

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WP.No.29294 of 2018
WMP.No.34240 of 2018

Tamil Nadu State Palmgur and Fiber
Marketing Cooperative Federation Limited
represented by its Managing Director, G.Arulselvam
Chennai-8 Petitioner

Vs

1. Employees Provident Fund Organization,
represented by its Commissioner, Chennai-14
2. The Recovery Officer, Employees Provident Fund
Organization, Chennai-14 Respondents

Prayer:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd Respondent, in EPF.CP.25 made in Ref.No.CHN/Recy/TN/8661/Regl/2018, dated 17.09.2018 and the consequential order of attachment, made in EPF.CP16, in Ref.No.CHN/TN/8661/Recovery/Regl/2018, dated 17.09.2018 and to quash the same and to direct the 1st Respondent to furnish the details of the amounts collected from the Petitioner periodically and intimate the fact to the 2nd Respondent, so as to arrive at the appropriate amount payable by the Petitioner as per law.

For Petitioner : Mr.B.Divakaran

For Respondents : Mr.T.R.Sundaram,
Standing Counsel

ORDER

By consent of the learned counsel on either side, the main Writ Petition itself is taken up for final disposal, at the admission stage itself. Mr.T.R.Sundaram, the learned Standing Counsel takes notice for the Respondents.

2. This Court heard the learned counsel on either side and also perused the materials placed on record.

3. According to the learned counsel for the Petitioner, the Petitioner Federation is functioning under the control of the Tamil Nadu Palm Products Development Board and it had been established with a view to promote palm products in rural Areas and it is involved in uplifting the standard of economically backward class. Since the demand for palm products has decreased, the number of persons involved in manufacturing has come down and hence, the Petitioner could not able to generate income and facing financial crisis for settling the salaries and dues to the Staff and others. The Respondents had attached the properties of the Petitioner situated at Chennai and has been receiving the rents of Rs.45,000/- p.m. presently. The 2nd Respondent had also freezed the bank accounts and disabled the minimal transaction of the Petitioner. In such circumstances, the Petitioner had made several representations to the 2nd Respondent. Since the said representations were not considered, the Petitioner had obtained an order in WP.No.22452 of 2008 to consider its representations. Even then, the payments made by the Petitioner was not at all considered and if the same are accounted, there will be no due to be paid by the Petitioner.

4. It is the further case of the Petitioner that the 2nd Respondent had issued a demand notice, dated 10.08.2018 and another demand notice, dated 5.10.2018 to the Petitioner and that disputing the said demand notices, the Petitioner had sent a representation, dated 12.10.2018, but no order is passed till date. The Petitioner had also furnished the details of payments made by the Petitioner and enclosed the details along with the typed set of papers. Without considering the said explanation, the 2nd Respondent had issued the impugned show cause notice, dated 17.09.2018 under Section 8C(1) of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 to show cause why a warrant of arrest should not be issued and the consequential order dated 17.09.2018, for attachment of the immovable property. Challenging the said show cause notice and the order of the 2nd Respondent, this Writ Petition has been filed.

5. On the other hand, the learned Standing Counsel for the Respondents has submitted that if there is any dispute regarding payment of amount, the same shall be considered by the Respondents on the Petitioner furnishing a fresh explanation along with necessary particulars to the 2nd Respondent.

6. In the light of the afore said submissions of the learned counsel on either side, this Writ Petition is

disposed of, with the following directions:-

a)The Petitioner is directed to submit a fresh explanation along with necessary particulars, to the 2nd Respondent within a period of of two weeks, from the date of receipt of a copy of this order.

b)On receipt of such explanation, the 2nd Respondent is directed to consider the same and pass orders, on merits and in accordance with law, as expeditiously as possible.

c)Till such time, the impugned show cause notice dated, 17.09.2018 regarding arrest warrant, shall be kept in abeyance.

No costs. Consequently, the connected MP is closed.

Sd/-

Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

Srcm

1.The Recovery officer,
Employees Provident Fund Organization,
Chennai-14

+1cc to Mr.B.Divakaran , Advocate SR.No. 77.13

+2cc to Mr.T.R.Sundaram,, Advocate SR.No. 77291

WP.No.29294 of 2018

ASK (03/12/2018)

सत्यमेव जयते

WEB COPY