this is certified through an established procedure involving various departments. Cess is collected directly and is accumulated, which currently supports over 3.8 Lakh pensioners. The State Government oversees the financial health of the fund and can add or draw from the fund as per requirements.

During the hearing on 19.12.2024, Sh. Biju P., Executive Officer (HQ) of KBOCWWB, highlighted the Board's commitment to improving the quality of life and social security of construction workers and shared the following details:

Pension Eligibility under the BOCW Act:

- Workers are eligible for a pension:
 - At age 58 after completing 90 days of work.
 - At age 60 for those enrolling after age 58.
- Pension benefits include:
 - Member pension: ₹1,600/month.
 - Family pension: ₹800/month.
 - Invalid pension: ₹1,600/month (granted with a medical certificate).

Key Statistics and Operational Insights:

1. Pension Recipients:

- 3.8 lakh workers currently receive a monthly pension of ₹1,600.

2. Funding Sources:

- Contributions from the Government, members, and construction companies.
- A 1% cess is deducted from Builders and credited to Welfare Board's accounts.
- Authorities are responsible for collecting the full cess amount.

3. Investment and Fund Utilization:

- The Board employs short-term investment strategies (15 days to one month).
- All collected funds are directed toward pension payments due to funding constraints.
- Although pensions for October have been disbursed, there is 14 months of arrears pending.

4. Government Order on Subscription Arrears:

- A recent Government order (issued three months ago) stipulates that members with subscription arrears exceeding three years will lose pension eligibility.

Sh. Biju P emphasized the Board's dedication to ensuring welfare measures for construction workers but acknowledged challenges in funding and arrears management. He highlighted ongoing efforts to sustain pension disbursements despite financial constraints.

3.3 SH ANTONY KUNNEL, CHAIRMAN & MD OF M/S. KUNNEL ENGINEERS AND CONTRACTORS (P) LTD. AND EMPLOYER REPRESENTATIVE OF KBCWWB

Appearing on 13.12.2024 Sh. Kunnel submitted the following

“Considering and recognizing the importance of the responsibility the authority considered it fit to call for the views from the stake holders. As being a member of the KBOCW Board my considered views were specifically solicited by the authority. My considered opinion in my individual capacity as an employer representative is recorded below;

- 1. BOCW Act provides a lot more benefits like;*
 - a) Pension including invalid pension and family pension*
 - b) Financial assistance for higher education including cash award for SSLC,*

professional course coaching etc.

- c) Financial assistance for marriage
- d) Maternity benefits
- e) Treatment assistance for ordinary fatal illness, accident etc.
- f) Disability benefits
- g) Accident death
- h) Death benefits
- i) Lifelong care in Snehasadanam with free food, accommodation and medical assistance

2. Compared to the above, the benefits offered by EPF Act is limited with a few benefits like pension and family pension. All other schemes are withdrawal from the respective employees account, whereas the benefits being offered by BOCW are funded from the contribution made by the employers at 1% of the cost of construction/contract.

3. The contribution by the employee under BOCW Act is only ₹50/- per month, whereas the employee has to contribute 12% as per EPF Act from his earnings. It is true that the employee earns a high rate of interest on his deposits (contribution) and it gets accumulated over the years.

4. Administering the contribution both by the employee and employer is very easy under BOCW scheme whereas it is much cumbersome under EPF Act.

5. BOCW Board has offices in all Districts and delivery of various services is easy and fast. Grievances also get resolved faster as the Board is closely tracking resolution of grievances on a regular basis. In addition to the above, the trade unions also take keen interest in resolving such issues. While the EPF Departments functioning is more automated and system driven, BOCW functioning is yet to reach anywhere near and hence needs to improve.

6. From the information available only a small percentage of workers are covered under EPF Act as majority of workers in Kerala earn between ₹20000/- and 30000/- per month much higher than the upper limit of ₹15000/- per month because of the higher wage structure prevailing in Kerala. The percentage of workers covered under EPF Act is likely to reduce in the coming years on account of the higher starting wages in Kerala.

It is also true that all workers in construction sector is not covered by BOCW

Act. This has to improve to cover everyone. More publicity and district/taluk wise drive to cover everyone under the scheme to be taken up.

In contrast, BOCW Act do not discriminate a construction worker based on his earnings; A worker on attaining the age of 60 years with just one year service is eligible for a fixed pension of ₹1600/- per month. In addition, he is eligible for all benefits covered under Sl.No.1 above.

7. Through a sincere mass drive every construction workers can be brought under BOCW Act while EPF Act will cover only a very small percentage of workers.

8. BOCW Act could also be modified to introduce voluntary or compulsory contributory savings scheme, with some contribution from BOCW funds to cover up the deficiency that the worker may not have any savings of his own at the end of his service. However, this is just a thought which requires substantial and detailed study before implementing the same.”

Sh. Antony Kunnel in short advocates for the greater advantages of the Building and Other Construction Workers (BOCW) Act over the Employees' Provident Funds (EPF) Act for construction workers in Kerala. His emphasis lies on the BOCW Act's wider scope of benefits, reduced employee contribution rates, and enhanced inclusiveness. Consequently, he recommends focused initiatives to expand BOCW coverage and proposes potential enhancements to further bolster workers' financial security. Conversely, he acknowledges specific benefits inherent in EPFO schemes, notably the accrual of corpus because of high rate of interest on contributions over time and the efficiency afforded by its automated service delivery mechanisms

3.4 SH. GEORGE MATHEW PALAI, CHAIRMAN, BUILDERS ASSOCIATION OF INDIA (COCHIN CENTRE)

Sh Mathew vide letter dated 28.12.2024, made the following submission:

“With reference to the Judgement mentioned 1st above, we are submitting below our opinion in the matter.

As your goodself may also be aware, the Builders Association of India (BAI) is the apex Trade body of the Construction Industry in India, having more than 230 Centres all over India and with its head office at Mumbai. We are an Association formed in 1941 and we represent Construction Industry in India. We are represented in several statutory and Government bodies concerning the construction sector under Central and various State Government levels. In Kerala, we have 19 Centres with a total membership of more than 1500 leading construction firms in Kerala.

In connection with the case under reference, our well-considered opinion in the matter is that the benefits under BOCW Act is far better than the benefits under EPF as far as the construction workers are concerned, due to the following facts.

- 1. Under the BOCW Act, all the benefits under the scheme are available to the member workers at a meagre contribution of only ₹ 50/- per month whereas under EPF, the workers have to shell out around 12% of their wages earned per month.*
- 2. We understand that the following benefits are available to each member construction worker under the BOCW Act viz:*
 - a. Pension @ ₹ 1600/- per month after retirement at the age of 60 years.*
 - b. Family pension and invalid pension*
 - c. Financial Assistance for higher education and coaching for admission for*

professional education of their children, cash Awards for SSLC toppers etc.

d. Financial Assistance for the marriage of their girl children

e. Maternity Benefits for woman workers

f. Treatment assistance for fatal illness, accidents etc.

g. Disability benefits.

h. Accidental death and other death benefit.

i. Lifelong accommodation and care with food and treatment in "Snehasadanam".

In contrast, the EPF provides only pension and family pension. All other disbursements are from their own savings including the contribution of the employer and NOT a 'benefit' as in the case BOCW Act.

3. The BOCW Act does not discriminate between the workers based on their earnings, whereas under EPF, a worker who earns more than ₹ 15000/- per month are not eligible to become a new member under EPF.

4. It may please be noted that all the benefits are made available to the member worker under BOCW Act from the contribution of 1% of the cost of construction by the employers and the collection from the workers are only a nominal fee of ₹ 50/- per month. Hence practically, all the benefits are given free whereas the workers have to shell out a huge amount from their real earnings for availing the benefits under EPF.

Under the circumstances, our considered opinion is that, the benefits under BOCW Act are far more better than the EPF."

Shri George Mathew Palai in short has argued that the benefits available to construction workers under the BOCW Act are more advantageous than those under the EPF Act Schemes in consideration of the following:

- **Lower contribution burden:** Workers under BOCW contribute only ₹50/month, compared to 12% of wages under EPF.

- **Comprehensive welfare benefits:** BOCW offers pension, family pension, education assistance, marriage aid, maternity benefits, health and disability coverage, accidental death benefits, and lifelong care facilities.
- **Non-discriminatory coverage:** BOCW benefits are extended irrespective of wage levels, unlike EPF which excludes new members earning above ₹15,000/month.
- **Minimal worker contribution:** BOCW benefits are primarily funded by a 1% cess on construction cost paid by employers, making it nearly free for workers.

3.5 SH ROHIT MANI TIWARI, REGIONAL LABOUR COMMISSIONER (RLC) THIRUANANATHAPURAM.

Sh Rohit Mani Tiwari, appearing virtually, submitted that the two Acts namely BOCW and EPF are not in conflict with each other. Instead, they have been thoughtfully designed by lawmakers to function in a complementary manner, ensuring comprehensive coverage for workers. He elaborated that the BOCW Act is the central legislation, supported by another Central Legislation the Building And other Construction Workers' Welfare Cess Act, 1996 which lays down the manner and quantum of cess collections to enable functioning of BOC welfare Boards by different states as per rules framed by them. The Kerala Government has framed the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Kerala Rules, 1998. He elaborated that both Acts cater to distinct but equally important needs of the workers, addressing specific aspects of their welfare

and rights, thereby providing a holistic framework for their protection and empowerment. He further said that one of the benefits under EPF Act was the continuity of coverage in the eventuality of workers changing sectors as EPFO issues a UAN, which is not available at BOCW and the workers are required to settle their benefits when they move out.

3.6 SH. SHYAM V. TONK, EXECUTIVE DIRECTOR AND CVO, NATIONAL FINANCIAL REPORTING AUTHORITY (NFRA), GOVERNMENT OF INDIA.

Sh Tonk in his **personal capacity** presented a written brief with a disclaimer not to be quoted in his official capacity. This is as below:

“The comparison between the benefits provided under the BOCW Act, 1996, and the EPF & MP Act, 1952, is rendered unnecessary with the enactment of the Social Security Code, 2020, which was passed by the Parliament on 23rd September 2020 and is a later and more comprehensive legislation. It is to be seen that Section 63 of the BOCW Act clearly states that its provisions will not override any law offering superior welfare benefits to construction workers. The Social Security Code, 2020, subsumes both the BOCW Act and the EPF Act, providing a unified framework that extends comprehensive social security benefits across all sectors, including construction. The Social Security Code, 2020 is awaiting notification for implementation.

However, as things stand today, the EPF & MP Act, 1952, with its three schemes viz. Employees' Provident Funds Scheme 1952 (EPF), the Employees' Pension Scheme, 1995 (EPS) and the Employees' Deposit Linked Insurance Scheme, 1976 (EDLI) provides a more comprehensive financial security framework for workers engaged in construction activities compared to the Building and Other

Construction Workers (BOCW) Act, 1996.

The key points in favour of EPF & MP Act, 1952 are:

i) Coverage and Continuity:

a) The EPF Act provides for mandatory enrolment of workers from day one, offering structured financial benefits in various industries, including construction. This is especially critical for labour-intensive and high-risk jobs where unforeseen incidents could occur at any time. Immediate coverage ensures workers and their families are financially protected from day one.

b) The EPF Act ensures a lifelong safety net through a combination of provident fund savings, a pension scheme for post-retirement, and life insurance coverage till cessation.

c) Benefits under EPF extend even if the worker changes jobs, ensuring portability across employment sectors.

ii) Scope of Benefits:

a) EPF contributions grow over time with interest, creating a substantial retirement corpus for workers. The annual interest rates on EPF consistently outperform fixed deposits and other investment instruments. The flexibility to withdraw funds for emergencies like housing, education, or medical needs further enhances its utility.

b) The EPS provides lifelong pensions to members after retirement, with eligibility starting at age 58. The Scheme also provides a minimum assured pension and pension to dependents, in case of death/disability to the worker.

c) The EDLI scheme provides insurance coverage ensuring financial support for a worker's family in case of untimely eventuality. The scheme provides life insurance benefits to the nominee of a deceased employee. The coverage now ranges from an assured minimum of ₹ 2.5 lakh to a maximum of ₹ 7 lakh.

5. Limitations of BOCW Act, 1996:

i) Scope and eligibility:

The BOCW Act focuses on construction workers, attempting to address their unique challenges such as health, housing, and education-related assistance. However, its benefits are more welfare-oriented and short-term compared to the structured, long-term financial security offered by the EPF Act. Moreover, the worker under BOCW has to work for a period of 90 days and a certification from his/her Employer is required for enrolment. This 90-day work requirement under BOCW gives scope to cause delay in securing the benefits. Also, for daily wage workers and short-term contract labourers, this delay can result in losing out on benefits altogether if their employment is terminated before completing the eligibility period.

ii) Operational Challenges:

I have observed significant issues in the implementation of the BOCW Act in registration, fund utilization, and ensuring worker coverage. My experience shows that many construction workers remain outside its ambit due to lack of awareness, complex documentation requirements and administrative inefficiencies. Many construction workers, particularly inter-state migrants and those in informal employment, remain outside the Act's ambit due to the absence of a centralized database and benefit portability. Administrative inefficiencies, such as weak enforcement mechanisms, inadequate manpower, and overlapping welfare programmes also impede effective implementation.”

6. Conclusion: In light of the above, while the BOCW Act, 1996, provides limited welfare benefits tailored for construction workers, the EPF & MP Act, 1952, offers a more holistic framework for long-term financial security, covering retirement savings, pensions, and insurance. Interestingly, Section 17 of the EPF Act emphasizes its primacy by providing for exemptions from the EPF, EPS and

Insurance schemes only if superior benefits are provided by an establishment, which implicitly asserts the primacy of the EPF Act in regulating employee welfare. It is, therefore, clear that the EPF Act provides a more comprehensive and structured financial security framework for workers than the BOCW Act. However, with the enactment of the Social Security Code, 2020, a later and more comprehensive legislation, such comparisons are redundant, unifying social security provisions for all workers, including construction workers, and ensuring access to benefits like life insurance, health care, pension and provident funds. This consolidation provides a superior and inclusive framework for workers welfare.”

**3.7 MS. LIYA LATHEEF A, UNDER SECRETARY LABOUR & SKILLS (J)
DEPARTMENT REPRESENTING GOVERNMENT OF KERALA**

Through a written brief dated 24.03.2025 the following has been presented

"The provisions in the Kerala Building & Other Construction Workers Welfare Board & EPF Scheme are entirely different. In the case of EPF, there occurs an employer-employee relationship. But in the case of Building Board, there is no such relationship. A worker can directly approach the board and enroll as member, after complying the procedures. However, in the case of EPF Scheme, 12% employer- employee contribution is necessary. No such provision for contribution is there in the Building Board and the worker can only contribute in the Board. The Benefit provided by the Board as well as under EPF scheme cannot be compared and both the schemes are entirely different and applicable in a differential matter.”

3.8 SH M DHARMAJAN REGIONAL COMMITTEE ADDITIONAL MEMBER REPRESENTING EMPLOYEES

In his written opinion dated 1.12.2024 Sh Dharmajan says as

“I have made an inquiry of the subject matter. According to the matter my opinion is that it is better to include all the workers including contract workers under M/s Veegaland Developers Pvt Ltd in EPFO. Please try to include contract works of other institutions also.”

3.9 SH KP THAMPI KANNADAN, INTUC ALL INDIA SECRETARY, State President, KERALA KETTIDA NIRMANA THOZHILALI CONGRESS (KKNTC) INTUC Vice President, Kerala Branch (Employee Representative KBOCWW)

The written submissions of Sh KANNADAN vide letter dated 10.12.2024 is as below:

“As per the pre-existing Act of 1990, Kerala Building and Construction workers Board provided benefits including gratuity. Thereafter, the Act of 1996, Kerala Building and other construction workers welfare Board ensure the workers maximum benefits excluding gratuity. It is comparatively more effective and eligible to the workers than the existing and EPF and MP Act of 1952.

Hence, we recommend that the Kerala Building and Construction workers welfare Board act of 1996 should be followed.”

3.10 SH S. KRISHNA MOORTHY REGIONAL COMMITTEE ADDITIONAL MEMBER (EMPLOYEE)

The opinion of Sh Moorthy is as under:

“As we all know EPF Act provides for terminal benefits like withdrawal of accumulations from PF account with interest as on date and pension on the basis of pensionable salary and service.

Accumulations will be a substantial amount, the interest on which alone will help the pensioner a much higher amount than Rs. 1600/- per month, the pension paid under KBOC Act. The pension amount under EPS will also be a much higher amount as 8.33% of Employers share out of the 12% of wages is being appropriated towards EPS and pensionable salary itself is the average of last 5 years monthly wages. As the pensionable service Increases with every year of service, the amount of pension also will be higher.

The other benefits under KBOC Act stated therein are available under ESIS, Workmen's Compensation Act etc. The attempt of the establishment is to evade payment of 12% of wages every month and restrict the same to a meagre amount of Rs.50/- per month.

The EPF Act should be enforced whatever be the other excuses contrary. There is absolutely no legal impediment to proceed accordingly after deciding so in line with HC directions.”

3.11 EMPLOYEES' PROVIDENT FUND ORGANISATION, KOCHI

EPFO made three submissions dated 13.11.2024, 18.11.2024, and 08.01.2025. The final consolidated submission dated 08.01.2025 is as under:

“1. Eligibility to become member of the fund: There is no minimum age for enrolling under the EPF Act 1952. Any person working in the establishment / in

connection with the establishment/ through contractor is eligible to become member of the fund. On the other hand under the BOC act, a person between 18 to 58 yrs of age are only eligible to become a beneficiary.

2. Enrolment in the Fund: The member need to voluntarily make contribution under the BOC act. However under EPF Act 1952, the enrolment of member is the responsibility of the employer and Enforcement wing of EPFO will ensure the same. Hence possibility of non enrolment of eligible workers is much less under EPF Act 1952.

3. Contribution to the fund: Under the EPF & MP Act 1952, contribution is 12% of the Basic Salary + DA from both employee and employer. While employee share will be remitted to Provident Fund in totality, from the employer share, 8.33% will be remitted to the Pension Fund and 3.67% will be remitted to the Provident Fund. If at all there is a period of non remittance it will be updated as NCP. In BOC act beneficiary need to contribute only Rs. 20/ month but if there is non contributory period then beneficiary will lose the membership and it can be resumed only twice throughout the career.

4. Assistance provided to the members: The assistances under EPF & MP Act included advances under Para 68 of the EPF Scheme 1952. The amount is sanctioned from the member's corpus and the volume of advance sanctioned is higher. For example advance sanctioned for construction of house.

5. Assistance to members in case of death while in service: Under EDLI Scheme 1976 the financial assistance (ranging between Rs. 2.5 Lakhs and Rs. 7.00 Lakhs) has been provided as lump sum to the wards of the expired member and pension will also be sanctioned to the eligible claimants. This is done irrespective of the period of service of the member. Under the BOC Act accident death assistance is Rs. 4.00 Lakhs and assistance for normal death while in service is Rs. 50000/-

6. Pension disbursement details: Under EPS Scheme 1995, the member pension can be availed from 58 yrs of age. The member should have contributed to the fund for at least 9 yrs and 6 months for availing pension. Monthly pension amount will be varying based on the years of service and pensionable salary. The discontinuity in service is accepted and that will be accounted as Non Contributory Period / Break in Service. Minimum monthly pension amount is Rs. 1000 /- In addition the EPF Act provides for family pension, children pension, disability pension and orphan pension. Under the BOC act member pension provided at the age of 60 yrs and a fixed pension of Rs. 1600/- is provided irrespective of the years of service/ salary.

7. Enforcement mechanism: The EPFO is the singular agency involved in the implementation of the Act. This includes the service delivery and enforcement, of act provisions. On the other hand under the BOC act, enforcement is under the jurisdiction of Labour Commissioner while service delivery is under Kerala Construction and Other Workers Welfare Board.

8. Service delivery channels and grievance redressal mechanisms: Under EPF multiple channels like online member portal, employer portal, Jeevan Pramaan app, field offices among others. For grievance redressal online portal like EPFIGMS & CPGRAM, monthly outreach programme called NAN, e mail, business whatsapp number and a PRO is available in every field offices. On the other hand under the BOC act the service delivery is largely through the offline mode, in person visit to field offices.

9. Exclusive nature of the fund collected and investment pattern followed: Under the EPF and MP Act 1952, the contribution collected from members are getting accrued in the corpus fund. This fund is invested by EPFO, taking professional advice, following the investment pattern prescribed by the Government. This will ensure that the corpus fund will grow over a period of time and also the fund is never diverted for any other purpose. On the other hand under BOC act, no information about the investment of corpus amount is

available. Its also not clear if the cess collected has been used for other purposes or not.

10. Total number of pensioners serviced: Total number of pensioners serviced by the Kerala Construction and Other Workers Welfare Board is 3.8 Lakhs all over Kerala. On the other hand EPF Regional Office Kochi (having jurisdiction over Ernakulam, Alappuzha and Thrissur districts) alone process monthly pension of more than 12 Lakh pensioners.

11. Incident of non disbursal of pension: There has been no incidence of stoppage of pension under the EPS Scheme 1995. On the other hand under the BOC Act, disbursal of pension has been stopped for more than 14 months.

