

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2883 of 1997

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M/S Md.Sayeed Firozuddin Biri Merchants through Md. Firozuddin son of Md. Suleman, manager, Moghal Kuan, Post Office and Police Station- Biharsharif.

.... Petitioner/s

Versus

1.Union of India through the Secretary, Ministry of Labour, Shram Shakti Bhawan, New Delhi.

2. The Central Provident Fund Commissioner, 9th Floor, Mayur Bhawan, Connaught Circus, New Delhi-110001.

3. Regional Provident Fund Commissioner, Bihar, Bhavishyanidhi Bhawan, 'R' Block, Road No. 6, Near Serpentine Road, Patna-800001.

4. Provident Fund Recovery Officer, Patna, Bhavishyanidhi Bhawan, 'R' Block, Road No. 6, Near Serpentine Road, Patna..

5.Assistnat Provident Fund Commissioner, Patna, Bhavishyanidhi Bhawan, 'R' Block, Road No. 6, Near Serpentine Road, Patna-800001.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Sinha

For respondent nos.

2 to 5 : M/s Prashant Sinha and Shailendra Kumar Sinha

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 10-02-2015

Heard learned counsel for the petitioner and learned counsel for respondent nos. 2 to 5.

In the present application, the petitioner is challenging the order of assessment dated 13.03.1995 (Annexure 6) by the Assistant Provident Fund Commissioner, Bihar, Patna, has assessed an amount of Rs. 6,23,191/-. It is apparent from the record that the order dated 07.12.1989 passed in C.W.J.C.No. 1420 of 1989 (Annexure- 1) shows that applicability of Act was put to rest and challenge has been confirmed on the ground that the authority concerned has not properly made an enquiry before arriving at a finding. There is no dispute that the establishment has provided the names of 350- 388 engaged contractor workers for rolling the Bidi. The petitioner could not supply the names of 150 employees. The

reason was given that the management was collecting their names.

The order impugned shows that the establishment has accepted the dues and agreed to pay the same.

Limited prayer has been made in the present application that this court should grant waiver to the extent of contribution of the employees and submitted that he has filed representation before the Regional Provident Fund Commissioner for granting relief of waiver but no order has been passed. It would be futile to exercise of power as the waiver issue has been decided by the Supreme Court in the case of M/s Nasruddin Biri Merchants Limited –v- Central provident Fund Commissioner & ors. reported in 2001(2)SCC 612 whereby the Hon’ble Supreme Court has refused to grant exemption with respect to the contribution of the employees so much so affirmed the order passed by this Court in LPA No. 403/1996.

In such view of the matter when the issue of granting exemption has been decided against the establishment, it would be futile to ask the authority to consider the representation of the petitioner and to pass order.

In such view of the matter this Court is not inclined to pass any order giving direction for disposal of the representation of the petitioner which is pending before Regional Provident Fund Commissioner.

Accordingly this petition is dismissed.

(Shivaji Pandey, J)

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