



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 29.01.2018
CORAM:
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No. 1598 of 2018
and
W.M.P. (MD) . No. 1689 of 2018

Kodaikanal Christian College,
Represented by its Chairman,
Mr.Samuel Abraham,
Prakasapuram,
Kodaikanal - 624 104.

.. Petitioner

Vs.

1.The Assistant Provident Fund Commissioner,
E.P.F. Organization,
No.1, Lady Doak College Road,
Chokkikulam,
Madurai - 625 002.

2.The Recovery Officer/Regional
Provident Fund Commissioner I
E.P.F. Organization,
No.1, Lady Doak College Road,
Chokkikulam,
Madurai - 625 002.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the respondents relating to the impugned proceedings of the first respondent vide his proceeding in File No. TN/41308/MDU/Enf.C/circle 11/2016, dated 27.06.2016 and the consequently issued demand notice by the second respondent through his proceedings in RRC No. MDMDU 10806/0041308/04/04/2017/503/35, dated 10.10.2017 and consequently the order of attachment of the immovable property by the second respondent through his proceedings vide in E.P.F.CP.16, No.TN/MDU/RECY/41308/CP16/2017, dated 09.11.2017, quash the same as illegal and void and consequently directing the respondents to conduct fresh enquiry in accordance with law.

For petitioner : Mr.S.J.Chakkaravarthy
For respondents : Mr.K.Muralishankar

O R D E R

<https://hcservices.ecourts.gov.in/hcservices/>
Mr.K.Muralishankar, learned Standing Counsel take notice for the respondents.



2. By consent of both parties, the main writ petition is taken up for final disposal at the stage of admission itself.

3. The petitioner is an establishment that is already covered under the provisions of Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinunder as 'the Act'). The establishment was inspected on 10.02.2016 and adverse report was submitted on 15.02.2016. Therefore, enquiry under Section 7A of the Act was initiated and the summons were issued to the petitioner. Though initially appearance was entered, the petitioner did not attend the enquiry subsequently. Therefore, the petitioner was set as ex parte and order dated 27.06.2016 was passed directing the petitioner to remit the amount of Rs.15,08,943/-. The said order is under challenge in this writ petition.

4. The petitioner admittedly did not attend the enquiry, even though an opportunity was afforded. Likewise, the appeal remedy was also not exhausted. No application for setting aside was filed. However, the learned counsel appearing for the petitioner placed reliance on the letters given by the individual teachers to the effect that they are getting the salary more than Rs.15,000/- and that therefore contribution should not be deducted from their salary. Even though the petitioner has not really made out any case for interference, in the interest of justice, this Court quashes the order impugned in this writ petition. However, the petitioner will have to be necessarily put on terms.

5. The learned Counsel appearing for the petitioner on instructions offered to remit a sum of Rs.3,00,000/- to the credit of The Recovery Officer/Regional Provident Fund Commissioner-I, Madurai, within a period of four weeks from the date of receipt of a copy of this order.

6. The petitioner shall appear for enquiry under Section 7A of the Act on 30.04.2018, before the first respondent herein. If the petitioner fails to comply with the aforesaid conditions namely the remittance of sum of Rs.3,00,000/- within a period of four weeks and the appearance on 30.04.2018, before the first respondent, the relief granted in this petition will stand automatically cancelled.

7. This Writ petition is allowed on the above said terms. No costs. Consequently, W.M.P. (MD). No. 1689 of 2018 is closed.

Sd/-
Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar



To

+1cc to M/S.S.J.Chakkaravarthy, Advocate SR.No. 44705
+1cc to M/S.K.Muralishankar, Advocate SR.No. 44861

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ORDER MADE IN
W.P. (MD) No. 1598 of 2018

kmi

JM/SV MMS/SAR 2/17.04.2018/3P/3C