12. Mobility of workers Under EPF, the members are given with Unified Account Number (UAN) which can be transferred from one region to another region. It includes workers from all sectors. So when the member moves to another job, the transfer of proceeds is much easier. Under BOC Act the mobility of workers is not possible as compared to EPFO.

13. The Provident Fund account of the member ensures Social Security during all the contingencies and satisfying needs like Shelter (in ways like helping purchase of site/ construction of house, addition or alteration of the house among others), Higher Education of children/ self, Illness, Retirement among others. The money deposited in PF account is provided with Interest (Declared by the Board on yearly basis and at present its 8.25%) and the deposited amount along with cumulative interest is given to the member at the time of final settlement. Provident Fund is actually a safety net not just for the member but for the future generation as well.

Analying the above information, it can be concluded that benefits provided to the members under EPF & MP Act 1952 are stable, comprehensive and sustainable for the future.”

DISCUSSION

To begin with, it will be worthwhile to examine the meaning of the term “beneficial.” The **Oxford English Dictionary** defines it as “*having a good or useful effect.*” This understanding provides the foundation and perspective for objectively assessing the interests of the workers who are intended to be protected under the two legislative frameworks—EPF and BOCW. To meaningfully align with the intent and direction of the Hon’ble Court, this broad term must be translated into **measurable and observable criteria**. Only through such a framework can a comparative evaluation of the two schemes truly serve its intended purpose.

2. The Supreme Court in *Transport Corpn. of India v. ESI Corpn.* held that a beneficial legislation must be construed in a correct perspective and where two views are possible on its applicability, a view which furthers the legislative intention should be preferred. The relevant extract is reproduced below:

“27. Before parting with the discussion on this point, it is necessary to keep in view the salient fact that the Act is a beneficial piece of legislation intended to provide benefits to employees in case of sickness, maternity, employment injury and for certain other matters in relation thereto. It is enacted with a view to ensuring social welfare and for providing safe insurance cover to employees who were likely to suffer from various physical illnesses during the course of their employment. Such a beneficial piece of legislation has to be construed in its correct perspective so as to fructify the legislative intention underlying its enactment. When two views are possible on its applicability to a given set of employees, that view which furthers the legislative intention should be preferred to the one which would frustrate it.”

Thus, the term “beneficial” can be interpreted as the extent to which a law or policy enhances the **socio-economic well-being, security, and dignity** of its intended beneficiaries—both in legal intent and in practical impact. Accordingly, attempt has been made to adopt a **multi-dimensional lens**, one that reflects the real-world needs and lived experiences of construction workers throughout their employment lifecycle.

3. It is noted that the positions taken by various stakeholders in this matter often reflect their respective institutional perspectives, operational responsibilities, or compliance obligations.

Notably, some stakeholders, including the Government of Kerala, have taken a broader view by suggesting that the Employees’ Provident Fund (EPF) Act, 1952 and the Building and Other Construction Workers (BOCW) Act, 1996 are not contradictory, but rather complementary in nature. This perspective introduces an important dimension that the two legislative frameworks may serve different but supporting roles in securing the welfare of construction workers, depending on their employment conditions and continuity of service. In a related case of *Confederation of Real Estate Developers’ Association of India & Ors. Vs. Employees’ State Insurance Corporation & Anr*, where the question of conflict between the ESIC Act and the BOCW Act was deliberated the High Court of Judicature at Bombay (Panaji Bench) observed that “The purpose and object of both the Acts is different, so also the respective schemes. The requirement to have workers insurance scheme under the BOCW Act itself means both the Acts are different on various aspects and are not in conflict with each other. The conflict and/or benefit, even if are available under one Act, it is

settled that the employees/workers are not entitled to two parallel and similar benefits. In our view, there is no conflict.”

And also as “The Building and Other Construction Workers' Welfare Cess Act, 1996 ("BOCWWC Act") has again different aims and object to achieve. Merely because the members of association have been paying such cess at 1% since 1996 and have contributed a huge amount to the State exchequer by way of cess payments that by itself cannot be a reason to deny the benefits of the Insurance Act to the construction employees/workers. The BOCWW Act provides for the levy and collection of a cess on the cost of construction incurred by employers with a view to augment the resources of the Building and Other Construction Workers' Welfare Boards constituted under the BOCW Act. This Act is also in aid and in support of the BOCW Act. The levy of cess, time and manner of collection and/or its exemption have altogether different provisions and aspects, though the purpose is to regulate employment and conditions of construction workers. The submission, therefore, that the existence of these Acts is sufficient to achieve the aims, objects and purpose of the Insurance Act is also unacceptable and we decline to accept the submission that the nature of the benefits provided under the Insurance Act is also provided under the BOCW Act and the BOCWWC Act. The comparative chart so placed on record itself makes the position clear that the foundation of both these Acts is to achieve different purposes. Some of the overlapping benefits even, if any, that itself cannot be the reason to say that the action of the respondents of extension of the benefits is unjust and contrary to the main provisions of the Insurance Act and/or is in conflict with the building construction regulations”.

4. To proceed further, evaluating the schemes strictly from the vantage point of the **ultimate beneficiary -the construction worker** will be a way forward as per the direction of the Hon'ble High Court in the instant case. Accordingly, the construction worker has been made central to the comparative evaluation, focusing on their welfare during their lifetime employment journey on the basis of the

statements of participating stakeholders.

5. **The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act** and the Building and Other Construction Workers Welfare Cess Act were constituted in 1996, to address the welfare of the construction workers in particular. The Act mandated the institution of a Construction Workers Welfare Board (CWWB), a tripartite entity with equal representation from workers, employers and the government. The CWWB is required to register all construction workers in the state and promote the welfare of registered construction workers through various schemes, measures or facilities. The manner and quantum of cess collection is in accordance to the Building and Other Construction Workers Welfare Cess Act.

Indicative welfare benefits are listed out in Section 22 of the Act and include medical assistance, maternity benefits, accident cover, pension, educational assistance for children of workers, assistance to family members in case of death, group insurance, loans, funeral assistance and marriage assistance for children of workers.

For raising capital for providing the welfare benefits under state CWWBs, collection of a cess at the rate of 1 per cent of the total cost of construction is mandated.

The **Employees' Provident Funds and Miscellaneous Provisions (EPF & MP) Act, 1952** primarily targets employees largely engaged in the formal sector. The Act mandates the establishment of a contributory provident fund, pension scheme, and insurance scheme to ensure

long-term financial security for employees and their families. The Act presently applies to establishments employing 20 or more persons in a defined class of establishments and extends its coverage to employees earning up to a prescribed wage threshold, with certain exceptions.

Under this legislation, both the employer and employee contribute 12% of the employee's basic wages and dearness allowance. A portion of the employer's contribution (8.33%) is directed to the Employees' Pension Scheme (EPS), while the remaining amount contributes to the Employees' Provident Fund (EPF) corpus. Additionally, the Employees' Deposit Linked Insurance (EDLI) Scheme provides life insurance benefits to members and every member of EPF Scheme is a beneficiary without making any individual contribution.

The Act seeks to ensure income security after retirement, as well as provide financial support during contingencies such as illness, housing, education, and death of the member. The Act like Construction Workers Welfare Board (CWWB), is administered by a tripartite body called Central Board of Trustees with representation from workers, employers and the government (both State and Central).

6. The construction industry ranks as the third-largest employer in India, following the agriculture and domestic/household sectors. As of 2023, it is estimated to employ over 7 crore workers, a number projected to rise to 10 crores by 2030, reflecting the sector's rapid growth and critical role in the national economy. A significant

portion of this workforce comprises semi-skilled and unskilled labourers, many of whom are migrant workers originating from rural areas. These workers are predominantly engaged on a daily wage or hourly basis, often lacking formal employment contracts, which places them in a particularly vulnerable position within the labour market. (Source: *Statista – Construction Industry in India*). Looked at stream-wise, about 42.6% of the rural-urban male migrants in construction are inter-state migrants. “The spatial distribution of migrant construction workers in India shows that long-distance migration is its characteristic trait. As per the Census of 2001, inter-State migrant workers (1.1 million) make up the largest chunk (35.4%) of all the construction workers in India's urban areas. Furthermore, of all the interstate migrants in India who move out of the farm sector, construction sector absorbs around 9.8%, making it the second most preferred sector for migrant workers after retail. As per the National Sample Survey Organisation (NSSO) (2016-17), there are estimated 74 million construction workers across the country. Upon closer, sectoral analysis, it is revealed that out of the 42.6% of the rural-urban male migrants in construction are inter-State migrants.” (Source: *Urban World: Migrant Construction Workers of India: Evaluating Their Contemporary Welfare Framework July-September 2020*)

7. Following is a broad comparison of both the legislations.

Aspect	Kerala Building and Construction Workers Welfare Board	EPF & MP Act, 1952
Objective	Welfare and social security for building and construction workers, focusing on health, education, and livelihood support.	Ensuring retirement savings and social security for employees in covered establishments through provident fund.
Eligibility	Workers engaged in construction activities for at least 90 days in a year.	Employees earning wages in establishments covered under the Act (₹15,000/month ceiling for mandatory coverage).
Key Benefits	- Financial Assistance: Education, marriage, maternity, and funeral assistance. - Health Benefits: Medical aid for accidents or illnesses. - Pension and Lump Sum: Monthly pension for members and lump-sum benefits for dependents. - Housing Assistance: Financial aid for housing. - Skill Development: Training and scholarships.	- Provident Fund: Lump-sum retirement savings from contributions by employer and employee. - Advances for contingencies - Pension (EPS): Monthly pension post-retirement (if service >9.6 years). Members family and nominee - Insurance (EDLI): Lump sum for family on employee's death. - Partial Withdrawals: For housing, medical needs, or marriage.
Funding	Contributions by employers (cess levied at 1% of construction cost) and ₹50 from workers' every month.	Joint contributions by employees (12% of wages) and employers (12% of wages)
Scope of Coverage	Exclusively for construction workers within the state of Kerala.	Covers employees across various industries and establishments pan-India, subject to eligibility criteria including construction workers in coverable establishments.

Retirement and Pension Benefits	Monthly pension for registered workers after retirement, if eligible.	Monthly pension through the Employees' Pension Scheme (EPS) for employees with 9.6 years of service. Option to draw reduced pension at the age of 50 or full pension at the age of 58. Return of capital permissible
Medical Benefits	Includes financial assistance for medical expenses and compensation for accidents at work.	Withdrawals for medical emergencies.
Family and Survivor Benefits	Lump-sum payment for the family in case of a worker's death, marriage assistance for daughters.	Lump-sum insurance (EDLI) for dependents in case of the employee's death during service. Advances for Marriage and education of children
Housing Assistance	Provides grants for building or purchasing a house.	withdrawal from PF savings for housing construction or purchase.
Maternity and Education Benefits	Financial assistance for maternity expenses and children's education.	Partial withdrawal for Children education and marriage
Compliance Requirements	Cess collection by employers and worker registration with the Welfare Board.	Mandatory enrolment for covered establishments and monthly remittance of contributions.

8. The arguments presented by the parties have been grouped into thematic categories to facilitate a clear, structured, and objective comparison of the two statutory schemes. The categories in short are **Coverage** (*Entry qualification: A beneficial law would have broad, inclusive coverage, especially of marginalized or vulnerable groups like informal or migrant workers*), **Accessibility**, **Adequacy of Benefits**

(Meet the real needs of the workers). **Enforceability, Sustainability, Empowerment & Dignity** (Laws that recognize worker rights, offer grievance redressal, and build long-term security score higher on the "beneficial" scale).

9. Considering the demographic realities of the construction workforce marked by high levels of informality, migration, and a sizable young and semi-skilled labour the ease and breadth of "**entry into the scheme**" is a crucial benchmark in evaluating the efficacy of respective social security frameworks.

Under the Building and Other Construction Workers (BOCW) Act, workers must be between 18 and 60 years of age to register. In contrast, the EPF Act allows for entry at any age below 58, with compulsory exit from the Employees' Pension Scheme (EPS) at 58. Participation in the Provident Fund component is permitted beyond formal retirement as per the EPF framework that defines eligibility as "*any person working in the establishment / in connection with the establishment / through a contractor*" with no lower age limit.

This absence of a minimum age criterion offers the EPF an advantage. which allows for a longer contribution period. This arguably enables workers to capitalize on the power of compounding interest over a longer duration with no minimum age requirement.

Secondly, the design of enrolment process under the BOCW Act is inherently voluntary, relying heavily on the worker's awareness, motivation, and access to registration facilities with an element of self-selection. This often results in lower participation rates, a concern noted by both the Parliamentary Standing Committee on Labour and the Supreme Court, which have emphasized the need for improved registration mechanisms. In contrast, the EPF framework mandates employer-initiated enrolment, reinforced by legal compulsions and entitlement guarantees by design for securing the rights. This top-down approach minimizes the possibility of eligible employees being excluded from the social security benefits altogether.

Thirdly, the schemes differ substantially in terms of membership continuity. Under the BOCW framework, irregular contributions can lead to loss of membership. A worker loses membership if he doesn't work for 90 days in a year unless condoned by the CEO for valid reasons. It has been further presented that a certification from employer is required for enrolment. This 90-day work requirement gives scope to cause delay in securing the benefits. Also, for daily wage workers and short-term contract labourers, this delay can result in losing out on benefits altogether if their employment is terminated before completing the eligibility period. It was presented that a recent Government order stipulates that members with subscription arrears exceeding three years will lose pension eligibility. The EPF on the other hand preserves membership status unless voluntarily terminated by the employee from day one. Provisions such as Non-Contributory Periods (NCPs) support

continued membership during periods of unemployment or reduced activity. During COVID Times BOC workers lost membership.

While the BOC scheme provides identity cards, the EPF offers a Universal Account Number (UAN). The UAN allows portability of benefits in continuity across geographical boundaries giving the worker an operational edge, especially in a highly mobile sector.

Fourthly, the Veegaland's and few other parties' arguments, regarding the limitations of EPF's wage ceiling of ₹15,000 and its potential to exclude higher-paid workers appears valid in the context of first-time entrants. However, this limitation is less applicable to continuing members already within the EPFO framework. This is because the enrolment remains valid for future employments exceeding statutory limits permitting contributions at least up to the statutory ceiling, with an option of additional voluntary contributions.

Thus, when weighed on the criterion of "entry" including eligibility age, enrolment process, membership continuity, and benefit portability the EPF Scheme has an edge for a more inclusive and sustainable pathway to social security.

10. The second criteria for investigation is **“Accessibility and adequacy of Benefits”**.

A key differentiator between the two legislations lies in the nature of benefits **earned versus granted**. Technically, neither scheme offers benefits entirely free of cost. While the Building and Other

Construction Workers (BOCW) Act requires only a nominal registration fee, the Employees' Provident Fund (EPF) mandates a compulsory deduction from wages, making participation automatic but structured.

Once a worker enters either system, they become eligible for a wide range of benefits tailored to key contingencies.

Under the Kerala BOCW Welfare Board, the bouquet of offerings is both extensive and immediate. The Kerala Building and Other Construction Workers' Welfare Board provides a wide range of benefits for its registered members and their dependents. Upon attaining 60 years of age with at least one year of service, members are eligible for a monthly pension of ₹1600/-. In case of permanent disability due to accident or disease, members receive an invalid pension of ₹1600/- and an ex-gratia up to ₹5000/- based on disability percentage. Family pension of 50% of the member's pension or ₹800/- (whichever is higher) is provided to the spouse on the member's death. A Santhwanam benefit of ₹1600/- per month is granted to dependents on the member's death. Children of members are eligible for educational scholarships (₹1000–₹3000), coaching assistance for entrance exams (₹5000), cash awards for SSLC excellence (₹3000), and SSLC study material support (₹1000). Marriage assistance of ₹10,000/- is provided to members for their own or their children's marriages. Female members receive ₹15,000/- as maternity benefit, limited to twice. Hospitalization due to ordinary disease earns ₹800/- for the first five days and ₹150/- thereafter (up to ₹5000/-), while accident-related hospitalization

earns ₹1500/- for the first five days and ₹200/- thereafter (up to ₹20,000/-). Treatment for fatal diseases like cancer or kidney failure qualifies for ₹50,000/- in aid. In case of accidental death during employment or snake bite at work, ₹4 lakhs is provided. Permanent workplace disability entitles members to a maximum of ₹1 lakh, and natural death grants ₹50,000/- to dependents. Funeral assistance is ₹4000/- for members and ₹3000/- for pensioners. The board also runs “Snehasadanam,” an old age home offering shelter, food, and medical care. Additionally, members can access housing loans up to ₹50,000/-, loans of ₹10,000/- for work tools, ₹4000/- for treatment of eye operations, chickenpox, rabies, or snake bite, and ₹1 lakh if death occurs on duty due to heart attack or collapse while removing obstructions. The benefits are provided either as direct assistance or as loans, with clearly defined amounts and such customised welfare facilities are not explicitly a part of the EPF framework especially from the point of view of a construction worker.

EPF on the contrary allows for need-based advances tailored for specific needs and conditions. For medical treatment of self, spouse, children, or parents, an advance can be availed without any minimum service requirement if the illness involves hospitalization for over a month, major surgery, or treatment for critical illnesses like cancer or heart disease. Members with at least 7 years of service can withdraw up to 50% of their share with interest for marriage (self, children, or siblings) and post-matriculation education of their children. For purchasing or constructing a house, members with a minimum of 5 years of service can withdraw up to 90% of their EPF balance. Similarly, repayment of housing loans is permitted up to

90% of the balance, provided the member has completed 10 years of service. Renovation or alteration of an existing house is allowed after 5 years of construction, with a limit of 12 times the monthly wages or employee share with interest, whichever is lower. Members within one year of retirement may withdraw up to 90% of their total balance. In the event of a company lockout or closure for over 15 days without compensation, members can take an advance equal to their wages for the unemployed period. If unemployed for over a month, a member can withdraw 75% of their EPF balance, and after two months, the remaining 25% can also be withdrawn. In case of natural calamities like floods or earthquakes, members can withdraw up to ₹5,000 or 50% of their share with interest, whichever is less. If the establishment is closed due to a power cut, members may withdraw their own share with interest. Physically handicapped members can claim up to 6 months' basic wages and DA or their share with interest to purchase assistive devices. Advances here are not free benefits but are withdrawals from one's own accumulated funds earned entitlements.

Seen through the lens of a simple cost benefit analysis, an impression emerges that the BOC scheme offers more at less cost, especially for construction workers with seasonal earnings. However, a deeper examination reveals certain vulnerabilities. BOCW benefits are dependent on the government's financial bandwidth, and recent delays in pension payments have been acknowledged by Board representatives. In contrast, EPF pensions under EPS have a track record of consistent disbursements.

Additionally, many BOCW benefits carry minimum service or usage conditions such as 3 years for scholarships, tuition fee to attend coaching classes or for marriage, and some are structured as loans, not outright grants. Moreover, the need for minimum continuous registration can be a hurdle for casual workers, potentially limiting their continuity of access.

Where EPF stands apart, is in its encouragement of financial discipline. It fosters long-term savings, integrates employer contributions, and links benefit value to one's tenure and contribution size towards a financial cushion over time. The indexed nature of EPF benefits means they grow with the worker's participation, offering flexibility and scope to respond to key needs during the life cycle. The predictability, and scalability of EPF advances give members more control and choice over their funds.

EPF though may lack the immediacy and tailored features of the BOC scheme, its foundation on structured contributions and employer participation builds a more sustainable safety net while encouraging a long-term financial planning and saving habits. The BOCW design does not factor this aspect as the title of the Act itself indicates that this Act is meant to regulate the employment and conditions of service of building and other construction workers and to provide for their safety, health and welfare measures and for other matters connected therewith or incidental thereto.

In terms of benefit quantum, while the **simplicity and clarity** of BOCW's defined benefits may be appealing, EPF's **value-driven, need-based benefits** provide a distinct advantage offering greater

flexibility and personalization, for specific needs. It is noted that the benefits under BOCW are contingent to continued registration as per definition of "beneficiary" under the Section 12 of the Act. As discussed under the eligibility bucket, this continuity many a times poses challenges to the construction workers who in sizeable numbers are migrants and by very nature of their work which is casual and intermittent in characteristics. The registration itself goes through a due prescribed process of making an application accompanied with prescribed documents, depositing a fee and approval of an officer authorized by the Board under sub-section (2) to his satisfaction. Any disenfranchisement in the process completely evaporates the generous benefits under BOCW, which is not the case with EPF as even a missed non-enrolled worker under EPF has security of his rights through a well-established judicial process that secures his rights. Recently, the Delhi High Court in *Sita Devi vs Delhi Building and Other Construction* in WP (C) 6578/2023 dated 17.09.2024 has noted as below:

“16. A Division Bench of this Court in the Delhi Building case also took judicial notice of the fact that the registration under the BOCW Act had gone down from 5 lakhs to a few thousands due to the administrative hurdles faced by beneficiaries for renewal of their membership during the period of 2018- 2020. It was held by this Court that the denial of benefits by the Respondent/Board on the ground that the workman failed to renew his registration after the validity has come to an end would not be the correct interpretation of Section 17 of the BOCW Act.”

This limitation is taken care in EPF as each service can be added and carried forward with a Universal Account Number that is valid for

lifetime.

