

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:07.02.2019

Coram

The Hon'ble Mr. Justice V.PARTHIBAN

W.P.No.3126 of 2019
and
W.M.P.No.3387 of 2019

The Earth Trust,
13/19, A6, Hema Cottage,
The Nilgiris-643 001
rep.by its Trustee

.. Petitioner

Vs.

1.The Assistant Provident Fund Commissioner,
Employees Provident Fund Organisation,
P.B.No.3875, Dr.Balasundaram Road,
Coimbatore-641 018

2.The Enforcement officer,CC.18,
District Office,
Employees Provident Fund Organisation,
Ooty

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus forbearing the first respondent from initiating any further action pursuant to its order dated 21.12.2018 in Proceedings No.TN/R.O./CBE/PDC/CC18/77536/14B Proceeding/Diary No.536/2018 till the appeal period of 60 days prescribed under EPF Act expires.

For Petitioner .. Mr.Anand Gopalan for
M/s.T.S.Gopalan and Co.,

For Respondents .. Mr.R.Thirunavukkarasu

ORDER

The above writ petition has been filed against the order passed by the first respondent dated 21.12.2018 assessing the damages payable at Rs.67,222/-, under the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act,1952.

2. When the matter is taken up for hearing, the learned counsel for the petitioner would submit that the petitioner is a Trust and they are not financially sound and therefore, they are unable to comply with the assessment of damages by the first respondent immediately. According to the learned counsel, if reasonable time is given, the petitioner Trust would be in a position to comply with the impugned order. The learned counsel for the petitioner would submit that 18 months' time may be given so as to enable the petitioner to comply with the impugned order passed by the first respondent.

3. At this stage, the learned counsel appearing for the respondents would object to such a long time to be given to the petitioner Trust, since the damage assessed is only a meager amount.

4. In view of the above submissions, this Court is of the view that the time as sought by the petitioner is to be considered, but at the same time, eighteen months time sought by the learned counsel for the petitioner cannot be given for payment of a sum of Rs.67,222/-. However, since certain difficulties being expressed on behalf of the petitioner Trust that they are not able to mobilise the funds, this Court, in the interest of justice, grants nine months' time to the petitioner Trust to comply with the order passed by the first respondent. In the event of default in making payment within the stipulated period, it is open to the respondents to proceed with further action in terms of the Act.

With the above direction, the writ petition stands disposed of. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

msk

To

1. The Assistant Provident Fund Commissioner,
Employees Provident Fund Organisation,
P.B.No.3875, Dr.Balasundaram Road,
Coimbatore-641 018

2.The Enforcement officer,CC.18,
District Office,
Employees Provident Fund Organisation,
Ooty

+1cc to M/s.T.S.Gopalan & Co, Advocate, S.R.No. 10561
+1cc to Mr.R.Thirunavukkarasu, Advocate, S.R.No. 10615

W.P.No.3126 of 2019

KJI (CO)
GN(26/02/2019)