

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

WP(C).No. 5640 of 2015 (D)

PETITIONER(S):

**M/S.I S D ENGLISH SCHOOL,
PAYYANNUR P.O, KANNUR DISTRICT-670 307,
REPRESENTED BY ITS PRESIDENT.**

BY ADV. SRI.O.V.MANIPRASAD

RESPONDENT(S) :

- 1. THE EMPLOYEES PROVIDENT FUND ORGANIZATION,
SUB REGIONAL OFFICE, PB NO.117, V.K.COMPLEX, FORT ROAD,
KANNUR, PIN- 670 001, REPRESENTED BY
THE ASSISTANT PROVIDENT FUND COMMISSIONER.**
- 2. THE ASSISTANT PROVIDENT FUND COMMISSIONER (C & R),
THE EMPLOYEES PROVIDENT FUND ORGANIZATION,
SUB REGIONAL OFFICE, PB NO.117, V.K.COMPLEX
FORT ROAD KANNUR, PIN. 670 001.**

**BY ADV. DR.ABRAHAM P.MEACHINKARA, S.C
BY ADV. SRI.PIRAPPANCODE V.S.SUDHIR**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 11-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF THE MEMORANDUM OF ASSOCIATION OF 'ISLAMIC SOCIETY FOR DEVELOPMENT PAYYANNUR'.**
- EXT.P2: TRUE COPY OF THE ORDER DATED 15-5-2014 OF THE 2ND RESPONDENT.**
- EXT.P3: TRUE COPY OF THE ORDER DATED 15-05-2014 OF THE 2ND RESPONDENT.**
- EXT.P4: TRUE COPY OF THE APPEAL MEMORANDUM.**
- EXT.P5: TRUE COPY OF THE ORDER DATED 09-07-2014 IN ATA NO.506(07) OF EMPLOYEES PROVIDENT FUND APPELLATE TRIBUNAL, NEW DELHI.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

K. VINOD CHANDRAN, J.
=====

W.P.(C) No.5640 of 2015 - D
=====

Dated this the 11th day of March, 2015

J U D G M E N T

The petitioner, an educational institution, had committed default in remitting dues under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (for brevity, 'EPF & MP Act') and is aggrieved by the order passed by the 2nd respondent under Section 7(Q) of the 'EPF & MP Act'. The default is admitted and petitioner seeks for a breathing time to pay off the dues in instalments.

2. Learned Standing counsel for the EPF Organisation, however, would rely on the decision in **M/s. Arcot Textile Mills Ltd. v. Regional Provident Fund Commissioner and others [AIR 2014 295]**, wherein the provision under Section 7Q has been interpreted and Supreme Court found that the delay in payment would automatically attract Section 7Q and that there is also no

provision for appeal which indicates that the levy is automatic. Considering the facts of the case and the alleged impecunious circumstances of the petitioner, this writ petition is disposed of on the following terms:-

(i) The petitioner shall produce a certified copy of this judgment before the 2nd respondent within two weeks of receipt of the same.

(ii) The 2nd respondent shall quantify the amounts due and inform the petitioner in writing the amounts due as on 31.03.2015.

(iii) The 2nd respondent shall grant ten monthly instalments for the payment of the balance dues, starting from 13.04.2015 and continued on the 13th of the succeeding months.

(iv) Recovery proceedings shall be kept in abeyance on condition that the remittances as per this order are made without any default.

(v) On the petitioner making two consecutive

default, the recovery steps initiated shall revive and continue.

(vi) On the petitioner satisfying the entire arrears, the recovery proceedings shall be unenforceable.

Writ Petition is disposed of as above, making it clear that the 2nd respondent will be free to proceed with the recovery if the above conditions are not complied with.

Sd/-
K. VINOD CHANDRAN,
JUDGE

SB

// true copy //

P.A to Judge