Another important differentiator is the **Employees' Deposit Linked Insurance (EDLI)** under EPF, which offers a benefit ranging from ₹2.5 lakhs to ₹7 lakhs payable as a lump sum to the nominee(s) of the deceased member. This benefit is provided irrespective of the period of service of the member. Recent revisions to the EDLI scheme have further enhanced these benefits, including the introduction of a minimum death benefit of ₹50,000 for members who die within one year of service and the extension of benefits to cases where death occurs within six months of the last contribution. Under BOC, in case of an accidental death, the nominee or dependents receive ₹4,00,000, and for permanent total disability, ₹1,50,000 is provided.

Coming to the pension benefits it is seen that the BOC pension of ₹1600/-, is much higher than guaranteed minimum of ₹1000/-, under EPS. The EPF pension however is indexed to the worker's contributions and service duration, along with provisions for dearness allowance revisions as notified by the government. Notably, these EPF pensions are guaranteed, irrespective of employer compliance. The pension scheme under EPF includes various types of pensions such as Superannuation Pension, Early Pension (for those aged 50–58), Disablement Pension, Widow and Children Pension (covering up to two children until 25 years of age), Orphan Pension, Disabled Child Pension, and Nominee Pension. The BOC lacks this spread type, hence, for the pension component EPF has an edge over BOC.

It was also presented that migrant workers are eligible for a pension only after attaining 58 years of age, and by that time, they may have no means of reconnecting to claim their benefits. It has been also argued that migrant workers often lose contact with the system once they move away after completing a project, making it cumbersome and nearly impossible for them to reach the authorities for assistance in claiming benefits. It is also noteworthy that continuity and connectivity in the construction sector is critical to secure benefits.

Considering the bucket of benefits, and the ease of convenience to secure them, EPFO has an edge over BOCW in current scenario to cushion unforeseen contingencies.

11. The third criteria is **Enforceability & Sustainability**

It is undeniable that the construction sector largely operates in informal or semi-formal arrangements. Given the vulnerabilities associated with this workforce including occupational hazards, migration, and wage instability it would be helpful to assess the legal and sustainability frameworks available to secure their well-being.

Enforceability

From an enforceability perspective, EPF is more structured and digitally integrated aided by digital tools like UAN and payroll integration, making it more reliable through additional layers of mechanism for inspection, quasi-judicial interventions, compliance, and redressal. However, it excludes a large chunk of migrant and

informal construction workers if they are not a part of coverable establishment under the EPF Act. In contrast, the BOCW Act, though designed specifically for construction workers, suffers from poor implementation. Concerns have been raised by parties that the State Welfare Board often fails to register eligible workers or disburse collected welfare cess effectively. The case of *Geeta v. Delhi BOCW Board* (2023) corroborates this opinion about administrative rigidities that prevented genuine workers from accessing benefits. EPFO representatives have emphasized that their dedicated enforcement wing actively monitors employers' adherence to the regulations, including the timely deposit of contributions and the enrolment of eligible employees. This unified responsibility can lead to better coordination and accountability in the implementation of the scheme. In contrast, the enforcement mechanism under the BOCW Act involves a dual structure. The EPFO points out that under the BOCW Act, enforcement falls under the jurisdiction of the Labour Commissioner, while service delivery is managed by the Kerala Construction and Other Workers Welfare Board. This separation of responsibilities between different entities can potentially lead to challenges in coordination and may create gaps in the enforcement process. While the Labour Commissioner is responsible for ensuring compliance with the Act's provisions, the actual delivery of welfare benefits is handled by a separate board.

Sustainability:

The EPF scheme is financially sustainable, relying on regular employer-employee contributions and long-term investment returns. It ensures post-retirement security but requires reasonable

long-term employment to make the best of the compounding impact of annual high rate of interest accruals. This however most construction workers lack. The BOCW Act, funded through a 1% cess on construction projects, is suited for low-income, migratory workers as it does not demand substantial worker contributions. It provides a broader welfare net including health, maternity, accident, education, and housing assistance but suffers from under-utilization of funds and its administrative practices still under stabilisation.

While EPF offers structural stability, the BOCW Act is more inclusive and better aligned with the realities of construction labour. However, its potential is hindered by weak enforcement and yet to be developed sound investment practices. The BOCW representative has shared that the fund management relies on traditional Fixed Deposit model. In contrast EPF has a well-structured investment pattern which has been consistently declaring more than market returns to the benefit of its contributors year on year. BOCW benefits are often discretionary, subject to budget availability and due approvals. EPF benefits on the other hand are legal entitlements, not welfare handouts coming under even the scanner of Consumer Protection Act 1986.

Last while the BOC sustainability is dependent on political and administrative will the EPF strength is embedded in traditionally strong investment basics and guarantees.

While the BOCW Act appears tailor-made for construction workers, a closer inspection reveals that the EPF Act may, in fact, provide greater long-term value through better enforcement mechanism

and the fund management practices.

Thus, BOCW wins in theory, but EPF wins in structure

12. The fourth and the last criteria is **Empowerment and Dignity**

Unlike the BOCW Act, which reinforces a paternalistic welfare model, EPF treats workers as contributors with a stake in their own financial future. This builds a sense of dignity, ownership, and financial discipline, empowering workers to plan for life beyond employment. Courts have increasingly recognized the limitations of the BOCW Act in actual benefit delivery (e.g. *Geeta v. Delhi BOCW Board*, 2023), while EPFO systems have grown more robust with online claims, grievance portals, and mobile access. The EPF Act, though not designed specifically for construction workers, offers a **more sustainable, structured, and portable system**. For grievance redressal, EPFO offers an online portal, monthly outreach programs (Nidhi Apke Nikat), email support, mobile app access, and a Public Relations Officer (PRO) in every field office. Arguably, these channels leverage technology to provide members with round-the-clock access to information, services, and grievance redressal mechanisms from the convenience of their homes or workplaces.

Conversely, the BOCW Act's service delivery system is predominantly through offline modes, requiring in-person visits to field offices. While physical accessibility is important, the limited reliance on digital channels pose unique challenges for mobile and migrant labourers.

13. Additional Criteria of “**Cost of Compliance**”

From the employer’s perspective, it was presented that welfare benefits under the BOCW Act are funded through cess contributions levied on the employer. Similar benefits are also provided under the EPF Act. Simultaneous compliance with both legislations imposes a financial burden on the employer because of (i) the contribution it makes under Section 6 of the EPF Act and, (ii) the cess it pays under section 3 of the Building and Construction Workers’ Welfare Cess Act, 1996. Additionally, the BOCW Act is simpler to comply with, as responsibilities conclude with the filing and payment of the cess.

Further, due to the inherent nature of the construction industry, the petitioner regularly engages multiple sub-contractors for short-term, specialized tasks (such as piling, plumbing, and painting). These engagements often involve fewer than 20 workers per contractor and span brief durations of 45 to 60 days or less. The workforce, with many workers employed for only a few days, poses substantial challenges to consistent compliance with EPF obligations, rendering such enforcement impractical and onerous.

Though this is not a subject of inquiry before this forum, it is agreed that all intended welfare benefits should reach workers efficiently without disproportionately burdening employers with overlapping statutory obligations. The EPF in this context is better placed through its e-governance model that now shifts many responsibilities earlier considered burden to be handled through technology. A case in example is Aadhaar based registration of employees. More than 95 percent of India's population is covered

under the Aadhaar program and credential reporting of employees today is not a challenge anymore. The establishments too are able to file electronic challan and many of their traditional responsibilities are now facilitated by technology. For the unique nature of construction workforce, it would be unfair to take the argument of compliance burden to disenfranchise workers of benefits envisaged by legislators. Any additional welfare of workers only makes them more productive, and it should be considered as an investment rather than cost to stay competitive not only nationally but also globally.

Further, I feel compelled to briefly deal with this argument of additional compliance cost in terms of various legal deliberations.

This contention is fundamentally incorrect because the employer has no economic liability under the EPF Act. The 24% of the basic wages contributed to the Employee's Provident Fund under Section 6 of EPF Act are entirely employees' contribution. Section 6 splits the responsibility of depositing the contribution between two employer and employee:

- a. The first 12% is to be deposited directly by the employer, irrespective of if and when the wages are disbursed.
- b. The second 12% is to be deposited by the employee. The employee can make the deposit only once the wages are disbursed.

The intention of splitting the responsibility between the employer and the employee is to ensure that a default by one does not prejudice the entire provident fund contribution. Thus, the employer has no

economic commitment under the EPF Act; its only responsibility is to timely deposit the contribution on its employee's behalf. This position has both, judicial and legislative recognition. A Full Bench of Madras High Court in *Gowri Spinning Mills (P.) Ltd. v. Assistant Provident Fund Commissioner* 2006 (5) CTC 1, dealt with question whether provident fund dues under the EPF Act could be assessed against a sick company during the suspension of legal proceedings under s. 22(1) of Sick Industrial Companies (Special Provisions) Act, 1985. The Court held that provident fund dues ought to be assessed notwithstanding Section 22(1) of SICA because while Section 22(1) sought to preserve the sick company's assets, provident fund dues belonged to the employees and not to the company. The relevant portion is extracted below:

“15. In our opinion, the provisions of Section 22(1) of the SICA has no application to the provident dues and the provisions of the EPF Act would not come within the purview of thereof. The provident fund and other dues payable under the EPF Act are part of the legitimate statute settlements of the workers. The employer is obligated to pay the contribution of the employees as well as his contribution to the Fund, which is set up under the Act, and the Scheme framed thereunder. The employees' contribution together with the employer's contribution is required to be paid into the Fund by the employer within the stipulated period. **These amounts whether by way of contribution of the employee or the contribution by the employer, are moneys which belong to the employee.** An account which is required to be maintained in the name of each member of the provident fund, contains contribution of the employee, the employer, as well as the interest which has been credited. Provident Fund is the foundation of an important measure of social security provided to employees of those establishments to whom the Act applies. In the aforesaid situation, an employer cannot refuse to comply with the statutory mandate to pay the contribution made by the employees as also his share, which was by way of social security scheme. Although the object of the SICA is laudable, but, in our view, the same should not deprive the hard earnings of the employees. It does not and cannot stay the recovery proceedings for recovery of money to which employees are entitled by way of social security scheme. **These money does not belong to the company, it belongs to the employees.** These moneys can be withdrawn by the employees in certain eventualities even prior to the attainment of age of superannuation. The Scheme makes provision for

withdrawal from the Fund and for the grant of advances from the Fund in special cases.” (*Emphasis supplied*)

The Supreme Court took the same view in CA 8762/2012 *Regional Provident Fund Commissioner v. Dodaballapur Spinning Mills Private Limited*:

“10. It is well settled that the amounts by way of contribution of the employees or the contribution of the employer are money which actually belong to the employee and not to the Company. In this context, it may be noticed that Section 22 of the SICA provides for protection only of the properties of the concerned Company.”

This same position is also legislative recognised in section 36 of Insolvency & Bankruptcy Code which excludes provident fund from assets of the corporate debtor before drawing up the liquidation estate because the entire provident fund, whether collected as employer’s share or employee’s share, is actually employee’s contribution towards his provident fund.

Therefore, the impression of the petitioner establishment of dual liability needs a rethink. The EPF Act establishes a provident fund contributed to by the employees themselves. In contrast, Section 3 of the Building and Construction Workers’ Welfare Cess Act, 1996 levies a cess on the employer to fund welfare fund constituted under the Building and other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996. Thus, the petitioner’s only economic commitment is under the two 1996 Acts. It has no economic commitment under the EPF Act.

14. Conclusion:

While the BOCW admirably targets the immediate welfare needs of one of the most vulnerable segments of India's workforce, it is increasingly evident that its benefits, though essential, are short-term, uniform, and administratively constrained. Despite its noble intent, the lack of transparency, inconsistent disbursal, and procedural rigidity diminishes its effectiveness, especially in dynamic labour markets like Kerala.

In contrast, the EPF through its contributory, account-linked, and tech-enabled framework, offers a far more resilient, scalable, and sustainable approach to worker's protection and interests. The early enrolment advantage, portability across employers and states, digitally verifiable contributions, and proportionate, need-responsive benefits mark it out as a system designed not just for immediate aid but for lifetime security and beyond. The EPFO's pension and insurance arms, coupled with its structured governance and unified enforcement mechanisms, further strengthen its capacity to adapt to the evolving nature of employment, including transitions from informal to formal sectors.

Among both the frameworks the EPF framework aligns better with constitutional mandates under Article 41 (Right to Work and Public Assistance) and international labour standards equating benefits to entitlement a key distinction that are better enforceable under judicial review. Case law trends increasingly favour structured statutory frameworks like EPFO, especially where accountability and service delivery are provable through digital footprints and statutory

guarantees.

Based on the principles of adaptability, transparency, and empowerment, the EPFO framework stands at a firmer ground that can protect the dignity of labour today and ensure a retirement with dignity tomorrow.

15. In view of the discussions above, I order M/s Veegaland Developers Private Limited which is a covered establishment since 2007 to continue to comply under EPF & MP Act whose schemes are beneficial as compared to the rules framed by Kerala Government under the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.


16/4/25
UTTAM PRAKASH

Regional Provident Fund Commissioner -I

To

1. M/s Veegaland Developers Pvt Ltd
Ernakulam
2. RPFC Kochi

10 APR 2025



Annexures

Sl. No.	Responses	Description
1	R1	RECORD OF HEARING DATED 07.11.2024
2	R2	RECORD OF HEARING DATED 13.11.2024
3	R3	RECORD OF HEARING DATED 18.11.2024
4	R4	RECORD OF HEARING DATED 21.11.2024
5	R5	RECORD OF HEARING DATED 04.12.2024
6	R6	RECORD OF HEARING DATED 13.12.2024
7	R7	RECORD OF HEARING DATED 19.12.2024
8	R8	STATEMENT FILED BY KBOCWVB DATED 13.11.2024
9	R9	STATEMENT FILED BY KBOCWVB DATED 21.11.2024(SOURCE OF FUND)
10	R10	STATEMENT FILED BY KBOCWVB DATED 21.11.2024(BENEFITS OF SCHEMES)
11	R11	STATEMENT FILED BY KBOCWVB REPRESENTATIVE SH K P THAMPI KANNADAN(INTUC ALL INDIA SECY-EE-REP) DATED 10.12.2024
12	R12	STATEMENT FILED BY KBOCWVB REPRESENTATIVE SH. ANTONY KUNNEL(ER-REP)DATED 17.12.2024
13	R13	STATEMENT FILED BY SH GEORGE MATHEW PALAL CHAIRMAN BUILDERS' ASSOCIATION OF INDIA (COCHIN CENTRE)DATED 28.12.2024
14	R14	STATEMENT FILED BY M/S VEEGALAND DEVELOPERS PVT LTD DATED 18.11.2024
15	R15	STATEMENT FILED BY M/S VEEGALAND DEVELOPERS PVT LTD DATED 21.11.2024
16	R16	STATEMENT FILED BY EPFO REPRESENTATIVES DATED 13.11.2024
17	R17	STATEMENT FILED BY EPFO REPRESENTATIVES DATED 21.11.2024
18	R18	STATEMENT FILED BY EPFO REPRESENTATIVES DATED 08.01.2025
19	R19	STATEMENT FILED BY SH M DHARMAJAN, ADDL MEMBER(EE), EPFO KERALA REGIONAL COMMITTEE-DATED 01.12.2024
20	R20	STATEMENT FILED BY SH S KRISHNA MOORTHY, ADDL MEMBER(EE), EPFO KERALA REGIONAL COMMITTEE-DATED 19.12.2024
21	R21	STATEMENT FILED BY SH SHYAM V TONK,EXECUTIVE DIRECTOR AND CVO,NATIONAL FINANCIAL REPORTING AUTHORITY, GOVERNMENT OF INDIA-DATED NIL
22	R22	STATEMENT FILED BY MS LIYA LATHEEF A, UNDER SECRETARY FOR SECRETARY TO GOVERNMENT, LABOUR & SKILLS(J) DEPARTMENT, GOVT OF KERALA -DATED 24.03.2025
23	R23	INDIAN EXPRESS NEWS DATED 22.11.2024
24	R24	MALAYALA MANORAMA NEWS DATED 23.11.2024

ANNEXURE R1

**IN THE MATTER OF COMPLIANCE TO THE DIRECTIONS OF
THE HON'BLE HIGH COURT OF KERALA WHILE DISPOSING
WP (C) No 1807 of 2016
TITLED VEEGALAND DEVELOPERS PVT LTD Vs. UOI & ORS**

Brief Background

M/s Veegaland Developers Private Limited, a construction entity, filed a Writ Petition before the High Court of Kerala, challenging notices issued by the Regional Provident Fund Commissioner on November 16, 2015, and November 22, 2015. The petitioner argued that construction workers are governed by the Building and Other Construction Workers (BOCW) Act, 1996, rather than the earlier Employees' Provident Funds and Miscellaneous Provisions Act (EPF Act) of 1952. As a more recent and specialized statute, the BOCW Act, which mandates contributions from both workers and the government, should, in the petitioner's view, take precedence. However, the Employees' Provident Fund Organisation (EPFO) countered that the BOCW Act does not override the EPF Act; rather, Section 63 of the BOCW Act provides that any other legislation offering greater benefits would prevail, thereby upholding the applicability of the EPF Act.

The High Court while disposing the WP passed the following reasoned order:

6. It is no doubt that the Building and other Construction Workers Act is latter in time and Special Act to protect the interest of the construction workers engaged in the construction activity. However, Section 63 of the said Act provides that if the provisions of any other legislation are more

5

beneficial than the provisions or scheme framed under the Building and other Construction Workers Act, the provisions of the said Act would prevail over the provisions of Building and other Construction Workers Act, 1996. Section 63 of the Building and other Construction Workers Act reads as under:

"63. Saving of certain laws.

Nothing contained in this Act shall affect the operation of any corresponding law in a State providing welfare schemes which are more beneficial to the building and other construction workers than those provided for them by or under this Act."

7. Section 63 is being a non-obstinate clause. The question whether the EPF Scheme framed under the EPF Act is more beneficial than the provisions of Building and other Construction Workers Act and Rules made thereunder are examined by the Provident Fund Commissioner, after considering the submissions on behalf of the petitioner.

8. In view thereof, this Writ Petition is disposed of directing the Provident Fund Commissioner - 3rd respondent to examine whether the provisions of the Building and other construction Workers Act and Rules made by the State Government, i.e., Building and other construction workers (Regulation and Employment & conditions of Service) Kerala

6

Rules are more beneficial than the EPF Scheme. If the Provident Fund Commissioner finds that the Scheme framed under the EPF Act is more beneficial than the provisions of the Building and other Construction Workers Act and Rules made thereunder, then appropriate action shall be taken against the petitioner. The Provident Fund Commissioner should give an opportunity of hearing to the petitioner, and the petitioner shall not take adjournment before the Commissioner. The entire proceedings have to be concluded within a period of two months from today. Interim order if any stands vacated.

2. The matter therefore was regarding appropriateness of applicability of either of the Social Security Acts and the associated rules in terms of benefits under the two and the Regional Provident Fund Commissioner was directed to examine the same post hearing the parties and to further take appropriate action against the petitioner.

3. In accordance a communication was issued to the stakeholders vide Letter No. KR/KCH/24115/Enfil (3)/024 dated 04.11.2024 for a first preliminary hearing on 07.11.2024.

4. The following were in attendance:

ON BEHALF OF EPFO KOCHI

- | | |
|-----------------------|-----------------------------|
| 1. SH ROHIT SREEKUMAR | REGIONAL PF COMMISSIONER-II |
| 2. SH STEVE JOSE | ENFORCEMENT OFFICER |
| 3. SH K P SAJAN | ENFORCEMENT OFFICER |
| 4. SH PREETHU T J | ACCOUNTS OFFICER |

ON BEHALF OF PETITIONERS

1. SH ABHINAND S VIJAY, ASSISTANT MANAGER-LEGAL, VEEGALAND PROPERTIES
2. SMT PREETHY C DISTRICT EXE OFFICER, KERALA BUILDING & OTHER CONSTRUCTION WORKERS WELFARE BOARD, ERNAKULAM
3. SMT RAJI K M, ASSISTANT LABOUR OFFICER, GRADE I, ERNAKULA REP LABOUR DEPARTMENT

5. The representatives from the Petitioners side requested an adjournment to prepare themselves better and to seek approval of their management for making their representations regarding their take on the more beneficial nature of either of the Act ie. Building and other construction Workers (Regulation of Employment and Condition of Services) Act,1996, Building and other construction Workers Welfare Cess Act, 1996 and the Building and

other Construction Workers (Regulation of Employment of Conditions of Service) Kerala Rules, 1998 and the benefits of the Employers Provident fund and Miscellaneous Provisions Act, 1952 and the Schemes framed thereunder.

6. Going by the Principles of natural justice, adjournment as requested by all the three participants is allowed.
7. The representatives of EPFO, RO, Kochi submitted that they are ready with their arguments and suggested that same may be allowed to be made on the next date of hearing as sought by the opposite parties.
8. The Hon'ble Court has directed

(a) to examine whether the provisions of the Building and other construction Workers Act and Rules made by the State Government, i.e., Building and other construction workers (Regulation and Employment & conditions of Service) Kerala Rules are more beneficial than the EPF Scheme.

(b) If the Provident Fund Commissioner finds that the Scheme framed under the EPF Act is more beneficial than the provisions of the Building and other Construction Workers Act and Rules made thereunder, then appropriate action shall be taken against the petitioner. Towards this the Provident Fund Commissioner has been directed to give an opportunity of hearing to the petitioners.

