

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2020

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.3010 of 2020
and
W.M.P.Nos.3510 & 3512 of 2020

The Nelliyalam Municipality
Nelliyalam, Pandalur
The Nilgiris District - 643 233.
Rep. by the Commissioner Petitioner
vs.

- 1.The Regional Provident Fund Commissioner-II
Employees Provident Fund Organization
P.B.No.3875, Dr.Balasundaram Road,
Coimbatore - 641 018.
- 2.The Enforcement Officer
Division 18
Regional P.F.Commissioner Office
Area-II, P.B.No.3875,
Dr. Balasundaram Road,
Coimbatore - 641 018. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari, calling for the records pertaining to the impugned order passed by the 1st respondent dated 30.12.2019 in Diary No.545/2018 in his proceedings in No.CB/CBE/PF/ENF/CC6/1529484/Div.18/2019 and quash the same as arbitrary and against law.

For Petitioner : Mr.S.R.Rajagopal
Additional Advocate General
Assisted by Mr.M.Venugopal

For Respondents: Ms.R.Meenakshi
standing counsel

O R D E R

Ms.R.Meenakshi, learned standing counsel takes notice for the respondents. By consent of both the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. This writ petition is filed by the Nelliyalam Municipality, Nilgiris District, challenging the order dated 30.12.2019 of the first respondent passed under Section 7A of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, wherein and whereby, the petitioner-Municipality was directed to remit a sum of Rs.65,35,217/- towards the dues payable by the petitioner-Municipality under the EPF&MP Act.

3. Mr.S.R.Rajagopal, learned Additional Advocate General appearing for the petitioner contended that the first respondent failed to consider the objections raised by the Municipality with regard to the very applicability of the above said Act, since there are only 12 employees in 'Amma Unavagam' and therefore, the petitioner-Municipality cannot be called upon to pay the contribution in respect of those employees, who are less than 20 in numbers. He also raised the other objections against the impugned order touching upon the merits of the matter.

4. This Court is not inclined to go into all those contentions raised by the petitioner in this writ petition only on the reason that as against the impugned order, a statutory appellate remedy is provided under Section 7-I of the EPF & MP Act and also a review under Section 7-B of the EPF & MP Act. Since the jurisdictional issue raised by the petitioner is to be considered and decided by going into the factual aspects of the matter as well, this Court is of the view that the petitioner has to raise such issue only by resorting to the remedies available either under Section 7-I of the EPF & MP Act, or under Section 7-B of the EPF & MP Act, as stated supra. It is not in dispute that the time limit prescribed for filing appeal or review has not expired so far.

5. It is stated by the learned Additional Advocate General that even before expiry of the time prescribed either for filing appeal or review, the bank account maintained by the petitioner-Municipality are attached and therefore, the day-to-day activities of the Municipality is paralysed.

6. Though the details of the bank account are not furnished before this Court, this Court is inclined to record the submission made by the learned Additional Advocate General to the above effect for the purpose of disposing this writ petition, as indicated hereunder.

7. Considering the above stated facts and circumstances and considering the fact that the petitioner has to exhaust their alternative remedies available under the EPF & MP Act, as discussed supra, this Writ Petition is disposed of, by granting liberty to the petitioner to file either the appeal or review

before the concerned authority and seek for appropriate relief including interim protection, if any. Such exercise shall be done by the petitioner-Municipality within a period of 7 days from the date of receipt of a copy of this order. Until then, the bank attachment made, if any, by the respondents shall be lifted so as to enable the Municipality to perform its day-to-day functions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1.The Regional Provident Fund Commissioner-II
Employees Provident Fund Organization
P.B.No.3875, Dr.Balasundaram Road,
Coimbatore - 641 018.

2.The Enforcement Officer
Division 18
Regional P.F.Commissioner Office
Area-II, P.B.No.3875,
Dr. Balasundaram Road,
Coimbatore - 641 018.

+lcc to Mr.R.Meenakshi, Advocate Sr.9825

+lcc to Mr.M.Venugopal, Advocate Sr.9708

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