HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 28347 of 2012

ORDER:

Heard learned counsel for the petitioner and Government Pleader for Revenue. With the consent of both the parties, the main writ petition is heard at the admission stage itself.

The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of the respondents in not remitting the contribution of the Employees Provident Fund into the accounts of the members of the petitioner's association as per Section 6 of the Employees Provident Fund and Miscellaneous Provisions Act, 1951 (for short "the Act"), as illegal and violative of provisions of the Act.

The facts in issue are as under:

The members of the petitioner association have been engaged by the respondent Nos.1 and 2 through respondent Nos.4 and 5 and they have been working on contract basis on the rolls of respondent Nos.4 and 5 since 1995. It is stated that in the year 1995 a common Employee Provident Fund A/c No.AP/HY/56713 applicable to all the members was given and later in the year 1997 another number AP/HY/3858/A was given to all the members of the petitioner association for the purpose of enabling the employer to deduct the provident fund amount from the wages of employee and to remit the contribution of the employer in to the fund of the employees. It is averred that an amount of Rs.804/- from each employee was deducted by the respondents, but they are not remitting the share of the employer in to the provident Fund Account of the employees from 1997 onwards. Challenging the said action the present writ petition came to be filed.

Respondent Nos.1 and 2 filed their counter. The relevant portion of the counter is as under:

> "It is true that the remittances were done through contractors. In the year 2009-2010 due to the act of the fifth respondent who instead of remitting the same in P.F.Account of NIMS, had remitted into a different PF Account. Due to this the contributions during the year 2009-2010 were not appeared in PF Accounts of NIMS for the employees working under the fifth respondent. However, the same was got rectified by NIMS and all the accounts have been updated till 31.03.2011. For the year 2011-2012, the first respondent Institute submitted the returns for updation of EPF organization and proceedings of the Drawing and Disbursing Officer of NIMS, Punjagutta, dated 08.09.2012 in Rc.No.22/LC/EPF/2011 addressed to the Commissioner, Regional Employees Provident Fund, Barkatpura, Hyderabad, establishes the fact of the first respondent Institute with regard to forwarding of Annual Returns relating to Account No. AP/ Hyderabad/3858/A which is the first respondent institute EPF Account."

The third respondent, who is the Provident Commissioner (Legal) filed his counter. The relevant portion of which is as under:

> "The employer has furnished details of remittances and copies of challans in respect of contractors from which it is observed that the establishment has remitted the P.F.Dues in respect of the contract employees upto 08/2012. Further, the employer has submitted the annual returns in form No.3A & 6A for the year 2011-2012 on 10.09.2012, and accordingly, this office has complied the annual accounts upto dated i.e. 2011-2012. However, the enforcement officer, who visited the establishment has issued a notice for production of records on 11.10.2012, to verify whether all the contract employees have been enrolled under the Employees Provident Funds and Miscellaneous Provisions Act, 1952 or not. The office has undertaken an inspection

to verify whether the employer is fully complying with the provisions of the Act in respect of all employees or not and if any irregularity is found on the part of the employer, action will be initiated against him as provided under the Act".

From a reading of two counters filed by respondent Nos.1 to 3, the amount has been remitted into the accounts of the employees upto August, 2012 which is evident from challans furnished by the employer and also the annual returns upto 2011-2012. In view of the above, this Court is of the opinion that no cause for adjudication would survive.

Accordingly, the writ petition is closed, giving liberty to the members of the petitioner association to avail the remedies available under law in case of any violation of the contents of the counters. No order as to costs.

Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

14.12.2015
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