

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.02.2016

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

WP.No.6203/2016 & WMP.No.5536/2016

M/s.Swadeshee-Bharathee Textiles Mills Ltd
[Early known as M/s.Sri Bharati Mills]
represented by its General Manager
PB.No.10, Cuddalore Main Road,
Pondicherry-04.

.. Petitioner

Versus

1. The Regional Provident Fund Commissioner
Employees Provident Fund Organisation
No.101, 100 Ft Road, Puducherry-04.
2. The Enforcement Officer
Employees Provident Fund Organisation
No.101, 100 Ft Road, Puducherry-04.
3. The Chief Secretary
Government of Puducherry
Union Territory of Puducherry
Puducherry.

... Respondents

** R3 impleaded as per the order of this
Court made today [29.02.2016] in WMP.No.6649/2016

Writ petition filed under Article 226 of the Constitution
of India praying for a writ of certiorari calling for the
records of the 1st respondent in his proceedings vide its
No.TBM/SRO/PCY/PC/02/Comp/Div.I/2016 dated 25.01.2016 and quash
the same.

For Petitioner : Mr.R.Udayakumar
For RR 1 & 2 : Mr.K.Ramu
For R3 : M/s.D.Reena Ishwariya, AGP
[Puducherry]

ORDER

Heard the learned counsel for the petitioner ; Mr.K.Ramu,
learned counsel appearing on behalf of the respondents 1 & 2 ;
and M/s.D.Reena Ishwariya, learned Additional Government Pleader

[Puducherry], appearing on behalf of the 3rd respondent and with their consent, the writ petition is taken up for final disposal.

2 The petitioner/Company was initially run by the National Textile Corporation [NTC] and at that point of time, there were two companies, viz., M/s.Swadeshee Mills and M/s.Bharathee Mills. After a certain point of time, NTC decided to close down M/s.Swadeshee Mills and planned to renew M/s.Bharathee Mills by modernising it. Subsequently, a Closure Notice was issued in respect of M/s.Swadeshee Cotton Mills. At that point of time, the Puducherry Textile Corporation Limited, a Government of Puducherry undertaking, decided to take over M/s.Swadeshee Cotton Mills and M/s.Bharathee Mills together from NTC with an intention to safeguard the welfare of the workmen and the staff. There were other proceedings which had taken place in the interregnum and the fact now remains is that the Mill is under the control of the Government. In the present writ petition, the petitioner is aggrieved by the order of attachment passed by the Authority, viz., The Employees Provident Fund Organisation, attached the Bank Account of the petitioner / Company for default in payment of the EPF Contribution. Earlier, the petitioner had filed writ petitions before this Court in WP.Nos.5201, 5202 and 5312/2015. In the said writ petitions, the petitioner sought for quashing the recovery certificates issued by the respondent Organisation in respect of various periods. The said writ petitions were disposed of by this Court by order dated 17.12.2015 and the operative portion of the said order reads thus:-

"5.It is seen that no appreciable steps were taken by the petitioners to follow up such representations seeking exemption in the fact that the petitioners' Mill was taken over from National Textile Corporation by the Government of Puducherry and as on date, it is financially not in a visible condition, the petitioners could be granted some time so as to enable them to approach government of Puducherry for sanction of necessary funds and then, remit the same immediately to the account of the respondent Organisation. However, the matter cannot be kept pending indefinitely for such purpose. Therefore, in order to give a reprieve to the petitioners Management to submit a representation to the Government of Puducherry, requesting sanction of funds and such representation shall be made within a period of two weeks from the date of receipt of a copy of this order and thereafter, every endeavour shall be made by the petitioner to obtain appropriate orders for which purpose, this Court grants six

weeks time from the date on which the representation is submitted. Within that time, if the petitioners fail to obtain funds from the Government and remit the same to the respondent organisation, it would be open to the respondent organisation to enforce the impugned proceedings and proceed in accordance with law. Thus, till the above directions are complied with, the impugned show cause notices shall be kept in abeyance."

3 By virtue of the above order, the proceedings which were impugned in the said writ petitions were kept in abeyance. However, it appears that till now, the funds have not been released by the Government, to satisfy the dues payable to the said organisation. This has resulted in the impugned proceedings dated 25.01.2016 u/s.8-F of the Act, by which the Bank Account of the petitioner / Company has been attached for recovery of a sum of Rs.1,94,37,573/-. The petitioner by their representation dated 03.02.2016, has addressed the Additional Secretary [Industries and Commerce], Government of Puducherry, requesting to sanction funds exclusively to settle the dues pending as on 31.12.2015, which amounts to Rs.6.19 Crores, so as to avoid further legal action by the Provident Fund Authorities. This was followed by another representation to the Director, Directorate of Industries and Commerce, Government of Puducherry dated 12.12.2015 on the same lines. The petitioner has also received a communication from NTC on 30.04.2015 for which the petitioner has given fresh representations to the Additional Secretary, Industries and Commerce on 19.08.2015 and 08.07.2015 and a proposal submitted to the Director of Industries and Commerce by the Managing Director of the petitioner - Mill which is shown to be pending before the Director of Industries and Commerce. With these facts, the petitioner has now come forward with this writ petition challenging the impugned demand.

4 Since the Mill has already been taken over by the Government, the Government of Puducherry should take a concrete stand and ensure that the rights of the workmen are protected for which purpose the Mill appears to have been taken over by the Government. Therefore, it is, but appropriate for the competent authority of the 3rd respondent / Government, to take a decision on the series of representations given by the petitioner.

5 The learned Additional Government Pleader [Puducherry], on instructions, submitted that the competent authority will take a decision in the matter within a period of eight weeks.

6 In the light of the above, there will be a direction to the Competent Authority of the Government of Puducherry to take a decision on the petitioner's representations for release of funds to satisfy the Provident Fund dues, as expeditiously as possible and not later than eight weeks from the date of receipt of a copy of this order. Till such decision is taken, the impugned proceedings shall be kept in abeyance and the attachment of the petitioner's Bank Account shall be lifted so as to enable the petitioner to disburse the salary and other entitlements for its employees and suppliers.

7 The writ petition is disposed of with the above direction. No costs.

-s/d-

Assistant Registrar(CS-I)

True Copy

Sub-Assistant Registrar

To

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3. The Chief Secretary
Government of Puducherry
Union Territory of Puducherry
Puducherry.

+ 1 cc to Mr.K.Ramu, Advocate, SR12953

+ 1 cc to Government Pleader, High Court, Madras SR 12671

vs(co)
prk1/3

WP.No.6203 of 2016

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