

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 2ND DAY OF JULY 2015/11TH ASHADHA, 1937

WP(C).No. 19950 of 2015 (P)

PETITIONER:

**SMT.SHANTY ROYSON, W/O.ROYSON,
PADIKKAPARAMBIL HOUSE, B-1173,
STATE LINE TOWNSHIP, KAKKANAD - 682 030.**

**BY ADVS.SRI.G.HARIHARAN
SRI.PRAVEEN.H.**

RESPONDENT(S):

- 1. ASSISTANT PROVIDENT FUND COMMISSIONER,
EMPLOYEES PROVIDENT FUND ORGANISATION,
SUB REGIONAL OFFICE, 36/85/A,
BHAVISHYANIDHI BHAVAN, KALOOR, KOCHI 682 017.**
- 2. THE CHAIRMAN,
M/S. GLOBAL PUBLIC SCHOOL, O.E.N JUNCTION,
CHOTTANIKKARA ROAD, THIRUVANIYOOR,
KOCHI 682 308.**

**R1 BY DR.S.GOPAKUMARAN NAIR (SENIOR ADVOCATE)
BY SRI.S.PRASANTH, SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1. TRUE COPY OF THE AGREEMENT EXECUTED BETWEEN THE PETITIONER AND THE 2ND RESPONDENT.
- EXHIBIT P2. TRUE COPY OF THE AGREEMENT EXECUTED ON 13.09.13 BETWEEN THE PETITIONER AND THE 2ND RESPONDENT.
- EXHIBIT P3. TRUE COPY OF THE COMMUNICATION DATED 15.9.13 ADDRESSED TO THE 1ST RESPONDENT BY THE PETITIONER.
- EXHIBIT P4. TRUE COPY OF THE LAST CHELLAN DATED 23.10.13 FOR THE MONTH OF SEPTEMBER, 2013 FOR RS.18.872/- MADE BY THE PETITIONER.
- EXHIBIT P5. TRUE COPY OF THE PROSECUTION NOTICE DATED 22.6.15 ISSUED BY THE 1ST RESPONDENT AGAINST THE PETITIONER.
- EXHIBIT P6. TRUE COPY OF THE REPLY DATED 29.6.15 SENT BY THE PETITIONER TO THE 1ST RESPONDENT IN REPLY TO EXHIBIT P5 NOTICE.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

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A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 19950 of 2015

Dated this the 2nd day of July, 2015

J U D G M E N T

Aggrieved by Ext.P5 notice issued by the 1st respondent against the petitioner, the petitioner has come up before this Court.

2. The petitioner had entered into an agreement with the 2nd respondent for providing transport management services for transporting his students vide agreement dated 01.02.2013. The petitioner alleges that the said agreement was discontinued with effect from 13.09.2013; and in view of the termination of the contract, the petitioner had informed the 1st respondent about the discontinuance of the agreement with the 2nd respondent and that there is no liability for payment of contribution towards Employees Provident Fund or other liability with effect from 13.09.2013, vide communication dated 15.09.013. According to the petitioner, during the period of validity of Ext.P1 agreement, the petitioner had paid

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contribution towards EPF on 23.10.2013 up to the month of September, 2013. In the meantime, the 1st respondent issued Ext.P5 prosecution notice dated 22.06.2015 alleging that the petitioner has failed to pay the EPF dues and also alleging that the petitioner has failed to comply with the statutory provisions of the EPF Act and Schemes framed thereunder and is liable to be proceeded against. The petitioner sent Ext.P6 reply dated 29.06.2015 to the 1st respondent informing him that she is not liable to be proceeded against for realization of any dues as she is not an employer coming under the purview of EPF Act and the 2nd respondent is the principal employer, who is liable to pay any contribution towards EPF relating to the workers engaged in connection with Ext.P1 agreement. The petitioner's grievance is that under one pretext or other, the 2nd respondent is reluctant to pay the amount. The petitioner is under threat of being proceeded against by the 1st respondent for the amount. Hence, this writ petition.

3. I have heard the learned counsel for the petitioner and the learned Standing Counsel for the 1st respondent.

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4. When the matter was taken up, the learned counsel for the petitioner confined his argument to the limited prayer for a direction to the 1st respondent to consider and pass appropriate orders on Ext.P6 objections filed by the petitioner, within a time frame.

5. Considering the nature of the prayer, this Court is of the view that the writ petition can be disposed of even without issuing notice to the 2nd respondent.

Therefore, this writ petition is disposed of directing the 1st respondent to consider Ext.P6 submitted by the petitioner and to pass appropriate orders after affording the petitioner and the 2nd respondent an opportunity of being heard, within a period of one month from the date of receipt of a copy of this judgment.

Till the entire exercise is completed, further proceedings pursuant to Ext.P5 shall be kept in abeyance.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-