9. The duty entrusted upon the undersigned by the Hon'ble Court carries significant responsibility, demanding careful consideration. This is especially crucial as the term "beneficial," defined by the Oxford English Dictionary as "having a good or useful effect," inherently suggests a broader interpretative scope rooted in equitable assessment rather than rigid statistical precision. Recognizing the Court's intention to arrive at an outcome grounded in substantive benefit and fairness, I find it prudent to widen the consultation to include an expanded cohort of stakeholders who may meaningfully contribute to this deliberative process. Therefore, input from trade unions, beneficiary workers, and similar parties is both encouraged and welcomed to ensure a balanced and comprehensive perspective.
10. Proper notice and publicity should be given to facilitate their participation aimed at firming up a just opinion.

Hearing to continue on 13.11.2024 @ 3.00 PM in hybrid mode

Attached: The Hon'ble High Court Judgement
dated 07.06.2024 in
WP(C)1807/2016


8/11/24

UTTAM PRAKASH
REGIONAL PF COMMISSIONER-I KOCHI

To

All Attendees



ANNEXURE R2

**IN THE MATTER OF COMPLIANCE TO THE DIRECTIONS OF
THE HON'BLE HIGH COURT OF KERALA WHILE DISPOSING
WP (C) No 1807 of 2016
TITLED VEEGALAND DEVELOPERS PVT LTD Vs. UOI & ORS**

The following were in attendance in the hearing conducted on 13.11.2024 at 3 PM.

ON BEHALF OF EPFO KOCHI

1. SH. S. AZHAHIYA MANAVALAN REGIONAL PF COMMISSIONER-II
(Through VC)
2. SH ROHIT SREEKUMAR REGIONAL PF COMMISSIONER-II
(Through VC)
3. SH STEVE JOSE ENFORCEMENT OFFICER
4. SH K P SAJAN ENFORCEMENT OFFICER
5. MS PREETHU T J ACCOUNTS OFFICER

ON BEHALF OF PETITIONERS

1. SH ABHINAND S VIJAY, ASSISTANT MANAGER-LEGAL,
VEEGALAND PROPERTIES
2. SH BIJU P, EXECUTIVE OFFICER(HQ), KERALA BUILDING & OTHER
CONSTRUCTION WORKERS WELFARE BOARD, ERNAKULAM (BOC)

ON BEHALF OF OTHER STAKEHOLDERS

SH ROHIT MANI TIWARI, Regional Labour Commissioner
(Thiruvananthapuram) Through VC

Shri Biju P., Executive Officer (HQ), representing the Kerala Building & Other Construction Workers Welfare Board, Ernakulam, provided a detailed overview of the benefits offered under various scheme provisions of the BOC Act. He highlighted the range of services delivered by the Board to employees and subscribers, as well as to their family members. His elaboration emphasized the Board's commitment to ensuring welfare measures that

address the diverse needs of construction workers and their dependents, thereby improving their quality of life and promoting social security within the workforce. He concluded with a permission to file a written submission.

Shri Steve Jose, representing the Employees' Provident Fund Organisation (EPFO), outlined the benefits available under various schemes governed by the EPF & MP Act that are not provided under the BOC Act. He emphasized that quality of service delivery should also be considered as a key critical parameter in determining the effectiveness and impact of the benefits. Concluding his submissions, he requested permission to file a detailed written submission.

Shri Abhinand S. Vijay, representing Veegaland Properties, informed that the company has filed a Writ Petition (WP) appealing to the High Court's order. When asked to make submissions, he declined, citing a lack of preparedness. He submitted a copy of the appeal petition filed before the Hon'ble High Court.

Shri Rohit Mani Tiwari clarified that, in his official capacity, the Regional Labour Commissioner (RLC) is entrusted with the responsibility of implementing the BOC Act. He emphasized that, in his considered view, the two Acts under discussion are not in conflict with each other. Instead, they have been thoughtfully designed by lawmakers to function in a complementary manner, ensuring comprehensive coverage for workers. He further elaborated that both Acts cater to distinct but equally important needs of the workers, addressing specific aspects of their welfare and rights, thereby providing a holistic framework for their protection and empowerment. He further said that one of the benefits under EPF Act was regarding continuity of coverage in the eventuality of workers changing sectors as EPFO issues a UAN, which is not available at BOC and the workers are required to settle their benefits when they move out.

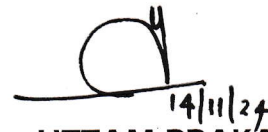
Post hearing the parties present today, following directions are issued

1. The Written Statements submitted today be shared with the parties in attendance to help them prepare for further submissions.

2. Smt. Raji K M, Assistant Labour Officer, Grade I, Ernakulam, representing the Labour Department who attended last time may ensure her presence and submit her views lest she may lose the right to be heard. The absence today is not appreciated.

3. M/s. Veegaland has chosen to remain silent, possibly under the presumption that their appeal petition renders this hearing redundant. However, this assumption creates a roadblock to reaching the conclusion sought by the Hon'ble Court. It would be wiser to honor the Court's directions and make use of the opportunity until any revision order is received. M/s. Veegaland is accordingly advised to actively engage in this inquiry, contributing constructively to ensure a just and fair process.

The hearing to continue on **18th of November 2024 at 3 PM** in hybrid mode.



UTTAM PRAKASH

REGIONAL PF COMMISSIONER-I KOCHI

To

All Attendees

ANNEXURE R3

**IN THE MATTER OF COMPLIANCE TO THE DIRECTIONS OF
THE HON'BLE HIGH COURT OF KERALA WHILE DISPOSING
WP (C) No 1807 of 2016
TITLED VEEGALAND DEVELOPERS PVT LTD Vs. UOI & ORS**

The following were in attendance in the hearing conducted on 18.11.2024 at 3 PM.

ON BEHALF OF EPFO KOCHI

- | | |
|--|-----------------------------|
| 1. SH S. AZHAHIYAMANAVAN
(Through VC) | REGIONAL PF COMMISSIONER-II |
| 2. SH ROHIT SREEKUMAR
(Through VC) | REGIONAL PF COMMISSIONER-II |
| 3. SH STEVE JOSE | ENFORCEMENT OFFICER |
| 4. SH K P SAJAN | ENFORCEMENT OFFICER |
| 5. MS PREETHU T J | ACCOUNTS OFFICER |

ON BEHALF OF PETITIONERS

1. ADV. PRATAP ABRAHAM VARGHESE REPRESENTING VEEGALAND DEVELOPERS PVT. LTD.
2. SH BIJU P, EXECUTIVE OFFICER(HQ), KERALA BUILDING & OTHER CONSTRUCTION WORKERS WELFARE BOARD, ERNAKULAM (BOC)

OTHER STAKEHOLDERS

Shri Jovin M M District Labour Officer

Record of Proceedings

1. Advocate Shri Pratap Abraham Varghese, post presentation of his credentials as authorised representative of Veegaland Developers Pvt Ltd proceeded to highlight the provisions of the Building and Construction Workers' Welfare Act 1996, and the corresponding rules of Kerala Government presented that the provisions were meant to

improve the welfare of construction workers and that the State Government is responsible for regulating the employment conditions of these workers.

Pointing out the benefits under the BOC Act, his arguments were as under below heads.

- a) **Lower Contributions:** Workers need to contribute only ₹50 per month to the BOC Welfare Fund, compared to 12% of wages under the EPFO.
 - b) **Flexible Pension Eligibility:** Workers can avail pension after 60 years of age and just 90 days of work, without any certificate from the employer.
 - c) **Comprehensive Benefits:** The Act offers a wide range of benefits, including maternity benefits, tool purchase assistance, death benefits, accident benefits, children's education/marriage benefits, and family pension. Specific amounts for these benefits are clearly defined.
2. **Shri Steve Jose**, representing EPFO, countered by saying that the 12% of the wage contribution collected from EPFO members, were akin to a savings scheme where a robust interest rate better than any available in the market is given by EPFO. The members therefore receive a substantial return on their contributions at the end of each year that is compounding in nature. Such benefits are not available under BOC Act for rainy days or at the time of retirement. This cannot be compared to ₹50 per month which is a membership fee essentially. EPFO on the contrary is an entitlement based right in a defined class of establishment.

Regarding pension eligibility, he argued that only members with a full year of active service are eligible for a BOC pension. The counsel for Veegaland Developers Pvt. Ltd. interjected, stating that only 90 days of service is required for BOC pension eligibility. The counsel also stressed that EPFO pension eligibility and amounts are determined by the member's pensionable service and salary.

The DR proceeded to argue that EPFO pensions are more advantageous, on many counts. Some of them are:

- **Employer Contributions:** The employer contributes to the EPF pension fund, meaning members don't have to make any separate contributions. Contributions apart, dependents of members are eligible to draw pension if the member dies in service even if only one month's contribution has been received, plus member pension can start any time after 50 years of age with added benefits of commutation and much more.
- **Flexible Benefits:** The pension amount is calculated based on the member's service and salary, potentially leading to higher benefits for longer service and higher salaries. The members have the option to continue adding their service upon change of employment till they attain the age of 58 years.
- **No Fixed Entitlement:** Unlike BOC, where the pension amount is fixed regardless of service or effort, EPFO pensions offer a more flexible and potentially higher payout.

Shri Steve Jose further highlighted about other benefits of under EPF Act & schemes, such as the Employee Deposit Linked Insurance (EDLI) scheme which come at No cost to the employee. This scheme provides insurance coverage ranging from ₹ 2.5 lakhs to ₹ 7 lakhs to the dependents of deceased members. Importantly, even if the member works for one day and dies while in service, the dependent family is eligible for EDLI and pension benefits under the EPF Act. There are numerous non-refundable advances available, which are meant to benefit both members and their families.

3. Shri Biju P, Executive Officer (HQ) Kerala Building and Other Construction Workers' Construction Board, clarified that the Board's

primary function is to register workers. Establishment registration falls under the purview of the Labour Commissioner (DLO). He emphasized that construction workers are enrolled independently are not linked to specific construction companies. Only requirement is having worked for 90 days and this is certified through an established procedure involving various departments. Cess is collected directly and is accumulated in the Building Fund, which currently supports over 3.8 lakh pensioners. The State Government oversees the financial health of the fund and can add or draw from the fund as per requirements.

The Counsel of Vegaland wished to add here that the construction workers can register themselves, and their 90 days of work can be certified by the Assistant Labour Officer (ALO) or District Labour Officer (DLO). The ALO is responsible for conducting periodic site surveys and verifying muster rolls and wage registers.

4. Towards conclusion the counsel for Veegaland submitted that construction workers in Kerala earn a minimum daily wage of Rs. 800. This translates to a monthly wage exceeding Rs. 15,000, excluding them from the purview of the EPF Act. Consequently, they would neither be covered by EPF Schemes or the BOC schemes. He concluded by saying that the arguments presented here has been documented in the form of a written statement and he wishes to file the same for records.
5. Mr Steve Jose, requested for permission to respond additionally post examination of the written statement as presented during the course of hearing.
6. Post hearing all the parties following directions are issued:
 - (a) The Written Statement of the counsel for Veegaland Developers be shared with those present
 - (b) The parties may come prepared on the next day about the process of Grievance redressal mechanism
 - (c) The BOC may elaborate upon the financial management and its health that provides benefits under the BOC Rules. BOC may also

bring a list of benefits in a tabular form so that no benefits are missed to be understood.

- (d) The counsel for Veegaland Developers may attempt to bring in some representation from their workers union who benefit from the BOC fund to have their perspective.
- (e) Shri Jovin M M identifying himself as the District Labour Officer was requested to file his credentials as he did not carry any. Considering that he did not return till the closure of the proceedings, he is requested to make his submissions again on the next date of hearing either in person or through a written statement as convenient or through virtual hearing mode.

To continue on **21st November 2024 at 3 PM** in hybrid mode.



18/11/24

UTTAM PRAKASH

REGIONAL PF COMMISSIONER-I KOCHI

To

All Attendees

ANNEXURE R4

**IN THE MATTER OF COMPLIANCE TO THE DIRECTIONS OF
THE HON'BLE HIGH COURT OF KERALA WHILE DISPOSING
WP (C) No 1807 of 2016
TITLED VEEGALAND DEVELOPERS PVT LTD Vs. UOI & ORS**

The following were in attendance in the hearing conducted on 21.11.2024 at 3 PM.

ON BEHALF OF EPFO KOCHI

- | | |
|----------------------------|-----------------------------|
| 1. SH ROHIT SREEKUMAR | REGIONAL PF COMMISSIONER-II |
| 2. SH STEVE JOSE | ENFORCEMENT OFFICER |
| 3. SH RAJENDRA KUMAR MEENA | ACCOUNTS OFFICER |
| 4. MS PREETHU T J | ACCOUNTS OFFICER |

ON BEHALF OF PETITIONERS

1. ADV. PRATAP ABRAHAM VARGHESE REPRESENTING VEEGALAND DEVELOPERS PVT. LTD.
2. MS PREETHY C, KERALA BUILDING & OTHER CONSTRUCTION WORKERS WELFARE BOARD, ERNAKULAM (BOC)
3. SH VARUN S KUMAR, VEEGALAND DEVELOPERS PVT. LTD. (THROUGH VC)

Record of Proceedings

1. Additional submission has been made by Veegaland Developers Pvt. Ltd. Copies of the same have been handed over to the parties. A copy of the same may be included while sending the Daily Order Sheet to the stakeholders.

2. To enable the attendees a reasonable time to understand each other's submissions for firming up their opinion, a time of 10-12 days is considered appropriate.

3. The hearing to continue on **04.12.2024 at 3.30 PM** in hybrid mode.


21/11/24

UTTAM PRAKASH
REGIONAL PF COMMISSIONER-I KOCHI

To

All Attendees

ANNEXURE R5

**IN THE MATTER OF COMPLIANCE TO THE DIRECTIONS OF
THE HON'BLE HIGH COURT OF KERALA WHILE DISPOSING
WP (C) No 1807 of 2016
TITLED VEEGALAND DEVELOPERS PVT LTD Vs. UOI & ORS**

The following were in attendance in the hearing conducted on 04.12.2024 at 4 PM.

ON BEHALF OF EPFO KOCHI

- | | |
|----------------------------|-----------------------------|
| 1. SH S AZHAHIYA MANAVALAN | REGIONAL PF COMMISSIONER-II |
| 2. SH ROHIT SREEKUMAR | REGIONAL PF COMMISSIONER-II |
| 3. SH STEVE JOSE | ENFORCEMENT OFFICER |
| 4. SH RAJENDRA KUMAR MEENA | ACCOUNTS OFFICER |
| 5. MS PREETHU T J | ACCOUNTS OFFICER |

ON BEHALF OF PETITIONERS

1. ADV. PRATAP ABRAHAM VARGHESE REPRESENTING VEEGALAND DEVELOPERS PVT. LTD.
2. SH VARUN S KUMAR, VEEGALAND DEVELOPERS PVT. LTD.
(THROUGH VC)

District Executive Officer, KERALA BUILDING & OTHER CONSTRUCTION WORKERS WELFARE BOARD, ERNAKULAM (BOC), Ernakulam intimated his inability to attend the hearing in a mail dated 04.12.2024.

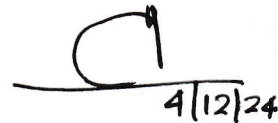
Record of Proceedings

Shri Steve Jose shared that one submission has been received from Shri M Dharmajan, Regional Committee Member (EPF). He also shared that media has run stories and more submissions are expected.

Considering that there might be more such communications in the pipeline, both the parties agreed that it will be appropriate to wait for such communications for a reasonable time so that elaborate arguments can be made more comprehensively by next date of hearing.

Having heard the parties, it is ordered that, in addition to the views obtained today and shared during the course of hearing, any communication which is being received before the next date of hearing, be shared with the parties as received, so that they can come well prepared on the next date of hearing.

Considering the arguments of the reasonable time next hearing is fixed on 13th December at 3.30 PM in hybrid mode.



4/12/24

UTTAM PRAKASH

REGIONAL PF COMMISSIONER-I KOCHI

To

All Attendees

ANNEXURE R6
IN THE MATTER OF COMPLIANCE TO THE DIRECTIONS OF
THE HON'BLE HIGH COURT OF KERALA WHILE DISPOSING
WP (C) No 1807 of 2016
TITLED VEEGALAND DEVELOPERS PVT LTD Vs. UOI & ORS

The following were in attendance in the hearing conducted on
13.12.2024 at 3.30 PM.

ON BEHALF OF EPFO KOCHI

1. SH STEVE JOSE
2. MS PREETHU T J

ENFORCEMENT OFFICER
ACCOUNTS OFFICER

ON BEHALF OF PETITIONERS

1. ADV. PRATAP ABRAHAM VARGHESE REPRESENTING
VEEGALAND DEVELOPERS PVT. LTD.
2. VARUN S KUMAR, REPRESENTING VEEGALAND DEVELOPERS
PVT. LTD. (THROUGH VC)

OTHER STAKEHOLDERS

1. SH ANTONY, CHAIRMAN & MD, KUNNEL ENGINEERS AND CONTRACTORS (P)
LTD. AND EMPLOYER REPRESENTATIVE OF KERALA BUILDING AND
CONSTRUCTION WORKERS' WELFARE BOARD (THROUGH VC)

Record of proceedings

1. Shri Antony, Chairman & MD of M/s. Kunnel Engineers and Contractors (P)
Ltd. and employer representative of KBCWWB appearing for the first time,
sought a day or two to submit his written statement citing progress of a legal
opinion that he has asked. To Further assist framing of the submission, the
department was directed to share the record of proceedings held till now
with Shri Antony.
2. For objectivity to the deliberations, the attendees were advised to present
their case in different buckets for a criteria framing towards comparing the
views in totality. Indicative buckets could be

- Entry Qualifications and Contributions
- Number and Quality of benefits
- Mechanism for grievance handling
- Funds management and Sustainability mechanisms
- Service Delivery Spread and Reach
- Regulatory mechanisms etc

Adv. Pratap Abraham Varghese, Counsel for the establishment M/s. Veegaland Developers presented his bucketed arguments in following points as below:

Eligibility

EPF and BOC are both designed for the welfare of workers. However, there is a key difference in their coverage: while PF excludes employees earning wages above Rs. 15,000, the welfare board allows construction workers earning more than Rs. 15,000 to avail benefits under the welfare schemes framed by the Kerala Government. These workers are eligible for all benefits, irrespective of their earnings.

Currently, an EPF member contributes approximately Rs. 1,200 per month (including both employer and employee shares), whereas construction workers under the welfare board earn daily wages at a rate of Rs. 800. He emphasized that if the Honourable authority could include construction workers under the EPF Act, they would be glad to enrol them as EPF members, prioritizing the provisions of the BOC Act. The emphasis was placed on the eligibility criteria, which is the core factor making the BOC Act beneficial for workers.

Quantum of benefits:

In EPF remittance in pension fund is not allowed after 58 years whereas in Welfare Board, workers are enjoying many ex-gratia benefits under the Scheme such as maternity benefits, accidents relief, cash awards for children, marriage benefits, benefits for disability due to accident, funeral benefits etc. These benefits are not from the contribution of the employee. In other words, the employees get more than what they contribute. PF gives all the benefits only from contributions collected from both employer and employee. The

counsel also added that most of the construction workers are drawing more than Rs.15000 per month as wages. Moreover, employees are getting monthly pension at Rs.1600/-.

Funding:

The BOC scheme is largely a funded initiative, with the government responsible for its replenishment. Workers are not required to contribute; instead, for a nominal remittance of Rs. 50, employees receive their benefits.

Shri Varun S. Kumar, representing the establishment M/s. Veegaland Developers, highlighted that most construction workers are casual laborers who work at different sites within the same month. He emphasized that the BOC scheme caters to a highly unorganized sector compared to the formal structure of EPF. Many of these workers are migrant laborers who return to their hometowns after completing a project. Under the BOC scheme, contributions can be withdrawn after the age of 58. However, since migrant workers contribute only until their contract ends, their participation is not continuous, unlike the contributory nature of the EPF Act.

When asked which of the two schemes is more beneficial from the employer's perspective, Shri Varun S. Kumar stated that the BOCW Act is easier to administer, as the employer's responsibility ends with the payment of 1% of the employer value.

3. Ms. Preethu T J, Accounts Officer, representing the department, submitted that the construction board lacks an established grievance redressal mechanism, and workers are required to submit physical applications, which are not effectively monitored. In response to this argument, the council of the establishment stated that the district executive officers under the Construction Workers Welfare Act handle grievances and that there is a designated point of contact in each district.

Ms. Preethu T J further argued that migrant workers often lose contact with the system once they move away after completing a project, making it cumbersome and nearly impossible for them to reach the authorities for assistance in claiming benefits. She highlighted that migrant workers are eligible for a pension only after attaining 58 years of age, and by that time,

they may have no means of reconnecting to claim their benefits. Moreover, she pointed out that there is no procedure in place for automatically exiting the scheme under the BOCW after a worker completes a project.

The council acknowledged these concerns and stated that the BOC needs to clarify the procedure for exiting a migrant worker from the scheme once their project tenure is over.

