

HON'BLE SRI JUSTICE S.V. BHATT

W.P.No.7824 of 2012

ORDER:

Heard learned counsel for the petitioner and Sri R.N.Reddy, learned standing counsel for respondents 1 and 2.

Petitioner challenges Prohibitory Order No. AP/HY/9230/T1/PDCell-I dated 13.03.2012. Through the Prohibitory Order, the 2nd respondent directed the 3rd respondent not to permit the petitioner to operate Account No.30292010003069. The case of respondents is that the Prohibitory Order dated 13.03.2012 is issued to recover the provident fund damages determined through order No.AP/9230/P/DCell.I/RO/Hyd/T.1/2011/798 dated 30.09.2011.

At the time of hearing, the petitioner joined issue with the communication or service of order No. AP/9230/P/DCell.I/RO/Hyd/T.1/2011/798 dated 30.09.2011. Yet another infirmity pointed against the Prohibitory Order is that the Prohibitory Order does not refer to any order under which the amount is payable and the power conferred on the 2nd respondent under Section 8-F of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (for short 'the Act') is invoked to recover such unpaid amount.

At the request of learned standing counsel, the writ petition is adjourned to today for production of evidence in support of communication of order dated 30.09.2011.

Learned standing counsel has placed before the Court the original of outward register to show that the order dated 30.09.2011 was communicated by Registered Post with Acknowledgment Due to the petitioner. May be from the entry in the outward register the presumption of entering of dispatch can be accepted, but not the very communication to the affected party. Without getting into further debate on this aspect of the matter, since the complaint of petitioner is that principles of natural justice are violated in passing the order dated 30.09.2011, I deem it appropriate and proper to mould the relief to

shorten the litigation between the parties.

Accordingly, the order dated 30.09.2011 and the Prohibitory Order dated 13.03.2012 are set aside as violative of principles of natural justice and scheme of the Act.

The matter is remanded to 2nd respondent for consideration afresh. The 2nd respondent is directed to issue notice of next date of hearing by register post acknowledgment due to petitioner and proceed in the matter in accordance with law.

The writ petition is ordered as indicated above. No order as to costs.

Miscellaneous petitions, if any, pending in the writ petition shall stand closed.

S.V. BHATT, J

Date: 17.03.2015
KLP