

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2201 of 1997

=====

Sri Jain Swetamber Bhandar Tirth Rajgir, P.O. Rajgir, Nalanda.

.... Petitioner/s

Versus

The Union of India & Ors

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. R.K.P.SINGH, Adv.

For the EPF : Mr. Ram Shankar Pradhan, Sr. Adv.
Mr. Jainandra Kumar, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 10-02-2015

Shivaji Pandey, J

Heard counsel for the petitioner and the respondents.

In this case, petitioner is challenging the letter dated 18th October 1996(Annexure-8) by which the respondent no.3 Enforcement Officer, EPF has sent notice for the purpose of holding enquiry with regard to number of number of employees, i.e. permanent, temporary, contractor employees, casual employees, part time employees etc. against item no.5 of the report for the month of October 1996, with their names, designation, salary/wages paid for September 1996 for the purpose of arriving to a finding of applicability of Employees Provident Fund and Miscellaneous Provisions Act, 1952 (for short, 'EPF Act').

The petitioner is a trust registered under the provisions of Bihar Hindu Religious Trust Act 1950. It is an old trust functions on the strength of donation given by followers. The trust maintains temple, *Dharmshala* for the pilgrims whoever visits the holy Hill of Rajgir.

Claim has been made that the trust is doing only charitable work, the provisions of the EPF Act does not apply so much so the Government of India has not issued any notification covering the trust engaged in religious

and charitable work and submitted that the notice issued by the Enforcement Office r is not sustainable in law.

Counsel for the EPF submitted that there is a notification dated 16th July 1972 issued by the Government of India which covers the religious and charitable establishment under the EPF Act.

Counsel for the EPF submitted that it was merely a notice for the purpose of holding enquiry to find out whet her the Act is applicable to this Organization or not. If it is found that the petitioner is not covered under the Act the proceeding will be dropped. There the petitioner can raise objection even with regard to applicability of the Act and the matter can be adjudicated before the Regional Provident Fund Commissioner, respondent no.2 or the Assistant Provident Fund Commissioner under Section 7(A) of the Act.

In view of the power conferred to the aforesaid authority and as it appears that there is some notification issued in the year 1972, the petitioner, if so aggrieved, may approach the aforesaid authority challenging the applicability of the Act and if such an application is filed under Section 7(A) of the Act before the Regional Provident Fund Commissioner/Assistant Provident Fund Commissioner, he will be oblige d to decide the issue in accordance with law.

With this observation/direction, this petition s disposed of.

In view of disposal of the case, the order of stay merges in the present order.

Jay/-

U			
---	--	--	--

(Shivaji Pandey, J)