

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B.BHOSALE
AND
HON'BLE SRI JUSTICE P.NAVEEN RAO**

WRIT PETITION No.378 of 2008

Date: 29.03.2016

Between:

A.P. Private Vidya Samstala Sangham, Hyderabad,
B-6, MCH Market Complex, Chilakalaguda,
Secunderabad, rep.by its Secretary Sri Anjaiah
and others.

.....Petitioners

and

Regional Provident Fund Commissioner, A.P.,
Barkatpura, Hyderabad and others.

.....Respondents

The Court made the following:

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
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ORDER: (Per the Hon'ble Sri Justice P.Naveen Rao)

Heard Sri Ch.Samson Babu learned counsel for petitioners and Sri G.Venkateswarlu, learned standing counsel for respondent No.1.

2. Petitioner No.1 is the association of private educational institutions. Petitioner Nos.2 to 5 are the private educational institutions. Petitioners seek writ of mandamus declaring the action of the respondents in seeking to apply and enforce the provisions of Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (for short, 'EPF Act') to the petitioners, even though the Employees Provident Fund Appellate Tribunal (for short, 'Appellate Tribunal') held that educational institutions are excluded from the purview of the EPF Act.

3. Learned counsel would submit that the petitioners 2 to 5 are governed by the Teachers Provident Fund established by the State Government and, therefore, the petitioner institutions are exempted from application of the provisions of the EPF Act. It is further contended that the Appellate Tribunal has categorically held that members of the 1st petitioner association are exempted from the provisions of the EPF Act and, therefore, EPF authorities are refrained from taking action against the petitioners.

4. The relief sought in the writ petition is general in nature. Petitioners are not aggrieved by any order of the authority under the EPF Act. Petitioners only apprehend that the respondent authorities intend to take action against them though in view of the decision of the Appellate Tribunal in ATA/1(8)/97, dated 06.08.1998, no such action can be taken.

5. Ordinarily private educational institutions are covered by the provisions of the EPF Act. They can seek exemption from the application of the provisions of the EPF Act if they satisfy twin conditions stipulated in Section 16(1)(b) of the EPF Act, namely, (i)

the State or Central Government must have 'control' over such educational institutions, and (ii) such institution must contribute to the provident fund/pension fund floated by the State/Central Government and all benefits as available under the EPF Act are extended to the staff of such educational institutions by placing relevant material before the authority under the EPF Act as and when proceedings are initiated under the Act. The averments in the writ petition do not disclose initiation of such proceedings. On bare reading of the EPF Act, it is clear that the Act has provided enough safeguards with reference to affording of due opportunity of hearing against any establishment whenever penal action is contemplated by the competent authority and proceedings are initiated. Aggrieved by an order passed by the competent authority under Sections 7A/7B/7C/14B of the EPF Act, appeal lies to the Appellate Tribunal under Section 7-I of the EPF Act. There is no whisper in the writ affidavit as to why petitioners have directly invoked the jurisdiction of this Court under Article 226 of the Constitution of India and why the petitioners have not availed the remedies as available under the EPF Act.

6. In the counter-affidavit filed on behalf of the respondent authorities specific objection is taken on maintainability of the writ petition. No reply is filed denying the said contention.

7. First petitioner challenged the decision of the authority under EPF Act dated 30.07.1996 rejecting the request of first petitioner not to extend the provisions of the EPF Act to the members of the first petitioner association, who have established educational institutions, before the Appellate Tribunal in ATA/1(8)/97. The Appellate Tribunal quashed the decision of the authority under the EPF Act. The Regional Provident Fund Commissioner challenged the said decision in W.P.No.25623 of 1998. By separate judgment, we have set aside the order of the Appellate Tribunal and upheld the decision of the authority under the EPF Act. Thus, it is no more open to petitioners to

rely on the orders of EPF Appellate Tribunal.

8. We see no merit in the writ petition and is accordingly disposed of, leaving it open to the petitioners 2 to 5 to raise all pleas as available in law as and when action is initiated against the petitioners 2 to 5 under the EPF Act.

Miscellaneous petitions if any pending shall stand closed. No costs.

DILIP B. BHOSALE, ACJ

P.NAVEEN RAO, J

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