

with fine which shall not be less than one hundred rupees and not more than five hundred rupees.

Explanation.—For the purposes of this section, “compulsion” includes a threat of social or economic boycott.]

COMMENT

Whoever—Meaning of.—According to the *Shorter Oxford English Dictionary*, Vol. 2, p. 2543, “whoever” means “any one who, any who”. The meaning given in *Webster’s Comprehensive Dictionary*, International Ed, Vol. 2 at p. 1437 is “any one without exception, any person who”.¹

8. Cancellation or suspension of licences in certain cases.—When a person who is convicted of an offence under Sec. 6 holds any licence under any law for the time being in force in respect of any profession, trade, calling or employment in relation to which the offence is committed, the Court trying the offence may, without prejudice to any other penalty to which such person may be liable under that section, direct that the licence shall stand cancelled or be suspended for such period as the Court may deem fit, and every order of Court so cancelling or suspending a licence shall have effect as if it had been passed by the authority competent to cancel or suspend the licence under any such law.

Explanation.—In this section, “licence” includes a permit or a permission.

COMMENT

This section empowers the Court to cancel or suspend the licence of a person who is convicted under Sec. 6, in respect of any profession, trade, calling or employment in relation to which the offence is committed.

9. Resumption or suspension of grants made by Government.—Where the manager or trustee of a place of public worship² [or any educational institution or hostel] which is in receipt of a grant of land or money from the Government is convicted of an offence under this Act and such conviction is not reversed or quashed in any appeal or revision, the Government may, if in its opinion the circumstances of the case warrant such a course, direct the suspension or resumption of the whole or any part of such grant.

10. Abetment of offence.—Whoever abets any offence under this Act shall be punishable with the punishment provided for the offence.

³[*Explanation.*—A public servant who wilfully neglects the investigation of any offence punishable under this Act shall be deemed to have abetted an offence punishable under this Act.]

COMMENT

This section speaks for the same punishment for the act of abatement of offence as that of the offence itself.

⁴[**10-A. Power of State Government to impose collective fine.**—(1) If, after an inquiry in the prescribed manner, the State Government is satisfied that the inhabitants of an area are concerned in, or abetting the commission of, any offence

1. *Raj Bahadur Sethi Shreeram Durgaprasad, v. Directorate of Enforcement*, A.I.R. 1987 S.C. 1364 at p. 1367.

2. *Ins. by Act 106 of 1976, Sec. 11 (w.e.f. 19th November, 1976).*

3. *Ins. by Sec. 12, ibid.*

4. *Ins. by Sec. 13, ibid.*

punishable under this Act or harbouring persons concerned in the commission of such offence or failing to render all the assistance in their power to discover or apprehend the offender or offenders or suppressing material evidence of the commission of such offence, the State Government may, by notification in the Official Gazette, impose a collective fine on such inhabitants and apportion such fine amongst the inhabitants who are liable collectively to pay it, and such apportionment shall be made according to the State Government’s judgment of the respective means of such inhabitants and in making any such apportionment the State Government may assign a portion of such fine to a Hindu undivided family to be payable by it:

Provided that the fine apportioned to an inhabitant shall not be realized until the petition, if any, filed by him under sub-section (3) is disposed of.

(2) The notification made under sub-section (1) shall be proclaimed in the area by beat of drum or in such other manner as the State Government may think best in the circumstances to bring the imposition of the collective fine to the notice of the inhabitants of the said area.

(3) (a) Any person aggrieved by the imposition of the collective fine under sub-section (1) or by the order or apportionment, may, within the prescribed period, file a petition before the State Government or such other authority as that Government may specify in this behalf for being exempted from such fine or for modification of the order of apportionment:

Provided that no fee shall be charged for filing such petition.

(b) The State Government or the authority specified by it shall, after giving to the petitioner a reasonable opportunity of being heard, pass such order as it may think fit:

Provided that the amount of the fine exempted or reduced under this section shall not be realizable from any person, and the total fine imposed on the inhabitants of an area under sub-section (1) shall be deemed to have been reduced to that extent.

(4) Notwithstanding anything contained in sub-section (3), the State Government may exempt the victims of any offence punishable under this Act or any person who does not, in its opinion, fall within the category of persons specified in sub-section (1), from the liability to pay the collective fine imposed under sub-section (1) or any portion thereof.

(5) The portion of collective fine payable by any person (including a Hindu undivided family) may be recovered in the manner provided by the Code of Criminal Procedure, 1973 (2 of 1974), for the recovery of fines imposed by a Court as if such portion were a fine imposed by a Magistrate.]

COMMENT

Proviso.—It is a cardinal rule of interpretation that a proviso to a particular provision of a statute only embraces the field, which is covered by the main provision. It carves out an exception to the main provision to which it has been enacted by the proviso and to no other. The proper function of a proviso is to except and deal with a case which would otherwise fall within the general language of the main enactment, and its effect is to confine to that case. Where the language of the main enactment is explicit and unambiguous, the proviso can have no repercussion on the interpretation of the main enactment, so as to exclude from it, by implication what clearly falls within its express terms. The scope of the proviso, therefore, is to carve out an exception to the main enactment and it excludes something which