4. Shri. Steve Jose, Enforcement Officer, supported Ms. Preethu T J's points, addressing the arguments raised by the counsel regarding eligibility for enrolment under the EPF Act. Under BOC workers between 18 to 60 years of age are eligible for membership subject to scrutiny of their claim as construction worker. Workers pay Rs 50/- a month as subscription. This age restriction is not there in the EPF Act and submitted that the statutory wage limit of Rs. 15,000 is not static and has undergone periodic revisions. The EPF Act also does not prohibit employees earning more than Rs. 15,000 from becoming members. Existing members earning above this threshold can continue their membership, and new employees earning above Rs. 15,000 may also join voluntarily if their employer agrees to contribute the employer's share to the fund. In such cases, the employer's contribution can be limited to the wage ceiling of Rs. 15,000.

He highlighted that many workers in the construction sector are already covered under the EPF Act and contribute Rs. 1,200 monthly (both employee and employer shares), thereby gaining access to all benefits under the EPF Scheme provisions. In the construction sector, where casual employment is prevalent, EPF provides a structured framework, including the possibility of collective bargaining, which is largely absent in the construction industry.

Shri. Steve Jose further elaborated on the benefits offered under the EPF Scheme, noting that members are eligible for various advances such as those for marriage and illness. Additionally, the Employees' Deposit Linked Insurance (EDLI) Scheme provides significant financial security to the families of deceased members, with benefits ranging from a minimum of Rs. 2.5 lakhs to a maximum of Rs. 7 lakhs, without requiring the member to pay any premium. This amount is much higher than what BOC provides under its scheme. Lump sum returns with compounding interest are not available

under BOC, and social security benefits are comparatively limited. The EPS covers a greater number of beneficiaries that includes children, spouse, parents and even nominees which is not available under BOC.

He emphasized that the EPF Scheme not only secures members' retirement through compounding value on contributions but also ensures robust social security during their sunset years. The supervisory mechanisms under the EPF Act safeguard members' rights, whereas in the BOC framework, contributions are entirely member-driven, leaving uncertainty about whether all workers can consistently contribute to the scheme. These factors collectively make EPF a more comprehensive and secure system compared to BOC.

No returns are to be filed in BOC. It is for the employee to fund for himself in BOC whereas EPFO ensures that the members' contributions are paid.

The Counsel for the establishment pointed out about the 'Sneha Sadanam' scheme, a program administered by the BOCWW Board which provides comprehensive lifelong care, including medical assistance, free meals, and housing.

5. The hearing was posted to 17th December 2024 at 3:30 PM in hybrid mode. Shri Antony was allowed to make his submissions by Monday as requested. The submissions received during the intervening period be shared with the attendees for appreciation of the arguments contained therein.


16/12/24

UTTAM PRAKASH
REGIONAL PF COMMISSIONER-I

To

All Attendees

ANNEXURE R7

**IN THE MATTER OF COMPLIANCE TO THE DIRECTIONS OF
THE HON'BLE HIGH COURT OF KERALA WHILE DISPOSING
WP (C) No 1807 of 2016
TITLED VEEGALAND DEVELOPERS PVT LTD Vs. UOI & ORS**

The following were in attendance in the hearing conducted on 19.12.2024 at 3.30 PM.

ON BEHALF OF EPFO KOCHI

- | | |
|----------------------------|-----------------------------|
| 1. SH AZHAHIYA MANAVALAN | REGIONAL PF COMMISSIONER-II |
| 2. SH STEVE JOSE | ENFORCEMENT OFFICER |
| 3. MS PREETHU T J | ACCOUNTS OFFICER |
| 4. SH SAJAN K P | ENFORCEMENT OFFICER |
| 5. SH RAJENDRA KUMAR MEENA | ACCOUNTS OFFICER |

ON BEHALF OF PETITIONERS

1. ADV. PRATAP ABRAHAM VARGHESE REPRESENTING VEEGALAND DEVELOPERS PVT. LTD.
2. VARUN S KUMAR, REPRESENTING VEEGALAND DEVELOPERS PVT. LTD. (THROUGH VC)

OTHER STAKEHOLDERS

1. SH BIJU P, EXECUTIVE OFFICER(HQ), KERALA BUILDING & OTHER CONSTRUCTION WORKERS WELFARE BOARD, ERNAKULAM (BOC)-THROUGH VC

Record of Proceedings

Written submissions, and comparative analysis received till date were confirmed to be received by the attendees.

The parties were of the view that the majority of key issues have been presented in prior proceedings and hence it is appropriate to move to the next stage of final submissions.

Participants in accordance were encouraged to present their consolidated thoughts in the form of a comparison. The attendees agreed that that two further hearings would be sufficient to present all their views. The participants were allowed to submit a comprehensive final version of their arguments as a single document at the next hearing.

Counsel for the establishment M/s. Veegaland Developers sought permission to highlight a point discussed in the CBT meeting, where one of the Trustees had expressed the view that the BOCW Act offered greater benefits and offered to provide supporting documentation in next hearing.

During the hearing Mr. Biju P, BOC representative, clarified that workers under the BOCW Act become eligible for pension at the age of 58, provided they have completed 90 days of work. He further clarified that even workers who enrol in the BOCW scheme after the age of 58 are eligible for a pension upon reaching 60 years of age.

Mr. Biju P also detailed the various pension benefits available to construction workers and their families, including a member pension of ₹1,600, a family pension of ₹800, and an invalid pension of ₹1,600. The invalid pension is granted to individuals who are unable to work due to a physical disability, upon submission of a medical certificate from a Medical Board.

Ms. Preethu, AO, EPFO, argued that the mandatory coverage of all construction workers, as stipulated in the EPFO circular of October 15, 2015, is still in force. According to the Kerala Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Rules, 2024, membership will be terminated if contributions are unpaid for more than three years. As a result, maintaining active membership until retirement age is unlikely for those facing ill health, even if they had worked for more than 10 years. However, such members under EPF qualify for the EPS pension. Also, pension is given to widow/widower for even a day's work in the month in case of unfortunate death in Service. This is not available under BOC.

When asked about relevant statistics about construction workers in Kerala Mr. Biju stated that 3.8 lakhs individuals receive a monthly pension of ₹1,600. These funds are sourced either directly from the Government or through contributions from members and construction companies. In the case of Government departments, a 1% cess is deducted and credited to the member's account. The responsible authority is obligated to remit the full amount of the building cess. The Building and Other Construction Workers Welfare Board (BOC) employs a short-term investment strategy, typically for one month or 15 days. Due to current funding constraints, the entire collected amount is being allocated to pension disbursements. The BOC representative

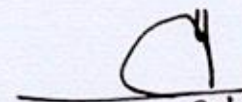
acknowledged outstanding cess payments. While pensions have been disbursed for October, 14 months of arrears remain outstanding.

Mr. Biju also reported that the Government issued an order three months ago, stipulating that members whose subscription payments are in arrears for more than three years will lose pension eligibility. Mr. Biju was requested to submit available documents pertaining to this order via email or on the next date of hearing.

After hearing the parties, it is decided to conclude the proceedings within the next two sessions. The upcoming hearing will serve as a pre-concluding session for presenting consolidated views in a single document, which will be appended to the initial arguments as a rejoinder.

The final concluding hearing will focus exclusively on the arguments in their finalized form that can be made post study of arguments presented by the parties.

The hearing to continue on **January 8, 2025, at 3:30 PM.**


30/12/24

(UTTAM PRAKASH)
REGIONAL PF COMMISSIONER-I

To

All Attendees

13/11/24.

**NAME & DETAILS OF VARIOUS BENEFIT SCHEMES PROVIDED BY
THE KERALA BUILDING AND OTHER CONSTRUCTION WORKERS'
WELFARE BOARD**

The Kerala Building and Other Construction Workers' Welfare Board, constituted under the provisions of, The Building and Other Construction Workers' (Regulation of Employment and Conditions of Services), Act 1996 and the Rules 1998 thereon, have a Chief Office and 14 District Offices. Various Welfare Schemes and benefits are provided for uplifting the living conditions social and educational standard of its members. Most of the benefits are sanctioned and disbursed at the district level as per the decision of the Board Meeting.

1. Pension

This is the most important social security benefit provided by the Board. On attaining the age of 60, a registered member worker with just one year of service is entitled to get pension. The pension is being disbursed monthly through the banks approved by the Board for the purpose. The pension is sanctioned and disbursed by the District Executive Officers. The Govt. has now fixed Rs.1600/- as minimum pension to all category of pensioners.

2. Invalid Pension

Member worker who is permanently disabled due to accident or disease will get Rs. ~~400/-~~ ^{1600/-} per month as invalid pension. In addition to this pension, ex-gratia payment up to Rs.5000/- will be given depending upon the percentage of disability. Invalid pension is sanctioned by the Secretary with the approval of the Board on the basis of the medical certificate issued by a medical board and enquiry report of the District Executive Officer. ~~The Govt. has now increased the minimum pension to Rs.1600/- per month.~~

3. Family Pension

In the event of death of a pensioner, surviving spouse will get family pension. The pension amount will be 50 percentage of the pension received by the pensioner or Rs.800/- whichever is higher. Any arrear of pension pending in the

account of the pensioner will also be disbursed to the nominees/dependents. The amount of contribution remitted by the pensioner will be given to his nominee. In the absence of a nominee the amount will be paid to his legal heirs equally. Family pension is sanctioned and disbursed by the District Executive Officer. Now Govt. has increased the minimum pension as Rs.800/- per month.

4. Payment of 'Santhwanam' benefit

In the case of death of a member (normal death or accident), the board shall sanction an amount of Rs.1600/-(Rupees One thousand and Six hundred only) per month to the dependents of deceased member towards Santhwanam Benefit.

5. Financial Assistance for Education

The children of the members of the welfare board will get annual scholarship for their higher education for different courses.

Student should have secured at least 45 percentage of marks from Government recognized educational institutions. Students in the self-financing professional colleges can also avail this assistance. Even if the worker retires after the student is awarded scholarship for the first year of the course, scholarship will continue till the completion of that course. The amount sanctioned for this purpose is between Rs. 1000 and 3,000.

6 Financial Assistance for Coaching of Entrance test for Professional Courses

Children of member of the board shall get Rs.5000/- as tuition fee to attend coaching classes for the entrance test for professional courses including Medical and Engineering. The applicant member should have 3 years of service and the student must secure at least 50 percentage of marks for Higher Secondary or VHSC.

7. Cash Award

Children of member workers who score highest marks in the S.S.L.C. examination shall get cash awards at the rate of Rs.3000/-

8. S.S.L.C. Cash Assistance

Children of member workers of the Board who are studying for S.S.L.C. shall get Rs.1000/- as Cash Assistance to purchase study materials.

9. Financial Assistance for Marriage

Member workers having minimum one year of service will get financial assistance for their own marriage and a member having continuous membership for three years shall be eligible for financial assistance for the marriages of his two children. Women and men will get Rs.10,000/- under this scheme. In a family, if both the parents are members of the Board, only one person is eligible for this assistance.

10. Maternity Benefit

Female workers will get Rs.15000/- as maternity benefit. A member gets this assistance only twice during her service. Vide GO (MS) No.52/2012/ labour dated 27.03.2012, the maternity benefit scheme for the women labourers in the unorganized sector is implemented. The administrative sanction has been accorded for the scheme, vide GO(MS) No.53/2012/Labour dated 27.03.2012. The 145th meeting of the Board decided to implement this scheme in our Board. As per this, a female member is eligible for minimum wage for three months or Rs.15000, whichever is lower, as maternity benefit.

11. Financial assistance for treatment of Ordinary disease

A worker who is hospitalized for 5 or more days due to ordinary disease will get Rs.800/- for first five days and Rs.150/- each for the remaining days subject to a maximum of Rs.5000/- as financial assistance for treatment. The District executive officer verifies the application and sanctions the amount.

12. Financial assistance for accident treatment

A member worker who is hospitalized for 5 or more days due to accident will get Rs. 1500/- for the first 5 days and Rs.200/-each for the remaining days subject to a maximum of Rs.20,000/-. This assistance will also be given to a worker who met with an accident and put in plaster/K -wire/ clavicle brace/immobilizer/ cervical collar/ elasto plant/ collar belt/ compression badge/ splint/ jays distraction/ spiral brace/ tailors brace etc. and taking rest at his residence This financial assistance is sanctioned by the DEO after verifying the medical records.

13. Financial Assistance for Treatment of Fatal diseases

Member workers confronted with fatal diseases like Cancer, Cardiac ailments, Kidney - Brain diseases, Paralysis, T.B. etc. shall get an amount of Rs.50,000/- as financial assistance, This amount is sanctioned by the DEO's based on the medical bills and medical records produced by the worker.

14. Benefit of Rs. 4 Lakhs for Accident death

If a worker succumbs to death due to an accident in or during the course of employment, the nominees or dependents will get Rs.4 lakhs towards accident death benefit. The same amount will be given to the dependents of a worker who dies due to snake bite while at work. This amount is sanctioned by the Board on the basis of the FIR, postmortem report, the enquiry report of the Executive officer etc.

15. Permanent disability caused on account of the accident occurred during

Work place – Amount will be sanctioned on the basis of the disability percentage subject to a maximum of Rs.1 lakh as financial assistance based on the certificate produced from the Medical Board. This benefit is sanctioned by the Secretary after getting the approval of the Board.

16. Death Benefit

In the event of death of a member worker, the nominees or dependents will get Rs.50,000/- as death benefit.

17. Financial Assistance for Funeral

In the event of death of a member, the nominee or dependents shall get Rs. 4000 and at the death of a pensioner Rs. 3000/- towards the expense for the funeral. This benefit is sanctioned by the District Executive Officer.

18. Old Age Home

The Board has established an Old age Home named as "Snehasadanam" for catering to the needs and requirements of the destitute construction workers. The objective of this project is to provide shelter and care to the aged construction workers who have retired from service at the age of 60 and who suffer a lot due to lack of care from close relatives. "Snehasadanam" provides permanent shelter, food and medical care to the old and sick workers. There are two separate wings

for male and female workers. The entire funds required for the project is met by the Board itself.

19. Housing Loan up to Rs.50,000

Member of the welfare board will get an amount up to Rs. 50000/- for the outright purchase or construction of a house. This amount shall be recovered in equal installments

20. Loan of Rs.10,000/- to buy working tools

Member of the welfare board will get Rs. 10,000/- as loan to buy working tools necessary for work specified in the identity card.

21. Financial Assistance for Treatment of Eye Operation , Chickenpox, Rabies, Snake bite diseases

Member workers confronted with Eye operation , Chickenpox, Rabies, Snake bite shall get an amount of Rs.4,000/- as financial assistance ,This amount is sanctioned by the District Executive Officer's based on the medical records produced by the worker.

22. Death occurred while on duty due to heart attack or by collapse while removing plants, shrubs and other obstructions-

Eligible for Rs.1 lakh to the nominee



21/11/24

KERALA BUILDING AND OTHER CONSTRUCTION WORKERS WELFARE BOARD

(A GOVERNMENT OF KERALA LABOUR & SKILLS UNDERTAKING)

'NIRMAN BHAVAN' METTUKKADA, THYCAUD P.O. THIRUVANANTHAPURAM- 695014

Phone: 2337941, 2337942, 2337943, E-mail : kbocwwboard@gmail.com

Website : <https://kbocwwboard.kerala.gov.in/>

Source of Fund

The Board's main revenue is acquired through cess collection. According to the Building and Other Construction Workers Welfare Cess Act, 1996 (Central Act No.28) and the Rules 1998, the Board is eligible to collect 1% of the total cess of all construction workers except for residential building where the constructions cost is less than Rs.10 lakhs. The details of cess collection from 2020-21 to 2022-2023 is furnished as follows.

2020 – 2021	-	229.60 Crores
2021 - 2022	-	285.60 Crores
2022 – 2023	-	370 Crores
2023-2024	-	395 Crores

The Board also collect Rs.50/- per month towards monthly Subscription.

It may be noted that approximately Rs. 62 crores is required for disbursing monthly pension . Another 10 crores is required for disbursing welfare benefits and for administrative expenses. It is admitted that on account of the financial stringency , Board finds it difficult to disburse the pension and other benefits promptly. During the current month pension is disbursed for the month of August 2023.

As per GO no.23/24/LSGD dtd 14-02-2024 , Building Cess collection was entrusted with the Local self Government Department . As per the above order , occupancy certificate can be issued after ensuring the matter that the building Cess

was remitted by the concerned party. It is expected that based on the above process, cess collection can be enhanced and benefits can be disbursed in a timely manner

for *Bm*
Secretary

KERALA BUILDING AND OTHER CONSTRUCTION WORKERS

ANNEXURE R10

WELFARE BOARD**Various Benefits Schemes for BOC Workers**

21/11/24

Name of the Social Security scheme/benefit	Quantum and frequency of benefit Cash of kind
Pension	Rs.1600/p.m
Invalid Pension	Rs.1600/p.m
Family Pension	Rs.800/p.m
Santhwanam Benefit	Rs.1600/-p.m
Financial assistance for higher education	Rs. 1000/- to 3000/-
SSLC Cash Award	Rs. 3000/-
SSLC Cash Assistance	Rs.1000/-
Financial assistance for coaching for professional courses	Rs.5000/-
Financial Assistance for Marriage	Rs.10000/- for marriage of members, and for marriage of their Daughters/Sons
Maternity benefit	Rs.15000/- (Rs.12000/- State Govt.Assistance) for two deliveries
Financial Assistance for treatment of ordinary diseases	up to Rs.5000/-
Financial Assistance for accident treatment	up to Rs.20000/-
Financial Assistance for Treatment of Fatal diseases	up to Rs. 50000/-
Accident death	Rs.400000/-
Disability due to accident (depends on the percentage of disability)	up to Rs.100000/-
Death benefit	Rs.50000/-
Funeral Assistance	Rs.3000/- (Pensioners) Rs.4000/- (death of a member)
Snehasadanam	Life long care (Free food, accomodation and Medical assistance)
Eye operation, Chickenpox, Rababies. Snake bite	Rs.4000/-
Death occurred while on duty due to heart attack or by collapse while removing plants, shrubs and other obstructions-	Eligible for Rs.1 lakh to the nominee



KERALA KETTIDA NIRMANA THOZHILALI CONGRESS (KKNTC)

Reg. No. 07-29/94. INTUC Affi: No. 9787

STATE COMMITTEE

KKNTC BHAVAN, K.P. ELIZEBIUS MASTER ROAD, ERNAKULAM NORTH P.O.
KOCHI - 682 018, KERALA, INDIA. PH : (0484) 2403593, 2403696

MEMBER 1. INDIAN NATIONAL BUILDING & CONSTRUCTION WORKERS FEDERATION - BHUVANESWAR
2. BUILDING AND WOOD WORKERS INTER NATIONAL - GENEVA

Ref :

Date: 10.12.2024

To

Sri. Uttam prakash,
Regional Provident fund Commissioner. I
EPFO. Regional office,
Bhavishyanidhi Bhavan,
Kochi. 682017

Sir,

As per the pre-existing act of 1990, Kerala Building and Construction workers Board provided benefits including gratuity. There after, the act of 1996, Kerala Building and other construction workers welfare Board, ensure the workers maximum benefits excluding gratuity. It is comparatively more effective and eligible to the workers than the existing EPF and MP act of 1952

Hence we recommend that the Kerala - Building and other construction workers welfare Board act of 1996 should be followed.

Yours faithfully



K P THAMPI KANNADAN
INTUC ALL INDIA SECRETARY
State President, KKNTC
INTUC Vice President, Kerala Branch

ANNEXURE R12

Background

The notices issued by RPFC to M/s. Veegaland Developers P Ltd. On 16.11.2015 and 22.11.2015 for compliance as per EPF Act were challenged by Veegaland Developers stating that the construction workers are governed by the building and other construction workers (BOCW) Act 1996, rather than EPF Act of 1952. They agreed that BOCW Act being a very specialized one, enacted much later than EPF Act, should take precedence over EPF Act. However, EPF authorities argued that Sec 68 of BOCW Act provides that any legislation offering greater benefits should prevail and BOCW Act does not override EPF Act and hence EPF Act is applicable.

M/s. Veegaland Developers approached the Hon. High Court of Kerala with a writ petition No. WP(C)1807/2016. On 07.06.2024 the writ petition was disposed off by the Hon. High Court of Kerala directing the EPFC;

- a) To examine whether the provisions of the Building and other construction Workers Act and Rules made by the State Government, i.e., Building and other construction workers (Regulation and Employment & conditions of service) Kerala Rules are more beneficial than the EPF Scheme.
- b) If the Provident Fund Commissioner finds that the Scheme framed under the EPF Act is more beneficial than the provisions of the Building and other Construction Workers Act and Rules made thereunder, then appropriate action shall be taken against the petitioner. Towards this the Provident Fund Commissioner has been directed to give an opportunity of hearing to the petitioners.

According to the above the Hon'ble High Court had entrusted the Regional Provident Fund Commissioner with the responsibility of determining whether the provisions of the BOCW Act and the Rules framed thereunder are more beneficial than the EPF Scheme. Considering and recognizing the importance of the responsibility the authority considered it fit to call for the views from the stake holders. As being a member of the KBOCW Board my considered views were specifically solicited by the authority.

