

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :18.07.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.2706 of 2015

and

M.P.No.1 of 2015

Vaniyambadi Nagara Oppanthadharargal Nala Sangam

Registration No.215 of 2014

Rep. by its Secretary

Mr.H.Shabheer Ahmed

No.1/82, Birji Street, Jafferabad

Vaniyambadi Town,

Vellore District.

... Petitioner

vs

1.The Assistant Commissioner

Employees Provident Fund,

O/o.The Assistant Commissioner,

Vellore, Vellore District.

2.The Commissioner,

Vaniyambadi Municipality,

Vaniyambadi,

Vellore District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the entire records relating to the notice issued in Na.Ka.No.194/2013/E1 dated 05.08.2014 on the file of the second respondent, quash the same.

For Petitioner : Mr.S.Mani

For Respondent 1 : Mr.K.Ramu

For Respondent 2 : No appearance

O R D E R

The impugned notice issued by the second respondent in proceedings dated 05.08.2014, is under challenged in this writ petition.

2. The writ petitioner is Vaniyambadi Nagara Oppanthadharargal Nala Sangam and the writ petitioner is engaging labourers and on the said ground, the second respondent

issued notice directing the writ petitioner to deposit the contribution of the employees provident fund. Challenging the said notice, the present writ petition has been filed.

3. The learned counsel appearing on behalf of the writ petitioners, made a submission that no opportunity was given to the writ petitioners to establish their case that they are not engaging the labourers on permanent basis, but only on daily wage basis and therefore, the writ petitioner Sangam is not liable to deposit the Employees Provident Fund.

4. This Court is of an opinion that the second respondent issued a notice and if at all the writ petitioner is aggrieved of the same, it is left open to them to establish their case before the second respondent on merits and in accordance with law. The second respondent shall also provide an opportunity to the writ petitioner to substantiate their case and thereafter take a decision in accordance with law.

5. However, in respect of the impugned notice, the present writ petition cannot be entertained for adjudication of the case on merits. Thus, it is a fit case for remittance. Accordingly, the impugned order passed by the second respondent in proceedings No. Na.Ka.No.194/2013/E1 dated 05.08.2014, is quashed and the matter is remitted to the respondents for fresh consideration.

6. The second respondent is directed to issue a fresh notice to the writ petitioner within a period of two weeks from the date of receipt of a copy of this notice. The writ petitioner is at liberty to submit their explanation/defence along with documents if any, within a period of two weeks from the date of receipt of a copy of this notice from the second respondent. Thereafter, the respondents are at liberty to consider the materials available on records pass orders and in accordance with law, within a period of eight weeks thereafter.

7. Accordingly, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1.The Assistant Commissioner
Employees Provident Fund,
O/o.The Assistant Commissioner,
Vellore, Vellore District.

2.The Commissioner,
Vaniyambadi Municipality,
Vaniyambadi,
Vellore District.

+1cc to Mr.S.Mani, Advocate, S.R.No.47790

W.P.No.2706 of 2015
and
M.P.No.1 of 2015

CS-V
EU/02.08.2018



WEB COPY