

From

The Labour Commissioner,
Haryana, Chandigarh.

To

1. Additional Labour Commissioner, NCR, Gurugram.
2. All the Deputy Labour Commissioners posted in the field.
3. All Assistant Labour Commissioners posted in the field.
4. All Labour Inspectors posted in the field.

No. LA/2019/ 30647-777

Dated: 01-10-19

Subject:- Guidelines with regard to sanctioning of prosecution for the violations of labour laws and filing of criminal complaints.

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Reference subject cited above.

2. It has come to the notice of this office that the Competent Authorities are according sanction for prosecution of the management and the Labour Inspectors are filing criminal complaint(s) against the responsible person(s) of the management only for the violation of labour laws.

A number of prosecution complaints have been challenged by the different managements before the Hon'ble High Court mainly on the grounds:-

- (i) that the Competent Authority sanctioned prosecution of the management, whereas the Labour Inspector lodged complaint against the responsible person(s) of the management only;
- (ii) that the Labour Inspector also did not implead the management as a separate party; and
- (iii) that the name of the accused was also wrongly mentioned.

3. Consequent upon, the lapses noted above, it is hereby directed as under:-

- (a) **That while referring the matter to the Competent Authority for sanctioning prosecution, the Labour Inspector must ensure that the management is made a party through its Director / Managing Director / Partner etc. etc., as the case may be. Further the name of the responsible person who is Occupier as declared by the management under the Factories Act, 1948 for the relevant period during which the cause for prosecution arises, should be sent to the Competent Authority.**

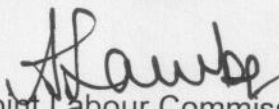
The name of the responsible person should not be only on the basis of information gathered at the time of inspection. This should be checked from the records of the Factory Wing as to who is the

Occupier at the relevant time when the inspection was carried out in the concerned establishment. It has been invariably noticed that the names of such persons supplied by someone from the management side at the time of inspection, were found to be wrong.

- (b) **That the sanction order must contain at least two parties as accused i.e. the name of the management through Director / Managing Director / Partner etc. etc. and further also the name of the responsible person (by name) alongwith his Designation / Office, as an accused, as Occupier.**

In case any sanction order on the basis of which criminal complaint(s) is yet to be filed, does not contain the above said particulars then such sanction orders may be re-submitted to the Competent Authority for issuing fresh sanction in accordance with above.

The above instructions should be complied with meticulously.



Joint Labour Commissioner,
for Labour Commissioner, Haryana.

Endst. No. LA/2019/

Dated:

A copy is forwarded to the following for information and necessary action:-

1. PS to W/Labour Commissioner, Haryana.
2. Additional Labour Commissioner, Headquarters, Chandigarh.
3. Joint Labour Commissioner, Headquarters, Chandigarh.
4. Deputy Labour Commissioner, Headquarters, Chandigarh.
5. All Branch Incharges posted at Headquarters, Chandigarh. **They are directed to bring the above directions to the notice of all the officials working under them. Any laxity in the matter will be viewed seriously.**


Joint Labour Commissioner,
for Labour Commissioner, Haryana.