My considered opinion in my individual capacity as an employer representative is recorded below;

1. BOCW Act provides a lot more benefits like;
 - a) Pension including invalid pension and family pension
 - b) Financial assistance for higher education including cash award for SSLC, professional course coaching etc.
 - c) Financial assistance for marriage
 - d) Maternity benefits
 - e) Treatment assistance for ordinary fatal illness, accident etc.
 - f) Disability benefits

- g) Accident death
 - h) Death benefits
 - i) Lifelong care in Snehasadanam with free food, accommodation and medical assistance
2. Compared to the above, the benefits offered by EPF Act is limited with a few benefits like pension and family pension. All other schemes are withdrawal from the respective employees account, whereas the benefits being offered by BOCW are funded from the contribution made by the employers at 1% of the cost of construction/contract.
 3. The contribution by the employee under BOCW Act is only Rs.50/- per month, whereas the employee has to contribute 12% as per EPF Act from his earnings. It is true that the employee earns a high rate of interest on his deposits (contribution) and it gets accumulated over the years.
 4. Administering the contribution both by the employee and employer is very easy under BOCW scheme whereas it is much cumbersome under EPF Act.
 5. BOCW Board has offices in all Districts and delivery of various services is easy and fast. Grievances also get resolved faster as the Board is closely tracking resolution of grievances on a regular basis. In addition to the above, the trade unions also take keen interest in resolving such issues. While the EPF Departments functioning is more automated and system driven, BOCW functioning is yet to reach anywhere near and hence needs to improve.
 6. From the information available only a small percentage of workers are covered under EPF Act as majority of workers in Kerala earn between Rs.20000/- and 30000/- per month much higher than the upper limit of Rs.15000/- per month because of the higher wage structure prevailing in Kerala. The percentage of workers covered under EPF Act is likely to reduce in the coming years on account of the higher starting wages in Kerala.

It is also true that all workers in construction sector is not covered by BOCW Act. This has to improve to cover everyone. More publicity and district/taluk wise drive to cover everyone under the scheme to be taken up.

In contrast, BOCW Act do not discriminate a construction worker based on his earnings; A worker on attaining the age of 60 years with just one year service is eligible for a fixed pension of Rs.1600/- per month. In addition, he is eligible for all benefits covered under Sl.No.1 above.

7. Through a sincere mass drive every construction workers can be brought under BOCW Act while EPF Act will cover only a very small percentage of workers.

8. BOCW Act could also be modified to introduce voluntary or compulsory contributory savings scheme, with some contribution from BOCW funds to cover up the deficiency that the worker may not have any savings of his own at the end of his service. However, this is just a thought which requires substantial and detailed study before implementing the same.

M.V. ANTONY | Chairman & Managing Director

Kunnel Engineers & Contractors (P) Ltd.

3rd Floor | Puthuran Plaza | K.P.C.C. Junction | M.G. Road | 682 011

Telefax: [+91 484 2370070](tel:+914842370070) | 80 | 90

Email: antony@kunnel.in; cmd.kunnel@gmail.com

Website: www.kunnelengineers.com



Builders' Association of India

(All India Association of Engineering Construction Contractors)

Cochin Centre : 38/1870 A, Builder's Chamber, Gandhi Nagar, (Next to SIDCO), Kochi 682 020

Phone : 0484 2205928 Web: www.baicochin.com E-mail: baikochi@gmail.com

Chairman
Er. George Mathew Palal
9446367119

Hon. Secretary
Er. Joseph George M
9446073513

Hon. Treasurer
Shri. Vivek Krishnamoorthy
9895733311

Office Bearers:

Vice Chairman
Dr. Anil Joseph
Joint Secretary
Er. Joseph George
Immediate Past Chairman
Er. Sunil Kumar S

Executive Committee Members:

Er. Gibu P. Mathew
Shri. T.I. George
Er. Saji Cherian
Er. Joe Mathew
Shri. Manesh K.
Er. Anil P Elias
Er. Sabeen Purushothaman
Shri. Sany Francis
Shri. Varghese Jose
Shri. Mathew Isaac
Er. Raju M. Itty
Shri. Denoop A. R.
Er. Viju Abraham
Er. Anit Abraham Antony
Er. Shifas E. Abdul Salam

MC/GC Members:

Shri. B. Chandra Mohanan
Er. Jolly Varghese
Shri. Mijulal P.

Honorary Members:

Shri. Cherian Varkey
Er. Fazal Ali
Er. K Lava
Shri. V.S.K. Moorthy
Shri. Sumit Goyal
Er. Santhosh Sebastian
Shri. Prince Joseph
Er. Zachariah Abraham
Er. M. M. Mohandas
Er. Manoj Mathew
Shri. C.K.S. Panicker
Er. Jolly Varghese

Labour Relations Committee:

Chairman
Shri. B. Chandra Mohanan
Members:
Er. M.V. Antony
Er. Savad K. Muhammed
Shri. Mijulal. P
Shri. Praveen Mathew

Special Invitees:

Shri. P.T. Joseph
Er. Anil K Viswambaran
Er. Anil Varma

To,

28.12.2024

The Regional Provident Fund Commissioner,
Sub Regional Office, 36/685, Bhavishyanidhi Bhavan,
Kaloar, Kochi- 682017.

Sir,

Sub: Employees' Provident Fund Scheme (EPF) Vs. Building & Other
Construction Workers (Regulation of Employment &
Conditions of Service) Act, 1996 (BOCW Act)

Ref: 1. Judgement of the Hon'ble High Court of Kerala in WP No.
1807/2016 filed by M/s. Veegaland Developers Pvt. Ltd.,
2. Letter No. VD/202/11/24-25 dated 23rd November, 2024
from M/s. Veegaland Developers Pvt. Ltd.

With reference to the Judgement mentioned 1st above, we are submitting below
owe opinion in the matter.

As your goodself may also be aware, the Builders Association of India (BAI) is the
apex Trade body of the Construction Industry in India, having more than 230 Centres
all over India and with its head office at Mumbai. We are an Association formed in
1941 and we represent Construction Industry in India. We are represented in
several statutory and Government bodies concerning the construction sector under
Central and various State Government levels. In Kerala, we have 19 Centre with a
total membership of more that 1500 leading construction firms in Kerala.

In connection with the case under reference, our well-considered opinion in the
matter is that the benefits under BOCW Act is far better than the benefits under EPF
as far as the construction workers are concerned, due to the following facts.

1. Under the BOCW Act, all the benefits under the scheme are available to the
member workers at a meagre contribution of only Rs. 50/- per month where
as under EPF, the workers have to shell out around 12% of their wages
earned per month.
2. We understand that the following benefits are available to each member
construction workers under the BOCW Act viz:
 - a. Pension @ Rs. 1600/- per month after retirement at the age of 60 years.
 - b. Family pension and invalid pension



Builders' Association of India

(All India Association of Engineering Construction Contractors)

Cochin Centre : 38/1870 A, Builder's Chamber, Gandhi Nagar, (Next to SIDCO), Kochi 682 020

Phone : 0484 2205928 Web: www.baicochin.com E-mail: baikochi@gmail.com

Chairman
Er. George Mathew Palal
9446367119

Hon. Secretary
Er. Joseph George M
9446073513

Hon. Treasurer
Shri. Vivek Krishnamoorthy
9895733311

Office Bearers:

Vice Chairman

Dr. Anil Joseph

Joint Secretary

Er. Joseph George

Immediate Past Chairman

Er. Sunil Kumar S

Executive Committee Members:

Er. Gibu P. Mathew

Shri. T.I. George

Er. Saji Cherian

Er. Joe Mathew

Shri. Manesh K.

Er. Anil P Elias

Er. Sabeen Purushothaman

Shri. Sany Francis

Shri. Varghese Jose

Shri. Mathew Isaac

Er. Raju M. Itty

Shri. Denoop A. R.

Er. Viju Abraham

Er. Anit Abraham Antony

Er. Shifas E. Abdul Salam

MC/GC Members:

Shri. B. Chandra Mohanan

Er. Jolly Varghese

Shri. Mijulal P.

Honorary Members:

Shri. Cherian Varkey

Er. Fazal Ali

Er. K Lava

Shri. V.S.K. Moorthy

Shri. Sumit Goyal

Er. Santhosh Sebastian

Shri. Prince Joseph

Er. Zachariah Abraham

Er. M. M. Mohandas

Er. Manoj Mathew

Shri. C.K.S. Panicker

Er. Jolly Varghese

Labour Relations Committee:

Chairman

Shri. B. Chandra Mohanan

Members:

Er. M.V. Antony

Er. Savad K. Muhammed

Shri. Mijulal. P

Shri. Praveen Mathew

Special Invitees:

Shri. P.T. Joseph

Er. Anil K Viswambaran

Er. Anil Varma

- c. Financial Assistance for higher education and coaching for admission for professional education of their children, cash Awards for SSLC toppers etc.
- d. Financial Assistance for the marriage of their girl children
- e. Maternity Benefits for woman workers
- f. Treatment assistance for fatal illness, accidents etc.

- g. Disability benefits.
- h. Accidental death and other death benefit.
- i. Lifelong accommodation and care with food and treatment in "Snehasadanam".

In contrast, the EPF provides only pension and family pension. All other disbursements are from their own savings including the contribution of the employer and **NOT** a 'benefit' as in the case BOCW Act.

3. The BOCW Act does not discriminate between the workers based on their earnings, whereas under EPF, a worker who earns more than Rs. 15000/- per month are not eligible to become a new member under EPF.
4. It may please be noted that all the benefits are made available to the member worker under BOCW Act from the contribution of 1% of the cost of construction by the employers and the collection from the workers are only a nominal fee of Rs. 50/- per month. Hence practically, all the benefits are given free whereas the workers have to shell out a huge amount from their real earnings for availing the benefits under EPF.

Under the circumstances, our considered opinion is that, the benefits under BOCW Act are far more better than the EPF.

Thanking you,

Yours faithfully,

For Builders' Association of India (Cochin Centre),

George Mathew Palal.
Chairman.

M/s. Veegaland Developers Pvt Ltd. for information and necessary action please.



**BEFORE THE REGIONAL PROVIDENT FUND
COMMISSIONER, KOCHI**

18/11/24

In the matter of judgment of the Honourable High Court of Kerala in
WP(C) No. 1807/2016

**STATEMENT FILED ON BEHALF OF VEEGALAND
DEVELOPERS PRIVATE LIMITED**

1. The Building and other Construction Workers (Regulation of Employment and Conditions of Service) Act 1996 (hereinafter referred to as the 'Act') is a special enactment applicable to building and other construction workers, intended for regulating their safety, health, welfare and other conditions of service. The Act envisages compulsory registration of establishments and building workers. Section 24 of the Act envisages creation of building and other construction workers welfare fund. The Act mandates providing drinking water, latrines and urinals, accommodation, crèches, first aid, canteen, etc. in places where construction work is in progress. The Act also provides for making Rules for safety and health of building workers.

2. By virtue of Building and other Construction Workers Welfare Cess Act 1996 an amount of not exceeding 2% but not less than 1% of the cost of construction incurred by the employer is to be remitted as cess for the purpose of Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act 1996.

3. In terms of the power conferred by the Act, the State of Kerala has made the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Kerala Rules 1998. The Rule provide for various benefits which includes maternity benefit (Rule 288), Pension (Rule 289), advance for purchase or construction of house (Rule 291), disability pension (Rule 292), loan for purchase

of tools (Rule 293), funeral assistance (Rule 294), death benefit (Rule 295), accident benefit (Rule 295A), cash award (Rule 296), educational institution (Rule 297), Medical assistance (Rule 298), financial assistance for education (Rule 299), financial assistance for marriage (Rule 300), family pension (Rule 301), etc.

4. It is submitted that the benefits as above are far better than the benefits under the Employees Provident Fund Scheme. It is also to be noted that a building or other construction worker is normally employed under different employers for short terms and contribution as envisaged under the EPF & MP Act 1952 will amount to only a meager accumulation which will not be of any succor to the workers vis a vis the benefits envisaged under the scheme. As per the EPF Scheme, there is no advance/financial assistance for maternity benefit. The members can avail only advances which will be proportionate to the contribution made to the fund. Similarly advances from the accumulated fund is provided as marriage assistance, treatment assistance, for repayment of loan, etc. The pension payable under the Pension Scheme also depends on the contribution made to the fund since only employer's contribution under Section 6 of the Act not exceeding 8 and 1/3% of the basic wages, dearness allowance of the concerned employee goes to the pension fund. A construction/building worker whose employment is confined across an industry which does not guarantee even 180 days' work in a calendar year will not be able to contribute much to the provident fund or the pension fund. None of the Schemes under the EPF & MP Act provide for payment of benefit other than from a contributor's fund. Or in other words, the entitlement under the Scheme is always proportional

to the contribution made since what is envisaged is only an advance from the accumulated fund in an employee's name. The payments are all advances and not as one time measure. Even the payment of death benefit under the employee's deposit linked insurance scheme is linked to the period of service and the contribution received.

5. It is reiterated that the benefits under the building and other construction workers (Regulation of Employment and Conditions of Service) Rules which has no nexus to the contribution made by the worker or the employer are better benefits when compared to the benefits that a worker would receive under the EPF & MP Act 1952 and the Schemes thereunder which are totally depended on the contribution made to the fund.

6. In the above circumstances, it may be held that the benefits available to construction worker under the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act 1996 and the Rules framed thereunder are better benefits than those available under the EPF & Act 1952 and the Schemes framed thereunder.

Dated this the 18th day of November 2024.



For Veegaland Developers Private Limited

Director-Marketing & Administration

For VEEGALAND DEVELOPERS PVT. LTD.

21/11/24

**BEFORE THE REGIONAL PROVIDENT FUND COMMISSIONER,
EMPLOYEES PROVIDENT FUND ORGANIZATION, KOCHI**

IN THE MATTER OF JUDGMENT OF THE HONOURABLE HIGH
COURT OF KERALA IN WP (C) NO. 1807 OF 2016

**ADDITIONAL STATEMENT FILED ON BEHALF OF VEEGALAND
DEVELOPERS PRIVATE LIMITED**

1. The Honourable High Court by its judgment in WP (C) No. 1807/2016 has specifically directed this Honourable Authority to examine whether the provisions of the Act 1996 read with the Rules framed by the State Government are more beneficial than the EPF Scheme. The Honourable Court has also referred Section 63 of the Act 1996.
2. It is submitted that under the Building and Other Construction Workers Welfare Cess Act, an amount of not less than 1% of the cost of construction incurred by the employer is to be remitted as a cess which is distributed to the members of Act 1996. The owner of a constructed building need to produce the payment receipt of Workers Welfare Cess before concerned local authority for getting Occupancy Certificate and Building number. The funds are being accumulated under the fund maintained by the authority under the Cess Act and an amount of Rs. 1600/- is paid as pension every month. No minimum service has been fixed under the Act for receiving pension under the Act 1996. In the event of death of the pensioner, the family pension is paid to the spouse, @ of Rs. 800/- per month. The members have to pay only an amount of Rs. 50/- per month for being members under the Act 1996. Therefore, it

is a fact that the funds under the Act 1996 is 1% cess remitted by the employer and hence Act 1996 is more beneficial than Act 1952.

3. It is submitted that the establishment Veegaland Developers Private Limited do not directly engage any workers and has no direct relationship with trade unions. We have given contract for construction of the buildings/structures to the contractors. The establishment also does not have any Unions to represent the workers. Therefore we are not in a position to make available any union representatives before this Honourable Authority as directed in the proceedings. The Officers under the Building and other Construction Workers' Welfare Board would be more competent to make available the presence of the union leaders.
4. It is submitted that the recordings in the proceedings dated 18/11/2024 to the effect that the counsel for the Veegaland submitted that if the monthly wage exceeds Rs. 15,000/-, then the construction workers would neither be covered by EPF schemes or the BOC Schemes is not correct. The submission was that the BOC Act was more beneficial since the monthly wages of the workers was above the ceiling limit prescribed under the Act 1952 and therefore they would be excluded employees under the said Act. Since BOC does not prescribe any ceiling limit for wages, the construction workers would be getting a monthly pension of Rs. 1,600/- presently and in the alternative they will not be eligible and entitled for any pension under the Act 1952.
5. It is submitted that for a proper adjudication with respect to the above subject matter, it is suggested that this Honourable Authority be pleased to summon representatives of Contractors Association on behalf of all

contractors undertaking works in Kerala since they are also the main stake holder.

6. It is further submitted that recognized trade unions in the State are also a necessary stakeholders in the above enquiry and it is respectfully requested that the authority be pleased to summon the leaders of the major Trade unions in the State. We also suggest that this Honourable Authority be pleased to conduct an empirical study of the beneficial effects of Cess Act & PF Act directly with the beneficiaries (Workers) and their families to determine which one is best for them. The sample size should be larger and study shall be conducted in all districts - both in rural and urban areas in order to get feedback from unorganised workers in rural areas.
7. A comparative study of BOC (Act 1996) and EPF & MP Act 1952 would substantiate that with respect to the construction workers, the Act 1996 is more beneficial since the construction workers in the unorganised sectors and in those establishments where less than 20 employees are employed are also eligible to receive pension and other benefits. A comparison of both Acts would convincingly prove the fact that Act 1996 is more beneficial for the Construction workers in the State of Kerala.

Dated this the 21st day of November 2024.



For VEEGALAND DEVELOPERS PVT. LTD.

For Veegaland Developers Private Limited

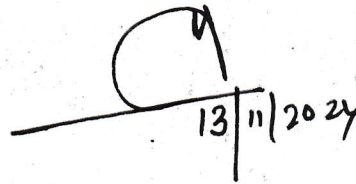
Director-Marketing & Administration

No. KR/KCH/COMP/SQUAD/2024-25

Dated: 13.11.2024

To

The Regional Provident Fund Commissioner I
EPFO Regional Office
Bhavishyanidhi Bhavan
Kochi - 682017



Respected Sir,

Sub: Hearing in r/o WPC 1807/2016 - Comparison of EPF & MP Act 1952 with Kerala
Construction and Other Workers Welfare Act - reg

Reference: Minutes of the meeting dated 08.11.2024

Further to the reference cited above, based on the records available, the following arguments are presented before the Hon. Court, while comparing the EPF & MP Act 1952 with Kerala Construction and Other Workers Welfare Act.

Basis of Eligibility to become member of the fund

Kerala Building and Other Construction Workers Welfare Fund	Employees Provident Funds and Miscellaneous Provisions Act 1952
- Any person who has completed 18 yrs, of age and has not completed 55 yrs of age on the date of submission of application. As per the Act its 60 yrs but the board is not accepting membership after 55 years. - The person should be engaged in building / any other construction work at least 90 days in the last 12 months and should not be a member of any other welfare fund scheme established under any law for time being in force. - A construction worker shall cease to be a member when he is not engaged in construction work for not less than ninety days in a year, until unless the Chief Executive Officer is convinced that there are sufficient reasons for	- For becoming/ continuing as a member of the Employee Provident Fund Scheme 1952 there is no age limit provided the person is working in any establishment covered under EPF & MP Act 1952. Any person who has not completed 58 yrs of age is eligible to become/ continue as a member of Employee Pension Scheme 1995. - Any person who is working in the establishment/ working in connection with the establishment either directly or through a contractor is eligible. - Any person can continue to be a member of EPF & EPS until the date of exit is marked by the employer. The period for which the employee did not work will be updated as Non

this non engagement in work.	Contributory Days
------------------------------	-------------------

Contribution to the fund

Kerala Building and Other Construction Workers Welfare Fund	Employees Provident Funds and Miscellaneous Provisions Act 1952
- Beneficiary of the fund shall contribute to the fund at a rate of Rs. 20 per month. This contribution has to be made in advance once in three months in any of the banks specified by the board. - If the beneficiary commits default in payment of contribution for a period of one year, he shall cease to be a beneficiary of the fund. But with the permission of the secretary / officer authorised by the secretary of the board, the membership may be resumed on repayment of arrear of contribution with a fine of Rs. 2/ month. - Resumption of membership as mentioned above is not permitted more than twice. - The establishments covered under the Act are remitting 1% building cess which is added to the corpus of the fund.	- Contribution as per the act is 12% of the Basic Salary + DA from both employee and employer. While employee share will be remitted to Provident Fund in totality, from the employer share, 8.33 % will be remitted to the Pension Fund and 3.67 % will be remitted to the Provident Fund. - The membership under the Act will not be terminated because of non remittance of contribution. The break in service will be updated as Non Contributory Period. - No advance payment of contribution is required under the Act. The EPF dues as per the salary for any given month needs to be remitted on or before 15th of the next calendar month.

