

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

Date of Decision: **05.09.2018**

1. Civil Writ Petition No. 21892 of 2017 (O&M)

<u>M/s Dashmesh Goods Carrier (Registered)</u>	Petitioner
versus	
<u>Food Corporation of India and others</u>	Respondents

2. COCP No. 394 of 2018

<u>M/s Dashmesh Goods Carrier (Registered)</u>	...Petitioner
versus	
<u>Sanjiv Bhaskar and others</u>	Respondents

**CORAM: HON'BLE MR.JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present : Mr. Sanjiv Gupta, Advocate, for the petitioner.
Mr. J.S.Puri, Advocate, for respondent Nos.1 and 2.
Mr. Chetan Mittal, Sr. Advocate with
Mr. Kunal Mulwani, Advocate, for respondent No.3.

KRISHNA MURARI, C.J.(oral)

After the matter was heard at some length, when we confronted learned counsel for the petitioner with the question as to whether his partner Tejinder Singh was defaulter under the Employees Provident Funds and Miscellaneous Provisions Act, 1952, as regards the other firm M/s Sham Lal & Company, a straight answer was 'No'. We were also taken to a question and the answer obtained from the Regional Provident Fund Commissioner, was that no proceedings under section 7-A were pending against Tejinder Singh, a partner in the petitioner firm. However, Shri J.S.Puri, learned senior counsel appearing for the Food Corporation of India has drawn our attention to a document Annexure R-1/1, which is also obtained under the Right to Information Act, to the effect that Tejinder Singh (who is a partner in the firm M/s Sham Lal & Company and also a partner in the petitioner firm) is not making compliance under the Employees Provident Funds and Miscellaneous Provisions Act, 1952 and the establishment has submitted 6-A form only for the period 2008-09 and 2009-10 and there is a default for the period 2010-11 and 2011-12 and from 2012-13 till date no ECR is submitted by the establishment. The said document also records that as per the office record maintained by the EPF organization, Sham Lal & company is a defaulter in respect of Employees Provident Funds and Miscellaneous Provisions Act, 1952.

Thus, there was a deliberate attempt on the part of the petitioner to mislead this Court. Further, at this stage, learned counsel for the petitioner on the basis of the instructions received from Mr. Angrej Singh, who is a partner in the petitioner firm and present in Court, submitted that he be permitted to withdraw the writ petition and also the contempt petition.

It is apparently clear that by misleading the Court not only the petitioner succeeded in obtaining an interim order but has also filed a contempt petition alleging its non-compliance. The prayer for withdrawal of the writ petition has been made only after we observed that the petition is liable to be dismissed with exemplary costs.

Learned counsel for the petitioner when confronted with the document filed Annexure R1/1 conceded to the effect that the partner of the petitioner firm was a defaulter and this information was not disclosed in the prescribed format alongwith the tender documents as was required.

On the persuasion made by learned counsel for the petitioner we permit him to withdraw both the writ petition as also the contempt petition. Learned counsel for the petitioner has been successful in persuading us not to impose any exemplary costs on the petitioner but nevertheless cost is liable to be imposed so as to send a message that this Court should not be burdened with the frivolous litigation.

Thus while dismissing both the petitions as withdrawn, we impose costs of ₹ 25,000/- in each case. A total sum of ₹ 50,000/- may be deposited by the petitioner in the account of Principal Secretary (Finance), Chief Minister's Distress Relief Fund (Kerala), within a period of one week from today and produce a receipt before the Registrar General of this Court, failing which the Registrar General shall intimate the Collector of the district concerned to realize the aforesaid amount from the petitioner as arrears of land revenue and remit the same in the Distress Relief Fund.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

05.09.2018

ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	Yes/No√