

\$~45

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 02.08.2019

+ W.P.(C) 8344/2019

ART OF LEARNING FOUNDATION (REGD.) Petitioner

Through: Ms. Mansi Sinha, Adv. along with
Ms.Kaadambari, Petitioner in person

versus

THE CENTRAL PROVIDENT COMMISSIONER DELHI

..... Respondent

Through: Mr. Keshav Mohan & Mr. Piyush
Vatsa, Advs. for EPFO

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT

D.N. PATEL, CHIEF JUSTICE (ORAL)

1. The counsel appearing for the petitioner has taken this Court to the circular issued by the Additional Central Provident Fund Commissioner (Compliance) which is dated 27.05.2014 (Annexure P-2 to the memo of this writ petition) and it is submitted by the counsel for the petitioner that this circular is in violation of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as "The Act"), especially Section 17 read with sub-section (2B).

2. We are of the opinion that, if in any individual case, if there is any violation of the provisions of the Act, the aggrieved party can always come before this Court. Moreover, a circular cannot have an overriding effect

over the provisions of the Act of 1952. The circular has to be read in consonance with the provisions of the Act. The circular cannot carve out an exception to the provisions of the Act and the rules made thereunder.

3. Whenever any aggrieved party comes before this Court, he can always have a remedy under the Act. Even otherwise, the circular is of the year 2014 and not even a single violation has been brought to the notice of this Court. As and when any individual writ petition comes before this Court, this Court has all the power and authority to decide the issue looking to the aforesaid Act.

4. With the aforesaid observation, this writ petition stands disposed of.

CHIEF JUSTICE

C.HARI SHANKAR, J

AUGUST 01, 2019

ns