Comparison of benefits provided to the members

Kerala Building and Other Construction Workers Welfare Fund	Employees Provident Funds and Miscellaneous Provisions Act 1952
<i>Details of Assistance Provided</i>	
<i>Maternity Benefit</i> : To the female workers, during child birth/ Maternity financial	Under the EPF Scheme, there is no advance / financial assistance for Maternity Benefit.

assistance of Rs. 15000/ three months wages (whichever is less) has been provided. This can be availed for a maximum of two times. The beneficiary should be an active member of the board for a period of 1 year. To avail the facility the application has to be submitted within 90 days, along with birth certificate and associated documents.	However the members can avail advances for illness under Para 68J of the Scheme.
<i>Marriage Assistance</i> : Assistance provided for the marriage of the member/ children of the member. Their should be membership in the fund for last 1 year in case of member's marriage/ for last 3 years in case of member's children marriage. Financial assistance of Rs. 10000 provided for own marriage/ marriage of two children. If marriage happens between two members of the fund, then both members are eligible to avail the benefit. Application should be submitted within 90 days of marriage with the Marriage Certificate.	<i>Marriage Assistance</i> : Non Refundable Advance is permitted from Provident Fund for the marriage of the member/ son, daughter, sister, brother of the member. An amount not exceeding 50 % of the member's PF share with interest can be sanctioned as advance for marriages. For availing this facility, the person should have been enrolled under the Scheme for a minimum period of 7 years and the advance can be taken for a maximum of 3 times.
<i>Post Death Financial Assistance</i> : The post death financial assistance released to the nominee of the expired person. An amount of Rs. 50000/- will be released in case of death of a member of the fund and Rs. 3000 in case of death of a pensioner. The certificate from the Village Officer confirming the marital status of the expired member is required. The application should be submitted within 90 days of death of the member.	<i>Employees Deposit Linked Insurance Scheme 1976</i> : Any person who is a member of the fund at the time of death is eligible to avail the Insurance benefit. The death should happen when the employee is in service – his EPF contribution should have been remitted continuously till date of death/ his name is included in the muster roll of the establishment. Even though the death happens outside the establishment / for reasons not related to employment, the person will be eligible to avail EDLI benefit. The assistance released is Rs. 2.50 Lakhs to Rs. 7.00 Lakhs based on the wages, period of service and contribution received.
<i>Accident Death Assistance</i> : If the member expires while in service – meaning death happens in the work place during the course of employment – the legal heirs/ nominees will be entitled to receive an amount of Rs. 4 Lakhs. The verification by the District Executive Officer is necessary to certify the same. Here also application has to be	<i>Death While in Service Pension</i> is released to the wards of the member who expired while in service. It is released to the spouse/

submitted within 90 days of death including all supportive documents. If death of the member happens during travel to/from the work place it will not be considered as an eligible case <i>Consolation financial assistance</i> : If any member expires while in service, the spouse/ minor children/ mother will be entitled to receive consolation assistance of Rs. 1200 / month. This benefit is released only to women/ minor nominees (upto 18 yrs of age) . In case of members who are having less than 1 yr service, the report of District Executive Officer is necessary.	children upto the age of 25 yrs. The minimum pension amount is Rs. 1000 /- and it will vary based on wages and pensionable service.
<i>Treatment Assistance</i> : Treatment Assistance is provided in three circumstances – Normal Treatment, Accident Treatment, Serious ailment treatment. To avail the Normal treatment assistance, the member should have been admitted to the hospital for atleast 5 days. After verification financial assistance of Rs. 800 for first 5 days and Rs. 150/ day will be provided for a maximum of Rs. 5000 Accident Treatment Assistance is provided irrespective of the period of service of the member. The person should avail treatment – in patient/ out patient - in Govt Hospital/ Board approved Private Hospital for more than 5 days. The assistance provided is Rs. 1500 for first day and Rs. 200/ day subsequently. The maximum assistance provided is Rs. 20000 /-	<i>Treatment Assistance</i> : Non Refundable Advance is permitted from Provident Fund for the illness purpose under Para 68J of EPF Scheme 1952. The advance can be availed for treatment of self/ family members. The amount of advance should not exceed the members basic wages for 6 months and his on share of contribution with Interest. The advance can be availed multiple times.
<i>Details of other assistance provided</i>	
• Santhawanam Benefit : Rs. 1600 / month • Financial Assistance for higher education : Rs. 1000 /- to Rs. 3000 /-	• Under Para 68B and Para 68BC, Para 68BD of EPF Scheme 1952 Advance for purchase of dwelling house/flat/construction of house. Amount upto 90% of balance in PF

• SSLC Cash Award : Rs. 3000 /- • SSLC Cash Assistance : Rs. 1000 /- • Financial Assistance for coaching for professional courses : Rs. 5000 /- • Snehasadanam : Life long care • Eye Operation, Chicken Pox, Rabbits and Snake Bite : Rs. 4000 /-	can be taken as non refundable Advance • Under Para 68BB of EPF Scheme 1952 withdrawal from the Fund for repayment of loans in special cases. • Under Para 68H of the Scheme advance granted for lock down of factory and retrenchment of employees • Under Para 68HH of the Scheme advance granted for unemployment for a period of not less than one month. • Under Para 68L advance is granted for mitigation of calamities of exceptional nature like floods, earth quake and riots • Under Para 68M advance is granted to members affected by cut in electricity • Under Para 68N advance is granted to members who are physically handicapped • Under Para 68NN withdrawal is permitted within one year before retirement • Under Para 68NNN Option for withdrawal at the age of 55 years for investment in Varishtha Pension Bhima Yojana
--	--

Details of Pension Provided

Member Pension ; Member Pension can be availed on completion of **60 yrs** of age. For availing pension, the contribution should be paid for all months (without any arrear remaining) from date of joining till date of retirement. Pension amount is Rs. 1600 /

Member Pension : The member pension can be availed from **58 yrs** of age. The member should have contributed to the fund for at least 9 yrs and 6 months for availing pension. Monthly pension amount will be varying based on the years of service and

month and will be sanctioned from the very next month of completing 60 yrs. If there is break in contribution for more than two times, then it should be backed by the Government Order.

Family Pension : Can be availed by the spouse after the death of the pensioner. The amount will be half of the member pension. The application for family pension should be submitted within 45 days of death of the pensioner along with death certificate and other supportive documents.

Disability Pension : Members who are disabled permanently because of disease/accident can avail monthly pension of Rs. 1200. The applicant should be permanently disabled for more than 50 % and should be certified by a medical board. Ex gratia benefit upto Rs. 5000 /- If an applicant for disability pension expired while in service/ while his application is under process, the nominee can enjoy the pension

pensionable salary. The discontinuity in service is accepted and that will be accounted as Non Contributory Period / Break in Service. Minimum monthly pension amount is Rs. 1000 /-

Family Pension : For Spouse of the expired member, 50 percentage of the member pension is provided. There is no prescribed time limit for submission of application. Minimum pension amount is Rs. 450 /-.

Disability Pension : Minimum Pension is Rs. 250 / month and it varies depending on the service. Even if one month contribution made to pension fund, the member gets eligibility for disability pension. The member applying for benefits shall be required to undergo medical examination as prescribed by the Central Board regarding whether he/ she is permanently / totally unfit for employment which he/she was doing at the time of such disablement.

Enforcement Mechanism under the Acts

Kerala Building and Other Construction Workers Welfare Fund	Employees Provident Funds and Miscellaneous Provisions Act 1952
- The enforcement mechanism as per this Act is under the jurisdiction of the Labour Commissioner, who is entrusted with the implementation of other labour laws as well. Hence dedicated/ specialised compliance machinery is not available as per the Act. - The Chief Inspectors and Inspectors appointed under the Act are entrusted with the enforcement of the Act. The	- The enforcement mechanism is undertaken by the EPFO itself through the dedicated compliance wing manned with Officers and Officials in Head Office and Field Offices. Here dedicated and specialised compliance wing is available - The Enforcement Officers appointed under the Act (as per Sec. 13) are entrusted with the field level

can inspect the premises of construction site, obtain the records, initiate the prosecution, issue prohibition order among others.	inspection and other compliance measures under the Act. Comprehensive and coherent enforcement mechanism under EPF & MP Act 1952 is available within EPF Organisation.
--	---

Service Delivery under the Acts

Kerala Building and Other Construction Workers Welfare Fund	Employees Provident Funds and Miscellaneous Provisions Act 1952
The service delivery is still in offline mode and the beneficiaries need to submit the applications in prescribed format to the concerned District Welfare Boards.	- EPFO Online Member Portal enables various online transactions, including balance inquiries, claim submissions, and PF transfers. - Employer Portal simplifies the process of EPF contributions and returns filing. - EPFO Field Offices offer guidance on EPFO procedures, regulations, and claims processes. - Prayass Scheme has been implemented wherein PPO issued to eligible members in the month of retirement itself. - Jeevan Pramaan – Digital Life Certificate can be taken for yearly renewal of Pension. This can be done using ‘Faceapp’ also.

Grievance redressal mechanisms under the Acts

Kerala Building and Other Construction Workers Welfare Fund	Employees Provident Funds and Miscellaneous Provisions Act 1952
---	---

• Members have to physically visit the concerned District Welfare Board Office to file their grievances.	• EPFO has established various grievance redressal systems, such as EPFIGMS, outreach programs like NAN 1.0, NAN 2.0 and Pensioner's Adalat among others. EPFO also addresses complaints submitted via grievance portal like CPGRAMS, Nava Kerala Sadassu among others. • EPFO Field Offices have a dedicated PRO team to address member concerns, which are also linked to Common Service Centres for the convenience of the members. • The business whatsapp number and e mail is also available for the aggrieved persons to raise their problems. The grievances raised here are also attended in a time bound manner.
--	--

The benefits provided to the employees under the Kerala Building and Other Construction Workers Welfare Fund and EPF & MP Act 1952 has been described above. In addition to the aspects discussed, two very important points are worth mentioning:-

1. The Provident Fund account of the member ensures Social Security during all the contingencies and satisfying needs like Shelter (in ways like helping purchase of site/ construction of house, addition or alteration of the house among others) , Higher Education of children/ self, Illness, Retirement among others. The money deposited in PF account is provided with Interest (Declared by the Board on yearly basis and at present its 8.25 %) and the deposited amount along with cumulative interest is given to the member at the time of final settlement. Provident Fund is actually a safety net not just for the member but for the future generation as well.
2. Even though monthly member pension is provided, the latest media reports suggest that the monthly pension under Kerala Building and Other Construction Workers Welfare Fund **has been stopped for more than 1 year** and its because of the financial constraints. On the other hand EPS pension **has never been stopped** for the eligible members.
3. The beneficiaries under EPF Act has been provided with Unified Account Number (UAN) and transfer of service from one establishment to another is possible here. The

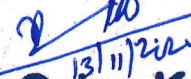
act is enforced throughout India and hence its more easier for workers, especially migrant workers.

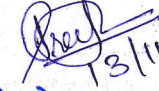
Analysing the above information, it can be concluded that benefits provided to the members under EPF & MP Act 1952 are stable, comprehensive and sustainable for the future.

Thanking You

Yours Faithfully


स्टीव जोस STEVEN JOSE
प्रवर्तन अधिकारी Enforcement Officer
कर्मचारी भविष्य निधि संगठन, क्षेत्रीय कार्यालय
Employees' Provident Fund Organisation, Regional Office
कोच्चि -17 Kochi - 17


साजन के.पी. Sajan K.P.
प्रवर्तन अधिकारी Enforcement Officer
कर्मचारी भविष्य निधि संगठन, क्षेत्रीय कार्यालय
Employees' Provident Fund Organisation, Regional Office
कलूर, कोच्चि -17, Kaloor, Kochi - 17

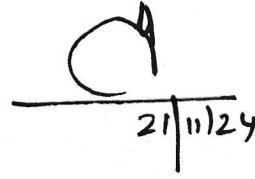

प्रीतु टी.जे. PREETHU T.J.
लेखा अधिकारी Accounts Officer
कर्मचारी भविष्य निधि संगठन, क्षेत्रीय कार्यालय
Employees' Provident Fund Organisation, Regional Office
कलूर, कोच्चि -17, Kaloor, Kochi - 17

No. KR/KCH/COMP/SQUAD/2024-25

Dated: 21.11.2024

To

The Regional Provident Fund Commissioner I
EPFO Regional Office
Bhavishyanidhi Bhavan
Kochi - 682017



Respected Sir,

Sub: Hearing in r/o WPC 1807/2016 - Comparison of EPF & MP Act 1952 with Kerala
Construction and Other Workers Welfare Act - reg

Reference: Records of the hearing dated 18.11.2024

Further to the reference cited above the following arguments are presented before the Hon. Court in response to arguments presented by the Learned Counsel of M/s Veegaland Developers Pvt Ltd

In respect of contribution to the fund

Learned Counsel of M/s Veegaland Developers Pvt Ltd	Representative of EPFO
The contribution to be made to the Building and Other Construction Workers Welfare Fund is lesser as compared to EPF & MP Act 1952. Only Rs. 50 / month may be remitted to the fund by the members as compared to 12 % of the wages which needs to be remitted by the member under EPF & MP Act 1952. Also building cess is collected at a rate of 1% of cost of construction incurred by the employer.	While employee share of contribution to EPF is 12 % of the PF wage, it may also be noted that EPFO is paying interest to the members for the PF contributions. The interest is declared every year and its always higher than the term deposit interest rate prevailing in the market. Currently its 8.25 % and by virtue of the compounding effect, returns will be always higher than term deposits. This amount can be withdrawn at the time of final settlement. In case of Building and Other Construction Workers Welfare Fund, even though the sum total of amount remitted by the member is returned, no interest is being paid.

In respect of member pension

Learned Counsel of M/s Veegaland Developers Pvt Ltd	Representative of EPFO
--	------------------------

Under the Building and Other Construction Workers Welfare Act, workers can avail pension on completion of 60 years of age and just 90 days of work is enough to avail the pension. Pension amount is Rs. 1600 / month	Under EPS Scheme 1995, the pension amount is calculated based on the pensionable service and pensionable salary. People with more years of service and pensionable salary will get greater pension amount. That is the meritorious service by an employee is rewarded in EPS Scheme. Also the pension contribution is made only by the employer and not by the employee. Also pension can be availed at 58 years of age and if there is any break in service/ non contributory period it can be deducted from total service. On the other hand under the Building and Other Construction Workers Welfare Act, if there is a break in service for more than two occasions, the member will lose eligibility to continue in the fund. Also one year of active membership is required for any person to receive pension under the Building and Other Construction Workers Welfare Act
---	--

In respect of employee deposit linked insurance scheme

Learned Counsel of M/s Veegaland Developers Pvt Ltd	Representative of EPFO
Payment of death benefit under Employee Deposit Linked Insurance Scheme is linked to the period of service and the contribution received.	For the payment of EDLI benefit, member need not make any contribution and only the employer need to make the remittance. Minimum amount payable is Rs. 2.5 Lakhs and maximum amount payable is Rs. 7.00 Lakhs. Even a person is having one day service, if he is a member of the fund and expired while in service, the claimants are entitled to receive EDLI benefit and EPS pension also may be availed by eligible claimants.

In respect of various other benefits

Learned Counsel of M/s Veegaland	Representative of EPFO
----------------------------------	------------------------

Developers Pvt Ltd	
The rule provides for various benefits including maternity benefit, advance for purchase/ construction of house, disability pension, loan for purchase of tools, funeral assistance, death benefit, accident benefit, cash award, financial assistance for education, marriage, family pension etc	Family pension, disability pension, children pension and orphan pension are available under the EPS Scheme 1995. Various non refundable advances can be availed from EPF under para 68 of the scheme. Advances for illness can be availed multiple times and for marriage / higher education can be availed three times.

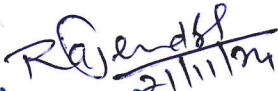
The following points are also brought to the kind attention of the Hon. Court

1. The service delivery as well as enforcement of EPF Act is undertaken by EPF Organisation. This ensures seamless flow of information, more comprehensive coverage and one stop solution for all the grievances. On the other hand in case of Kerala Building and Other Construction Workers Welfare Act, the service delivery is undertaken by the Welfare Board and enforcement of the act is under the jurisdiction of the Labour Department.
2. The workers who are interested to become the member of the welfare act will be paying the monthly contribution of Rs. 50 to the board. This is a voluntary exercise and it may not result in universal coverage of all eligible workers. On the other hand in EPF & MP Act 1952, the eligible workers has to be mandatorily enrolled under the Act and contribution of all such workers shall be remitted by the employer by filing of ECR.

Reported for the kind information.

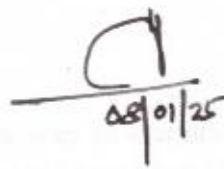
Thanking You

Yours Faithfully


राजेन्द्र कुमार मीना Rajendra Kumar Meena
लेखा अधिकारी Accounts Officer
कर्मचारी भविष्य निधि संगठन, क्षेत्रीय कार्यालय
Employees' Provident Fund Organisation, Regional Office
कलुर, कोच्ची -17, Kaloar, Kochi-17


स्टीव जोस STEVE JOSE
प्रवर्तन अधिकारी Enforcement Officer
कर्मचारी भविष्य निधि संगठन, क्षेत्रीय कार्यालय
Employees' Provident Fund Organisation, Regional Office
कोच्ची -17 Kochi-17


प्रीतु टी.जे. PREETHU T.J.
लेखा अधिकारी Accounts Officer
कर्मचारी भविष्य निधि संगठन, क्षेत्रीय कार्यालय
Employees' Provident Fund Organisation, Regional Office
कलुर, कोच्ची -17, Kaloar, Kochi-17



No. KR/KCH/COMP/SQUAD/2024-25

Dated: 08.01.2025

To

The Regional Provident Fund Commissioner I
EPFO Regional Office
Bhavishyanidhi Bhavan
Kochi - 682017

Respected Sir,

Sub: Hearing in r/o WPC 1807/2016 - Comparison of EPF & MP Act 1952 with Kerala
Construction and Other Workers Welfare Act - reg

Reference: Daily Order dated 19.12.2024

Further to the reference cited above, the following arguments are presented before the Hon. Court, as a single document, incorporating the abstract of arguments presented till date.

1. **Eligibility to become member of the fund** : - There is no minimum age for enrolling under the EPF Act 1952. Any person working in the establishment / in connection with the establishment/ through contractor is eligible to become member of the fund. On the other hand under the BOC act, a person between 18 to 58 yrs of age are only eligible to become a beneficiary.
2. **Enrolment in the Fund** : The member need to voluntarily make contribution under the BOC act. However under EPF Act 1952, the enrolment of member is the responsibility of the employer and Enforcement wing of EPFO will ensure the same. Hence possibility of non enrolment of eligible workers is much less under EPF Act 1952.
3. **Contribution to the fund** : Under the EPF & MP Act 1952, contribution is 12% of the Basic Salary + DA from both employee and employer. While employee share will be remitted to Provident Fund in totality, from the employer share, 8.33 % will be remitted to the Pension Fund and 3.67 % will be remitted to the Provident Fund. If at all there is a period of non remittance it will be updated as NCP. In BOC act beneficiary need to contribute only Rs. 20/ month but if there is non contributory period then beneficiary will lose the membership and it can be resumed only twice throughout the career.
4. **Assistance provided to the members** : The assistances under EPF & MP Act included advances under Para 68 of the EPF Scheme 1952. The amount is sanctioned from the member's corpus and the volume of advance sanctioned is higher. For example advance sanctioned for construction of house.

5. **Assistance to members in case of death while in service** : Under EDLI Scheme 1976 the financial assistance (ranging between Rs. 2.5 Lakhs and Rs. 7.00 Lakhs) has been provided as lump sum to the wards of the expired member and pension will also be sanctioned to the eligible claimants. This is done irrespective of the period of service of the member. Under the BOC Act accident death assistance is Rs. 4.00 Lakhs and assistance for normal death while in service is Rs. 50000 /-
6. **Pension disbursement details** : Under EPS Scheme 1995, the member pension can be availed from 58 yrs of age. The member should have contributed to the fund for at least 9 yrs and 6 months for availing pension. Monthly pension amount will be varying based on the years of service and pensionable salary. The discontinuity in service is accepted and that will be accounted as Non Contributory Period / Break in Service. Minimum monthly pension amount is Rs. 1000 /- In addition the EPF Act provides for family pension, children pension, disability pension and orphan pension. Under the BOC act member pension provided at the age of 60 yrs and a fixed pension of Rs. 1600 /- is provided irrespective of the years of service/ salary.
7. **Enforcement mechanism** : The EPFO is the singular agency involved in the implementation of the Act. This includes the service delivery and enforcement , of act provisions. On the other hand under the BOC act, enforcement is under the jurisdiction of Labour Commissioner while service delivery is under Kerala Construction and Other Workers Welfare Board.
8. **Service delivery channels and grievance redressal mechanisms** : Under EPF multiple channels like online member portal, employer portal, Jeevan Pramaan app, field offices among others. For grievance redressal online portal like EPFiGMS & CPGRAM, monthly outreach programme called NAN, e mail, business whatsapp number and a PRO is available in every field offices. On the other hand under the BOC act the service delivery is largely through the offline mode, in person visit to field offices.
9. **Exclusive nature of the fund collected and investment pattern followed** : Under the EPF and MP Act 1952, the contribution collected from members are getting accrued in the corpus fund. This fund is invested by EPFO, taking professional advice, following the investment pattern prescribed by the Government. This will ensure that the corpus fund will grow over a period of time and also the fund is never diverted for any other purpose. On the other hand under BOC act, no information about the investment of corpus amount is available. Its also not clear if the cess collected has been used for other purposes or not.
10. **Total number of pensioners serviced** : Total number of pensioners serviced by the Kerala Construction and Other Workers Welfare Board is 3.8 Lakhs all over Kerala. On the other hand EPF Regional Office Kochi (having jurisdiction over Ernakulam, Alappuzha and Thrissur districts) alone process monthly pension of more than 12 Lakh pensioners.

