

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WP(C).No. 14152 of 2010 (T)

PETITIONER(S):

**M/S.FORT MUNNAR, THACHANKARY ESTATE AND
RESORTS (P) LTD., CHINNAKANAL, UDUMBANCHOLA TALUK
IDUKKI DISTRICT, REP.BY IT'S MANAGING DIRECTOR
TISSAN J THACHANKERY.**

**BY ADVS.SRI.LAL K.JOSEPH
SRI.A.A.ZIYAD RAHMAN
SRI.V.R.REKESH**

RESPONDENT(S):

- 1. UNION OF INDIA REPRESENTED BY THE
SECRETARY, MINISTRY OF LABOUR, NEW DELHI.**
- 2. THE ASSISTANT PROVIDENT FUND
COMMISSIONER, EMPLOYEES PROVIDENT FUND, ORGANIZATION
SUB REGIONAL OFFICE, KOTTAYAM.**
- 3. BRANCH MANAGER, SOUTH INDIAN BANK LTD.,
CHINNAKANAL.**

**R,R2 BY ADV. SRI.JOY THATTIL ITOOP, SC, EPF ORGANISA
R,R3 BY ADV. SRI.P.R.MILTON
R,R3 BY ADV. SRI.K.J.CHACKOCHAN
R,R1 BY ADV. SRI.M.K.CHANDRA MOHANDAS
R, BY ADV. SMT.K.K.RAZIYA, CGC
R, BY ADV. N. NAGARESH, ASG
R BY SRI.T.P.M.IBRAHIM KHAN,ASST.S.G OF INDI
R BY SRI.GEORGE VARGHESE,SC,SOUTH INDIAN BAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 19-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONERS EXHIBITS:

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| EXT.P1 | COPY OF THE LIST PREPARED BY THE ENFORCEMENT OFFICER. |
| EXT.P2 | COPY OF THE APPLICATION FORM DATED 2.9.2000 OF THE STUDENTS REVEALING THE SL.NO.3. |
| EXT.P2(a) | COPY OF THE APPLICATION FORM DATED 22.08.2000 OF THE STUDENTS REVEALING THE SL.NO.5. |
| EXT.P2(b) | COPY OF THE APPLICATION FORM DATED 22.09.2000 OF THE STUDENTS REVEALING THE SL.NO.7. |
| EXT.P2(c) | COPY OF THE APPLICATION FORM DATED 06.07.2000 OF THE STUDENTS REVEALING THE SL.NO.8. |
| EXT.P2(d) | COPY OF THE APPLICATION FORM DATED 25.06.2000 OF THE STUDENTS REVEALING THE SL.NO.9. |
| EXT.P2(e) | COPY OF THE APPLICATION FORM DATED 15.06.2000 OF THE STUDENTS REVEALING THE SL.NO.10. |
| EXT.P2(f) | COPY OF THE APPLICATION FORM DATED 04.07.2000 OF THE STUDENTS REVEALING THE SL.NO.11. |
| EXT.P2(g) | COPY OF THE APPLICATION FORM DATED 15.06.2000 OF THE STUDENTS REVEALING THE SL.NO.13. |
| EXT.P2(h) | COPY OF THE APPLICATION FORM DATED 31.07.2000 OF THE STUDENTS REVEALING THE SL.NO.16. |
| EXT.P2(i) | COPY OF THE APPLICATION FORM DATED 15.06.2000 OF THE STUDENTS REVEALING THE SL.NO.19. |
| EXT.P2(j) | COPY OF THE APPLICATION FORM DATED 24.06.2000 OF THE STUDENTS REVEALING THE SL.NO.20. |
| EXT.P2(k) | COPY OF THE APPLICATION FORM DATED 15.06.2000 OF THE STUDENTS REVEALING THE SL.NO.21. |
| EXT.P2(l) | COPY OF THE APPLICATION FORM DATED 31.07.2000 OF THE STUDENTS REVEALING THE SL.NO.22. |
| EXT.P2(m) | COPY OF THE APPLICATION FORM DATED NIL OF THE STUDENTS REVEALING THE SL.NO.23. |

CONTD..2..

