



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P. (MD) No.24533 of 2019

and

W.M.P. (MD) .No.21154 of 2019

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Bharath Niketan Engineering College,
rep. by its Chairman,
R.V.Prasanna Venkatesan

... Petitioner

vs.

1.The Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
Regional Office,
Lady Doak College Road,
Chockkikulam,
Madurai-02.

2.The Recovery Officer,
Employees Provident Fund Organization,
Regional Office
Lady Doak College Road,
Chockkikulam,
Madurai-02.

3.The Enforcement Officer,
Employees Provident Fund Organization,
Regional Office
Lady Doak College Road,
Chockkikulam,
Madurai-02.

... Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records pertaining to the impugned order passed by the 1st respondent in No. TN/RO/MDU/41625/M-3/PDC/LD/2019 dated 14.03.2019 and the consequential impugned proceedings of the 1st respondent in No.MD/MDU/41625/8F/RO/RECY/M-03/2019 dated 23.10.2019 and quash the same.

For Petitioner : Ms.J.Anandhavalli
For Respondents : Mr.VSV.Venkateswaran
Standing Counsel

O R D E R

Mr.VSV.Venkateswaran, learned Standing Counsel takes notice on behalf of the respondents.



2.This writ petition has been filed challenging the impugned order passed by the 1st respondent, dated 14.03.2019 and the consequential impugned proceedings of the 1st respondent, dated 23.10.2019 and quash the same.

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3.The petitioner is an Educational Institution, run by a Charitable Trust. But the first respondent issued a notice of enquiry to the petitioner dated 14.08.2018, fixing 08.10.2018 as date for personal enquiry. But, the petitioner failed to appear on that date. For the subsequent two hearings also, the petitioner did not appear. Therefore, the respondents have concluded the proceedings exparte and imposed interest under Section 7-Q of the Employees Provident Fund and Miscellaneous Provisions Act, 1952, (hereinafter referred as Act) and damages under Section 14-B of the Act by an order dated 14.03.2019. Against which, the petitioner filed an application on 20.03.2019 to revoke the order and sought for one more opportunity for explaining the case. Without passing any orders on the representation, they proceeded with recovery proceedings. In view of the same, the petitioner is before this Court.

4.Admittedly, the order dated 14.03.2019 is an exparte order, unless an opportunity is given and reasons for arriving at the levy of damages is given, the petitioner will not be in a position to file an appeal. Therefore, considering the lack of opportunity of personal hearing to the petitioner, this Court is of the view that the impugned order passed by the 1st respondent in No. TN/RO/MDU/41625/M-3/PDC/LD/2019 dated 14.03.2019 is liable to be set aside.

5.Accordingly, the impugned order passed by the 1st respondent in No. TN/RO/MDU/41625/M-3/PDC/LD/2019 dated 14.03.2019 is set aside and matter is remitted back to the authority for fresh enquiry. The respondents are directed to issue a fresh notice of enquiry to the petitioner and the petitioner is directed to participate in the enquiry proceedings without fail. This exercise shall be completed within a period of four weeks.

6.Accordingly, this writ petition is disposed of with the above observation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar(CS)



20.11.2019

VS

To

1.The Assistant Provident Fund Commissioner,
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Madurai-02.

+1 CC to M/s.J. ANANDHAVALLI, Advocate (SR-100129[F] dated
21/11/2019)

W.P. (MD) No.24533 of 2019
20.11.2019

SMA/13/12/19/3P/5C