



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.04.2019

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P. (MD) .No.9249 of 2011andW.M.P (MD) No.1 of 2011

Robinson
Secretary, Matha Educational Society
Karode Post,
Arumana
Kanyakumari District

... Petitioner

-vs-

The Regional Provident Fund Commissioner
Sub Regional Officer,
E.P.F. Organization
66, Water Tank Road
Nagercoil-I
Kanyakumari District

... Respondents

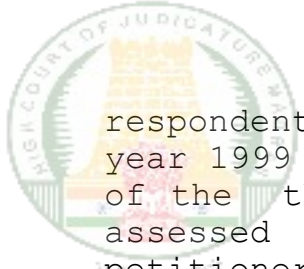
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records relating to the Proceedings in TN/NGL/46126/C-31/Enf/2010-2011 dated 31.01.2011 on the file of the Regional Provident Fund Commissioner, Nagercoil, Respondent herein and the consequential order in file No. TN/NGL/46126/C-31/Enf/2010-11, dated 26.04.2011, on the file of Regional Provident Fund Commissioner, Nagercoil, quash the same.

For Petitioner : Mr.K.Sreekumaran Nair
For Respondent : Mr. Gurunathan
Standing Counsel

O R D E R

The instant writ petition has been filed challenging the impugned order dated 31.01.2011 passed by the respondent under section 7(A) of the Employees Provident Funds and Miscellaneous Provisions Act, 1952(hereinafter referred to as " the E.P.F and M.P Act 1952").

2. According to the petitioner, they are a registered society under the Societies Registration Act and they are running an Industrial Training Institute in the name of "Matha Industrial Training Institute" at Kuzhithurai, Kanyakumari District. According to them the E.P.F and M.P Act 1952 is not attracted, since there are only 14 employees in their institution. The



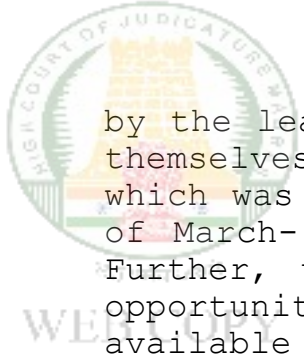
respondent initiated proceedings against the petitioner in the year 1999 and contribution amount as on 23.12.1999 under Section 7 of the the E.P.F and M.P Act, 1952 payable by the petitioner was assessed as Rs.1,11,801.85/-. Aggrieved by the said order, the petitioner has preferred a Writ Petition in W.P(MD) No. 15670 of 2000, wherein, by an order, dated 21.06.2010, this Court quashed the earlier order passed under Section 7-A of the E.P.F and M.P Act 1952 and directed the respondent to consider the matter afresh by providing adequate opportunity to the petitioner to raise all objections available to them under law and pass final orders. Pursuant to the orders, dated 21.06.2010 in W.P(MD) No.15670 of 2000, the respondent after giving adequate opportunity to the petitioner passed final orders against the petitioner under Section 7-A of the the E.P.F and M.P Act, 1952 on 31.01.2011, assessing the E.P.F contributions payable by the petitioner at Rs.1,11,801.55/-. Aggrieved by the same, the instant writ petition has been filed.

3. Heard Mr.K.Sreekumaran Nair, learned counsel for the petitioner and Mr.K.Gurunathan, learned Standing Counsel appearing for the respondent.

4. The only ground urged by the learned counsel for the petitioner is that there are only 14 employees in petitioner's institution and therefore the E.P.F and M.P Act 1952 is not attracted and therefore they are not liable to pay the contributions as determined under the impugned order passed by the respondent.

5. Per contra, the learned Standing Counsel for the respondent would submit that there is an alternate and efficacious statutory remedy available to the petitioner under the E.P.F and M.P Act, 1952 and without exercising the same, the petitioner has directly approached this Court by filing writ petition. which is not maintainable. Further, he would contend that there is no violation of principles of natural justice, as the petitioner has been afforded adequate opportunity to place all objections available to them under law. He drew the attention of this Court to the observations recorded in the impugned proceedings, wherein, it has been recorded that the petitioner themselves have submitted attendance register for the month of March, 1995, wherein, they have admitted that there were 25 employees in their institution. The petitioners having admitted that there are 25 employees in their institution, there is no scope for the petitioner to raise the contention before this court stating that there are only 14 employees.

6. This Court has perused and examined the impugned proceedings, dated 31.01.2011 and the order in revision, dated 26.04.2011. As seen from the impugned proceedings, all the objections raised by the petitioner in this writ petition have been duly considered in the impugned orders. As rightly submitted



by the learned Standing Counsel for the respondent, the petitioner themselves have admitted as seen from their attendance register which was marked as an exhibit in the impugned order for the month of March- 1995 that there are 25 employees in their institution. Further, under the impugned proceedings, it is seen that adequate opportunity was granted to the petitioner to raise all objections available to them under law, which was also made use of by the petitioner. Only after considering the oral and documentary evidence, available on record, the impugned proceedings came to be passed against the petitioner.

7. This Court has perused the impugned orders and does not find any infirmity in the impugned orders. This Court under Article 226 of the Constitution of India, cannot re- appreciate the evidence when there is no perversity, as it is not a Court of appeal. As such, there is no perversity in the impugned order and therefore there is no merit in this writ petition.

08. Accordingly, this Writ Petition is dismissed. No Costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar (CS)

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TO

The Regional Provident Fund Commissioner
Sub Regional Officer,
E.P.F. Organization
66, Water Tank Road
Nagercoil-I
Kanyakumari District

+1CC TO MR.K.GURUNATHAN, Advocate Sr. No.59573

+1CC TO MR.K.SREEKUMARAN NAIR, Advocate Sr. No.59649

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