

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (L) No.196 of 2012

1. Harilal, S/o Shri Netram, aged about 43 years, R/o Janji, Thana Seepat, Teh. Masturi, Distt. Bilaspur (C.G.)
2. Ramkhilavan Anchal, S/o Nakchhed Anchal, aged about 45 years, R/o Janji, Thana Seepat, Teh. Masturi, Distt. Bilaspur (C.G.)
3. Satish Kumar Rai, S/o Kamod Ram, aged about 43 years, R/o Janji, Thana Seepat, Teh. Masturi, Distt. Bilaspur (C.G.)

---- Petitioners

Versus

1. Employees Provident Fund Organisation, Through Assistant Provident Fund Commissioner, Pandari, Raipur (C.G.)
2. Regional Provident Fund Commissioner, Navbharat Press Complex, Rajbandha Maidan, Raipur (C.G.)
3. Assistant Provident Fund Commissioner, Navbharat Press Complex, Rajbandha Maidan, Raipur (C.G.)
4. Recovery Officer, Regional P.F. Commissioner-II, Indira Gandhi Vyavsayik Parisar, Pandari, Raipur (C.G.)

---- Respondents

For Petitioners:	Mr. S.P. Kale, Advocate.
For Respondents:	Mr. Sunil Pillai, Advocate.

Hon'ble Shri Justice Sanjay K. AgrawalOrder On Board20/07/2018

1. Heard.
2. Learned counsel for the petitioners submits that bailable warrant of arrest has been issued against petitioner No.2 on 10-3-2004. He further submits that the sole relief claimed in the writ petition is that the bailable warrant issued against petitioner No.2 be set aside.
3. Learned counsel for the respondents submits that this bailable warrant is only for appearance of petitioner No.2 on 1-4-2004, the date has already elapsed and final order has already been passed on 3-11-

2004 (Annexure R/8). Since the date of appearance given in the bailable warrant has already come to an end, no order is required to set aside that bailable warrant.

4. The Andhra Pradesh High Court in the matter of Regional Provident Fund Commissioner, Employees Provident Fund Organisation, Hyderabad and another v. Deccan Foam Plastics Pvt. Ltd., Narsapur (Rep. by ITS M.D.)¹ has clearly held that resort to arrest and detention of employer cannot be taken without exhausting the remedy of attachment and sale of properties of establishment for realisation of amounts of arrears, the arrest of employer and his detention in prison cannot at all be made in view of proviso to Section 8-B (1) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (for short, 'the Act of 1952').
5. In view of the above, the writ petition is disposed of as aforesaid. The respondents are at liberty to proceed in accordance with law. The petitioners are also at liberty to file objection / reply / appeal, if any, to the order passed under Section 7-A of the Act of 1952, as per law. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Soma

¹ 2005 (105) FLR 1184