11. **Incident of non disbursal of pension** : There has been no incidence of stoppage of pension under the EPS Scheme 1995. On the other hand under the BOC Act, disbursal of pension has been stopped for more than 14 months.
12. **Mobility of workers** : Under EPF, the members are given with Unified Account Number (UAN) which can be transferred from one region to another region. It includes workers from all sectors. So when the member moves to another job, the transfer of proceeds is much easier. Under BOC Act the mobility of workers is not possible as compared to EPFO.
13. The Provident Fund account of the member ensures Social Security during all the contingencies and satisfying needs like Shelter (in ways like helping purchase of site/ construction of house, addition or alteration of the house among others) , Higher Education of children/ self, Illness, Retirement among others. The money deposited in PF account is provided with Interest (Declared by the Board on yearly basis and at present its 8.25 %) and the deposited amount along with cumulative interest is given to the member at the time of final settlement. Provident Fund is actually a safety net not just for the member but for the future generation as well.

Analysing the above information, it can be concluded that benefits provided to the members under EPF & MP Act 1952 are stable, comprehensive and sustainable for the future.

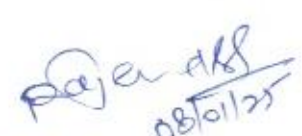
Thanking You

Yours Faithfully


साजन के.पी. Sajjan K.P.
प्रवर्तन अधिकारी Enforcement Officer
कर्मचारी भविष्य निधि संगठन, क्षेत्रीय कार्यालय
Employees' Provident Fund Organisation, Regional Office
कलुर, कोच्ची -17, Kaloor, Kochi - 17


प्रीतु टी.जे. PREETHU T.J.
लेखा अधिकारी Accounts Officer
कर्मचारी भविष्य निधि संगठन, क्षेत्रीय कार्यालय
Employees' Provident Fund Organisation, Regional Office
कलुर, कोच्ची -17, Kaloor, Kochi - 17


स्टीव जोस STEVE JOSE
प्रवर्तन अधिकारी Enforcement Officer
कर्मचारी भविष्य निधि संगठन, क्षेत्रीय कार्यालय
Employees' Provident Fund Organisation, Regional Office
कोच्ची -17 Kochi - 17


राजेन्द्र कुमार मीना Rajendra Kumar Meena
लेखा अधिकारी Accounts Officer
कर्मचारी भविष्य निधि संगठन, क्षेत्रीय कार्यालय
Employees' Provident Fund Organisation, Regional Office
कलुर, कोच्ची -17, Kaloor, Kochi - 17

ANNEXURE 19

Mavoor,
1-12-2024

To,

UTTAM PRAKASH
Regional provident fund Commissioner,
EPFO Kochi.

Ref: Your letter dated 20-11- 2024

Dear Sir,

First of all I am sorry for the delay of my openion

I have made an enquiry of the subject matter.
According to the matter my openion is that it is better
to include all the workers including Contract Workers
under M/S Veegaland Developers Pvt. Ltd. in EPFO.
Please try to include contract works of other institutions
also.

Thanking You,

M. Dharmajan
Sreejyothi,
Mavoor

Re: Request for views on compliance with Hon'ble High Court Judgment in WP (C) No 1807 of 2016-reg

From : skymoorthy@yahoo.com

Thu, Dec 19, 2024 11:47 AM

Subject : Re: Request for views on compliance with Hon'ble High Court Judgment in WP (C) No 1807 of 2016-reg 1 attachment**To :** EPFO Regional Office Kochi <ro.kochi@epfindia.gov.in>**Reply To :** Krishnamoorthy S <skymoorthy@yahoo.com>

Dear sir,
Thanks for the communication.

As we all know EPF Act provides for terminal benefits like withdrawal of accumulations from PF account with interest as on date and pension on the basis of pensionable salary and service . Accumulations will be a substantial amount , the interest on which alone will help the pensioner a much higher amount than Rs.1600/- per month , the pension paid under KBOC Act. The pension amount under EPS will also be a much higher amount as 8.33% of Employers share out of the 12% of wages is being appropriated towards EPS and pensionable salary itself is the average of last 5 years monthly wages. As the pensionable service increases with every year of service , the amount of pension also will be higher.

The other benefits under KBOCW Act stated therein are available under ESIS , Workmen's Compensation Act etc.

The attempt of the establishment is to evade payment of 12% of wages every month and restrict the same to a meagre amount of Rs.50/- per month .

The EPF Act should be enforced whatever be the other excuses contrary. There is absolutely no legal impediment to proceed accordingly after deciding so in line with HC directions.

Regards
S. KRISHNA MOORTHY

[Yahoo Mail: Search, organise, conquer](#)

On Wed, 18 Dec 2024 at 3:06 pm, EPFO Regional Office Kochi <ro.kochi@epfindia.gov.in> wrote:

Madam/Sir

Please find attached the record of hearing held on 13.12.2024 on subject cited. The opinion of Sh M V Antony, Chairman & MD, Kunnel Enng & Contractors P Ltd who is also the employer representative of Kerala Building & Other Construction Workers Welfare Board is also attached.

Due to administrative reasons next hearing is scheduled on 19.12.2024 at 3.30 PM on hybrid mode.

सादर
ईपीएफओ कोच्ची
श्रम व रोजगार मंत्रालय, भारत सरकार
Regards,
EPFO, Kochi
Ministry of Labour & Employment
Government of India



Save a tree.
Please don't print this e-mail unless it's necessary.

For regular updates, please follow/subscribe EPFO social media handles:

Youtube

www.youtube.com/sociallepfo

Twitter

www.twitter.com/sociallepfo

Facebook

www.facebook.com/sociallepfo

Instagram

www.instagram.com/social_epfo

IN THE MATTER PERTAINING TO WP (C) No. 1807 of 2016

Subject: Comparative Analysis of benefits provided by the BOCW Act, 1996, and the EPF & MP Act, 1952

Reference: Email of Regional PF Commissioner, Kochi dated 11 December 2024 reg. request for views to determine the superiority of benefits between BOCW Act and the EPF Act as per Orders of the Hon. High Court of Kerala.

I offer my considered view regarding the comparative benefits of financial security provided under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, and its associated schemes and the Building and Other Construction Workers Act, 1996. My views/opinion are based on the statutory frameworks and the quantum of benefits provided under the legislations. I wish to give a disclaimer that the views and opinions expressed here are made in my personal capacity and not be quoted anywhere else.

2. The comparison between the benefits provided under the BOCW Act, 1996, and the EPF & MP Act, 1952, is rendered unnecessary with the enactment of the Social Security Code, 2020, which was passed by the Parliament on 23rd September 2020 and is a later and more comprehensive legislation. It is to be seen that Section 63 of the BOCW Act clearly states that its provisions will not override any law offering superior welfare benefits to construction workers. The Social Security Code, 2020, subsumes both the BOCW Act and the EPF Act, providing a unified framework that extends comprehensive social security benefits across all sectors, including construction. The Social Security Code, 2020 is awaiting notification for implementation.

3. However, as things stand today, the EPF & MP Act, 1952, with its three schemes viz. Employees' Provident Funds Scheme 1952 (EPF), the Employees' Pension Scheme, 1995 (EPS) and the Employees' Deposit Linked Insurance Scheme, 1976 (EDLI) provides a more comprehensive financial security framework for workers engaged in construction activities compared to the Building and Other Construction Workers (BOCW) Act, 1996.

4. The key points in favour of EPF & MP Act, 1952 are:

i) Coverage and Continuity:

a) The EPF Act provides for mandatory enrolment of workers from day one, offering structured financial benefits in various industries, including construction. This is especially critical for labour-intensive and high-risk jobs where unforeseen incidents could occur at any time. Immediate coverage ensures workers and their families are financially protected from day one.

b) The EPF Act ensures a lifelong safety net through a combination of provident fund savings, a pension scheme for post-retirement, and life insurance coverage till cessation.

c) Benefits under EPF extend even if the worker changes jobs, ensuring portability across employment sectors.

ii) Scope of Benefits:

- a) EPF contributions grow over time with interest, creating a substantial retirement corpus for workers. The annual interest rates on EPF consistently outperform fixed deposits and other investment instruments. The flexibility to withdraw funds for emergencies like housing, education, or medical needs further enhances its utility.
- b) The EPS provides lifelong pensions to members after retirement, with eligibility starting at age 58. The Scheme also provides a minimum assured pension and pension to dependants, in case of death/disability to the worker.
- c) The EDLI scheme provides insurance coverage ensuring financial support for a worker's family in case of untimely eventuality. The scheme provides life insurance benefits to the nominee of a deceased employee. The coverage now ranges from an assured minimum of ₹2.5 lakh to a maximum of ₹7 lakh.

5. Limitations of BOCW Act, 1996:

i) Scope and eligibility:

The BOCW Act focuses on construction workers, attempting to address their unique challenges such as health, housing, and education-related assistance. However, its benefits are more welfare-oriented and short-term compared to the structured, long-term financial security offered by the EPF Act. Moreover, the worker under BOCW has to work for a period of 90 days and a certification from his/her Employer is required for enrolment. This 90-day work requirement under BOCW gives scope to cause delay in securing the benefits. Also, for daily wage workers and short-term contract labourers, this delay can result in losing out on benefits altogether if their employment is terminated before completing the eligibility period.

ii) Operational Challenges:

I have observed significant issues in the implementation of the BOCW Act in registration, fund utilization, and ensuring worker coverage. My experience shows that many construction workers remain outside its ambit due to lack of awareness, complex documentation requirements and administrative inefficiencies. Many construction workers, particularly inter-state migrants and those in informal employment, remain outside the Act's ambit due to the absence of a centralized database and benefit portability. Administrative inefficiencies, such as weak enforcement mechanisms, inadequate manpower, and overlapping welfare programmes also impede effective implementation.

6. Conclusion:

In light of the above, while the BOCW Act, 1996, provides limited welfare benefits tailored for construction workers, the EPF & MP Act, 1952, offers a more holistic framework for long-term financial security, covering retirement savings, pensions, and insurance. Interestingly, Section 17 of the EPF Act emphasizes its primacy by providing for exemptions from the EPF, EPS and Insurance schemes only if superior benefits are provided by an establishment, which implicitly asserts the primacy of the EPF Act in regulating employee welfare. It is, therefore, clear that the EPF Act provides a more comprehensive and structured financial security framework for workers than the BOCW Act. However, with the enactment of the Social Security Code, 2020, a later and more comprehensive legislation, such comparisons are redundant, unifying social security provisions for all workers, including construction workers, and ensuring access to benefits like life insurance, health care, pension and provident funds. This consolidation provides a superior and inclusive framework for workers welfare.

(Shyam V. Tonk)
Executive Director & Chief Vigilance Officer
National Financial Reporting Authority
Government of India
New Delhi

ANNEXURE R22



GOVERNMENT OF KERALA

Labour & Skills (J) Department

No-LBRD-J1/365/2024-LBRD

24-03-2025, Thiruvananthapuram

Secretary

The Regional Provident Fund Commissioner 1

EPFO Regional Office

Bhavishyanidhi Bhavan

Kochi-682017

Sir,

Sub: Labour & Skills Department- WPC No.1807/2016-Comparison of EPF and MP Act-Views on Compliance with Honourable High Court in WPC No.1807/2016- reg.

Ref: Your Letter No.KR/KCH/COMP/SQUAD/2024-25 dated 13.11.2025

I am to invite your attention to the reference cited. With regard to the above subject I am to inform you as follows:

"The provisions in the Kerala Building & Other Construction Workers Welfare Board & EPF Scheme are entirely different. In the case of EPF, there occurs an employer-employee relationship. But in the case of Building Board, there is no such relationship. A worker can directly approach the board and enroll as member, after complying the procedures. However, in the case of EPF Scheme, 12% employer-employee contribution is necessary. No such provision for contribution is there in the Building Board and the worker can only contribute in the Board. The Benefit provided by the Board as well as under EPF scheme cannot be compared and both the schemes are entirely different and applicable in a differential matter.



Yours Faithfully,
LIYA LATHEEF A
UNDER SECRETARY

For Secretary to Government.

Approved for Issue,

Signed by
Ajithakumari R
Section Officer
Date 24/03/2025 12:24:15



, park to come near flyover



underneath the Kundannoor bridge on Thursday

municipality
Ashanpar-
has been
made ac-
d.
d to set up

a park with resting facilities in
the space. The municipality au-
thorities have held talks in this
regard with the KGA Group,
which will implement the
project.

EXPRESS READ

er on run nabbed after 20 months

A drugs smuggler, who was on the run for the
following the seizure of 175kg of ganja in Kochi, has
Odisha. Akhil Santhosh, a resident of Market
who is involved in multiple narcotics cases in
Kochi, was brought to Kochi on Thursday. The
2023 recovered 175kg of ganja from a car in
Kochi. Five people were arrested in the following days. The
ganja had been smuggled from Odisha by a
team. Meanwhile, Akhil went absconding. Recently, the
information that Akhil was hiding in a village in
Kochi. A Palluruthy police station reached a village in
Kochi. He was working as a tractor driver and nabbed him.

Which law best protects construction workers: HC

EXPRESS NEWS SERVICE @Kochi

A legal battle is brewing in Kerala over the social security coverage for construction workers. The Kerala High Court has recently directed the Regional Provident Fund Commissioner (RPFC) to determine which of the two key social security laws, the Building and Other Construction Workers Act (1996) with its Kerala rules, or the Employees' Provident Funds and Miscellaneous Provisions Act, offers better benefits.

The decision will significantly impact the social security landscape for Kerala's construction sector, particularly in major hubs like Thiruvananthapuram, Ernakulam, Thrissur, and Kozhikode. Given the state's significant migrant worker population, estimated at 31.4 lakh in 2017-18, many of whom are employed in construction. To ensure a better understanding, the RPFC has conducted three 'hybrid' stakeholder hearings and is actively seeking input from regional committee members overseeing EPF implementation. The stakeholders can share views at ro.kochi@epfindia.gov.in

ANNEXURE R24

12 വർത്തമാനം

മലയാള മനോരമ

CHN | V

KSEB കേരള സ്റ്റേറ്റ് ഇലക്ട്രിസിറ്റി ബോർഡ് ലിമിറ്റഡ്. ദുരംലാസ് പരസ്യം

എംപിക്വട്ടി എഞ്ചിനീയറുടെ കാര്യാലയം, ട്രാൻസ്മിഷൻ ഡിവിഷൻ, ചാലക്കുടി, തൃശ്ശൂർ

ഇ-ടെൻഡർ ID: 2024_KSEB_706991_1 * അടങ്കൽ തുക: 1,90,42,032/- രൂപ * അവസാന തീയതി: 04.12.2024, 4.00 pm

ചീഫ് എഞ്ചിനീയറുടെ കാര്യാലയം, (പി & എസ് സി എം) വൈദ്യുതി ദുരംലാസ്, തിരുവനന്തപുരം

ഇ-ടെൻഡർ ID: 2024_KSEB_707475_1 * അടങ്കൽ തുക: 1,26,50,000/- രൂപ * അവസാന തീയതി: 04.12.2024, 4.30 pm

ഇ-ടെൻഡർ ID: 2024_KSEB_706999_1 * അടങ്കൽ തുക: 3,98,96,200/- രൂപ * അവസാന തീയതി: 10.12.2024, 4.00 pm

ഇ-ടെൻഡർ ID: 2024_KSEB_707353_1 * അടങ്കൽ തുക: 6,46,09,000/- രൂപ * അവസാന തീയതി: 16.12.2024, 5.00 pm

വൈദ്യുതി ചീഫ് എഞ്ചിനീയറുടെ കാര്യാലയം, ഇലക്ട്രിക്കൽ സർക്കിൾ, തിരുവനന്തപുരം

ഇ-ടെൻഡർ ID: 2024_KSEB_705881_1 * അടങ്കൽ തുക: 11,74,96,079/- രൂപ * അവസാന തീയതി: 05.12.2024, 5.00 pm

വൈദ്യുതി ചീഫ് എഞ്ചിനീയറുടെ കാര്യാലയം, ഇലക്ട്രിക്കൽ സർക്കിൾ, ജേഞ്ചേരി, മലപ്പുറം

ഇ-ടെൻഡർ ID: 2024_KSEB_705106_1 * അടങ്കൽ തുക: 8,82,73,045/- രൂപ * അവസാന തീയതി: 05.12.2024, 5.00 pm

ഇ-ടെൻഡർ ID: 2024_KSEB_706306_1 * അടങ്കൽ തുക: 7,28,52,719/- രൂപ * അവസാന തീയതി: 07.12.2024, 5.00 pm

കീ-ഓഫ് പ്രാജക്ട്: www.etenders.kerala.gov.in
വിലക്ക് വിവരങ്ങൾ: www.kseb.in

PR/MC1/E528/ E-Tender /2024

മലയാള മനോരമ

മാട്രിമോണിയൽ പരസ്യങ്ങൾ നൽകാം

മികച്ച ഓഫറുകൾ കണ്ടെത്താം ഉടൻ ബന്ധപ്പെടൂ....

THE PLANTATION CORPORATION OF KERALA LTD.
A Government of Kerala Undertaking
Registered office: Kottayam-686 004
Website: www.pckltd.in Ph: 0481-2573301-34

അതിരപ്പിള്ളി എസ്റ്റേറ്റ്
11.11.2024

കൊറിയെങ്ങ
11.11.2024-ൽ നടത്താനിരുന്ന അതിരപ്പിള്ളി എസ്റ്റേറ്റിലെ ഉപയോഗശൂന്യമായ സായന-സാമഗ്രികൾ വില അടച്ച് കൊണ്ടുപോകുന്നതിനും, ഡിവിഷൻ C, 10Hs സ്ക്വാറിലെ ഏരിയയുടെ കാവൽ/പരിപാലനം, ഫിർമർ യൂണിറ്റ്-ടാങ്ക് നമ്പർ 04 റിപ്പയർ, All ഡിവിഷൻ ട്രിൽ ടൈപ്പ് ട്രെയ്ലർ നിർമ്മിക്കുന്നതിനും കൂടുതൽ ഡിവിഷനിലെ കളോമവ് ബ്ലോക്കുകളിൽ കാട് വെട്ടുന്നതിനുമുള്ള ടെണ്ടറുകളിൽ വാഗ്ദാനം നൽകുന്നതിനുള്ള സമയം **02.12.2024** വരെ നീട്ടിയിരിക്കുന്നു. ടി ടെണ്ടറുകളുടെ മറ്റു വ്യവസ്ഥകളിൽ മാറ്റമില്ലാതെ പോലീസ്: 8547099101, 9447269076. (പി. മനോജ്)

OILPALM
CORRIGENDUM FOR
EXTENSION OF DATE OF TENDER
The e-tender no. 2024_PCKL 701877_1 for supplying heavy vehicle with drivers for transporting Oilpalm FFB is hereby extended to 26.11.2024 (Sd/- Chief Construction Engineer)

നിർമാണത്തൊഴിലാളി സുരക്ഷ: നിർദേശം അറിയിക്കാം

കൊച്ചി • നിർമാണത്തൊഴിലാളികളുടെ സാമൂഹ്യസുരക്ഷാ പരിരക്ഷയെച്ചൊല്ലി കേരളത്തിൽ നിയമപരാട്ടം.

രണ്ട് പ്രധാന സാമൂഹിക സുരക്ഷാ നിയമങ്ങളായ ബിൽഡിംഗ് ആൻഡ് അദർ കൺസ്ട്രക്ഷൻ വർക്കേഴ്സ് ആക്ട് (1996), എംപ്ലോയീസ് പ്രൊവിഡന്റ് ഫണ്ട് ആൻഡ് പ്രൊവിഡന്റ് ഫണ്ട് (ഇപിഎഫ് ആക്ട്) എന്നിവയിൽ ഏതാണ് മികച്ച ആനുകൂല്യങ്ങൾ നൽകുന്നതെന്ന് നിഷ്ഠയിക്കാൻ ഹൈക്കോടതി അടുത്തിടെ നീജനത്തിൽ പ്രൊവിഡന്റ് ഫണ്ട് കമ്മീഷണറോട് നിർദ്ദേശിച്ചിരുന്നു. തീരുവനന്തപുരം, എറണാകുളം, തൃശ്ശൂർ, കോഴിക്കോട് തുടങ്ങിയ പ്രധാന കേന്ദ്രങ്ങളിൽ നിർമാണ മേഖലയുടെ സാമൂ

ഹിക സുരക്ഷാ ഭൂപ്രകൃതിയെ തീരുമാനം സാരമായി ബാധിക്കും. 2017-18 ൽ 31.4 ലക്ഷം അതിഥി തൊഴിലാളികളുള്ള സംസ്ഥാനത്ത് ഇവരിൽ ഭൂരിപക്ഷവും നിർമാണ മേഖലയിലാണ്. ഇതുമായി ബന്ധപ്പെട്ട് നീജനത്തിൽ പ്രൊവിഡന്റ് ഫണ്ട് കമ്മീഷണർ ഇതിനകം "ഹൈബ്രിഡ്" രീതിയിൽ 3 ഹിന്ദിഗ്രൂപ്പുകൾ നടത്തുകയും കേരളത്തിൽ ഇപിഎഫ് നടപ്പാക്കുന്നതിന് മേൽനോട്ടം വഹിക്കുന്ന നീജനത്തിൽ കമ്മിറ്റി അംഗങ്ങളിൽ നിന്ന് വിവരങ്ങൾ തേടുകയും ചെയ്തു. അഭിപ്രായങ്ങൾ ro.kochi@epfindia.gov.in വഴി അറിയിക്കാം.