

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.7868 of 2018

ORDER:

Heard Sri S.Niranjan Reddy, learned Senior Counsel appearing for the learned counsel for petitioner on record and Sri K.Lakshman, learned Assistant Solicitor General, Union of India, appearing for Respondents.

2. This writ petition is filed under Article 226 of the Constitution of India for the following relief:

“To issue a writ order or directions in the nature of prohibition or any other writ order or direction of like nature prohibiting the Respondent Nos.1 and 2 from initiating recovery proceedings against the Petitioners to recovery the damages assessed by orders dated 15.2.2018 till such time the appeals of the Petitioners along with the prayer for interim relief are not considered and decided by Respondent No.3 ii It is therefore prayed that this Honourable Court may be pleased to issue a Writ of mandamus or a Writ in the nature of mandamus or any other appropriate Writ granting stay of the operation of the orders dated 15 02 2018 passed by the Respondent Nos.1 and 2 under Section 14B of the EPF Act”.

3. The Regional Provident Fund Commissioner-I, Hyderabad Region-II-2nd respondent herein passed order vide proceedings dated 15.2.2018 under Section 14B of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter called 'the Act') fixing liability of Rs.21,02,19,034/- and Rs.21,35,044/- towards damages. Questioning the above said orders passed by the 2nd respondent, petitioners herein claim to have filed Appeals on 6.3.2018 before the Tribunal established under Section 7(I) of the Act. Along with the said appeals, they also filed stay applications. It is submitted by the learned Senior Counsel, appearing for the petitioners that the very orders passed by the 2nd respondent on 15.2.2018, fixing liability on the petitioners is highly illegal, arbitrary, unreasonable and in patent violation of Article 14 of

the Constitution of India, besides being opposed to the provisions of the Act. It is the further submission of the learned Senior Counsel that the orders impugned are highly unsustainable and the 2nd respondent herein grossly erred in fixing liability on the ground that the impugned action would act as deterrent on other employers and would avoid violation of other provisions of the Act. It is also the further submission of the learned Senior Counsel that in obedience to the orders passed by the 2nd respondent, fixing liability under the provisions of Section 7A and 7Q of the Act, the petitioners herein deposited Rs.31.00 crores towards liability under Section 7A and Rs.12.00 crores towards liability under Section 7Q.

4. Right of appeal is a substantive right and a number of contentions have been raised in the present writ petition by the petitioners herein while challenging the orders passed by the 2nd respondent. According to the learned Senior Counsel, the appeals and stay applications are pending consideration. It is further stated in the affidavit filed in support of the writ petition that the petitioners herein came to know that the Presiding Officer of the Tribunal is unwell and may not be available for the next few days. It is submitted by the learned Senior Counsel that in the impugned orders, the 2nd respondent also threatened the petitioners that in the event of failure to deposit damages within 15 days from the date of receipt of the orders, further steps would be taken in accordance with Section 8 of the Act for recovery of the amounts. It is the further submission of the learned Senior Counsel that the 2nd respondent may also invoke the provisions of Section 8(B) of the Act for recovery of the amount.

5. Having heard the learned Senior Counsel, appearing for the petitioner and the learned Assistant Solicitor General and in the facts and circumstances of the case, this Court deems it appropriate to dispose of the writ petition with a direction to the Tribunal established under Section 7(I) of the

Employees Provident Fund and Miscellaneous Provisions Act, 1952 to pass appropriate orders on the stay applications filed by the petitioners herein along with appeals dated 6.3.2018 within a period of one month from the date of receipt of this order. Till the said orders are passed, there shall no coercive action against the petitioners herein pursuant to the impugned orders dated 15.2.2018.

6. The writ petition is accordingly disposed of. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

Date: 9.3.2018
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A.V.SESHA SAI, J





THE HON'BLE SRI JUSTICE A.V.SESHA SAI



9.3.2018

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