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- EXT.P2(n) COPY OF THE APPLICATION FORM DATED 07.06.2000 OF THE STUDENTS REVEALING THE SL.NO.24.
- EXT.P3 COPY OF THE EXTRACT OF THE CERTIFICATE ISSUE REGISTER.
- EXT.P4 COPY OF THE OBJECTION DATED 7.5.02, SUBMITTED BY THE PETITIONER.
- EXT.P5 COPY OF THE PROCEEDINGS DATED 16.04.03 OF THE 3RD RESPONDENT.
- EXT.P6 COPY OF THE MEMORANDUM OF APPEAL.
- EXT.P7 COPY OF THE COMMUNICATION DATED 30.07.03.
- EXT.P8 COPY OF THE ORDER DATED 30.01.04 ASSESSING AN AMOUNT OF RS.7,55,217/-.
- EXT.P9 COPY OF THE CHALAN OF THE 2ND RESPONDENT.
- EXT.P9(a) COPY OF THE ACCOUNT PAYEE CHEQUE DATED 08.07.04.
- EXT.P10 COPY OF THE ORDER DATED 29.01.10.
- EXT.P11 COPY OF THE ORDER NO.KR.KTM/20046/RECOVERY/ENF.I(6)2010.

RESPONDENTS EXHIBITS:

- EXT.R2(a) COPY OF THE LIST RECEIVED UNDER COVER OF ENFORCEMENT OFFICE REPORT DATED 23.10.01.
- EXT.R2(b) COPY OF THE EXTRACTS OF MUSTER ROLL FOR MONTH OF OCTOBER 2000 AND NOVEMBER 2000 FURNISHED BY THE PETITIONER TO THE ENFORCEMENT OFFICER.
- EXT.R2(c) COPY OF THE LIST FURNISHED BY THE MANAGER OF THE ESTABLISHMENT MR. JIMMY GEORGE.
- EXT.R2(d) COPY OF THE ORDER PASSED BY THE 2ND RESPONDENT UNDER SECTION 7(A) OF THE EMPLOYEES PROVIDENT FUND AND MISCELLANEOUS PROVISIONS ACT.

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PA to Judge

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K. VINOD CHANDRAN, J.
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Dated this the 19th day of March, 2015

J U D G M E N T

The petitioner is aggrieved with the coverage made under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (for brevity, 'EPF & MP Act') pursuant to an enquiry under Section 7A of the EPF & MP Act. The coverage so made by Ext.P5 order was confirmed in appeal at Ext.P10. Ext.P11 is the action initiated under Section 8F of the EPF & MP Act' for recovery of the contributions after completion of proceedings.

2. The petitioner contends that, the petitioner was running a catering college at the point of time, when the inspection was conducted and the students of the catering college were deputed to the hotel for training. The

petitioner also places reliance on Ext.P2 series of documents, which are the application forms of the various students and the Certificate Issue Register for the year 2000-01 (Ext.P3), which indicates; according to the petitioner that, many persons shown in Ext.P1 are the students of the college and not the employees of the hotel.

3. Ext.P1 is the details/extract of the attendance register for the month of November 2000 taken by the Manager, Operations of the College as on 14.11.2000, when the inspection was conducted by the Assistant Provident Fund Commissioner.

4. The petitioner's Counsel argues that, the petitioner's contentions were not considered in Ext.P5 nor was the documents Ext.P2 and P3 even referred to. It is to be immediately noticed that, Ext.P4 is the reply given by the petitioner, the statement submitted in response to the notice by the petitioner. This was after the inspection and also after the academic year, which is dated 07.05.2002.

None of the above referred documents being Exts.P2 series and P3 were produced before the original authority. The petitioner produced a prospectus of the college to contend that, the students of the college were deputed to the hotel.

5. Even before the appellate authority, the petitioner has not produced any of these documents. The jurisdiction of this Court under Article 226 of the Constitution of India, of judicial review when two fact finding authorities, under the statute, have gone into the issue is very limited.

6. Though the petitioner has a contention that the Manager, who had submitted the muster roll had did it with some mischief in mind, there is nothing to substantiate the same. The extract of the muster rolls obviously was issued by the Operations Manager of the hotel when the inspection was conducted. Ext.P1 would indicate the name of the persons as also the designation; specifically noticed in such muster rolls. There is nothing to upset the finding

of fact arrived at by the original authority and affirmed by the first appellate authority. This Court is of the opinion that there is absolutely no merit in the writ petition.

The writ petition would stand dismissed. No costs.

Sd/-
K. VINOD CHANDRAN,
JUDGE

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P.A to Judge