

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 15.10.2019
CORAM

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

W.P.No.8441 of 2005
and
W.P.M.P.No.9104 of 2005

Mr.Pratap Reddy

.. Petitioner

-vs-

1.Employees Provident Fund Organisation,
Sub-Regional Office, Bhavishyanidhi Bhavan,
Post Box No.3875, Dr.Balasundaram Road,
Coimbatore-641 018.

2.Recovery Officer, EPF,
Bhavishyanidhi Bhavan,
Post Box No.3875,
Dr.Balasundaram Road,
Coimbatore-641 018.

.. Respondents

Petition under Article 226 of the Constitution of India
praying for issuance of Writ of Certiorari to call for the
records on the file of the 2nd respondent culminating to the
order of the notice in TN/CBE/PDC/8255/2004, dated 21.12.2004
and quash the same.

For Petitioner : Mr.C.A.Theagarajan

For Respondents : Mr.C.Kulanthaivel,
Standing Counsel for EPF

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O R D E R

The notice of demand dated 21.12.2004, is sought to be
quashed in the present writ petition.

2.The learned counsel for the writ petitioner states that
the notice of demand itself is improper on account of the facts
and circumstances raised by the writ petitioner. However, the
writ petition on hand cannot be decided on merits in view of the

fact that the impugned order is nothing, but a notice of demand to defaulters prior to attachment of movable and immovable properties.

3.The Act provides mechanism for redressal of grievances against such notices. Thus, the petitioner has to approach the appropriate authority by submitting his explanations and documents and only after deciding the issues, the petitioner is entitled to approach the competent authority and thereafter, the Court of Law.

4.No writ petition can be entertained against the notice in a routine manner. The power of judicial review under Article 226 of the Constitution of India against a notice issued under the provisions of the Act is undoubtedly limited. A notice can be challenged if the same is issued by an incompetent authority having no jurisdiction or allegation of mala fides raised or if the same is in violation of statutory rules in force. Even in case of raising allegation of mala fides, the authority against whom such an allegation is raised, has to be impleaded as a party respondent in the writ proceedings in his personal capacity. In the absence of any such legal grounds, no writ petition can be entertained against the notice.

5.The writ petitioner is bound to submit his explanation and documents enabling the authorities to decide the issues on merits. Contrarily, he cannot come out with a writ petition for quashing the notice by raising certain allegations on merits and such issues cannot be adjudicated in a writ petition and such adjudications ought to be done with reference to the original documents and by examining the evidences.

6.Under these circumstances, the writ petitioner is at liberty to approach the competent authority by submitting his explanations and producing relevant documents for the purpose of adjudicating all the issues. If the issues are not settled as of now, the petitioner can approach the authorities and in the event of receiving any such explanations and documents, the respondents are bound to consider the same and pass orders on merits and in accordance with law.

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7.With these observations, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

abr

To

1.Employees Provident Fund Organisation,
Sub-Regional Office, Bhavishyanidhi Bhavan,
Post Box No.3875, Dr.Balasundaram Road,
Coimbatore-641 018.

2.Recovery Officer, EPF,
Bhavishyanidhi Bhavan,
Post Box No.3875,
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+1 cc to Mr.C.Kulanthaivel Advocate sr86648

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