

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :30.10.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.28594 of 2014
and M.P.No.2 of 2014

Ambur Nagara Oppandhatharargal
Nala Sangam (Regn. No.183/2014)
rep. by A.V.Nagarajan
Honorary President
No.39/20, Shareff Bazaar
Ambur - 635 802,
Vellore District.

... Petitioner

Vs.

1. The Assistant Commissioner,
Employees Provident Fund,
O/o. The Assistant Commissioner,
Vellore, Vellore District.
2. The Commissioner,
Ambur Municipality,
Ambur, Vellore District.

...Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the entire records relating to the notice issued in Na.Ka.No.2260/2013/E1 dated 25.07.2014 on the file of the second respondent, quash the same.

For Petitioner : Mr. C.Vediappan
for Mr.S.Mani

For Respondents : Mrs.V.J.Latha [R1]

No appearance [R2]

O R D E R

The impugned notice issued by the second respondent in proceedings dated 25.07.2014 is under challenge in this writ petition.

2. The writ petitioner is Ambur Nagara Oppandhatharargal Nala Sangam and the writ petitioner is engaging labourers and on the said ground, the second respondent issued notice directing the writ petitioner to deposit the contribution of the employees provident fund. Challenging the said notice, the present writ petition has been filed.

3. The learned counsel appearing on behalf of the writ petitioner made a submission that no opportunity was given to the writ petitioner to establish their case that they are not engaging the labourers on permanent basis, but only on daily wage basis and therefore, the writ petitioner Sangam is not liable to deposit the Employees Provident Fund.

4. This Court is of an opinion that the second respondent issued a notice and if at all the writ petitioner is aggrieved of the same, it is left open to them to establish their case before the second respondent on merits and in accordance with law. The second respondent shall also provide an opportunity to the writ petitioner to substantiate their case and thereafter take a decision in accordance with law.

5. However, in respect of the impugned notice, the present writ petition cannot be entertained for adjudication of the case on merits. Thus, it is a fit case for remittance. Accordingly, the impugned order passed by the second respondent in proceedings No. Na.Ka.No.2260/2013/E1 dated 25.07.2014 is quashed and the matter is remitted to the respondents for fresh consideration.

6. The second respondent is directed to issue a fresh notice to the writ petitioner within a period of two weeks from the date of receipt of a copy of this order. The writ petitioner is at liberty to submit their explanation/defence along with documents if any, within a period of two weeks from the date of receipt of a copy of the notice from the second respondent. Thereafter, the respondents are at liberty to consider the materials available on records pass orders on merits and in accordance with law within a period of eight weeks thereafter.

Accordingly, the writ petition stands allowed. No costs.
Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Assistant Commissioner,
Employees Provident Fund,
O/o. The Assistant Commissioner,
Vellore, Vellore District.
2. The Commissioner,
Ambur Municipality,
Ambur, Vellore District.

+1cc to Mr.S.Mani, Advocate sr.90007
+1cc to M/s.VJ.Latha, Advocate sr.90097
+1cc to Government Pleader SR.NO. 90421

W.P.No.28594 of 2014
and M.P.No.2 of 2014

ln(co)
nr 22/11/2019

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