

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 8823 of 2020

and

W.M.P. Nos. 10714 and 10715 of 2020

The Chairman,
Raasi Polytechnic College,
No. 68/2, Attur Main Road,
Aayilpatty (PO),
Rasipuram Taluk,
Namakkal District.

...Petitioner

-vs-

1. The Assistant Provident Fund Commissioner,
Employees' Provident Fund Organisation,
Regional Office, S.J. Plaza,
Swarnapuri, Salem - 636 004,
Salem District.
2. The Enforcement Officer,
Employees' Provident Fund Organisation,
District Office,
Salem District.
3. The Bank Manager,
Canara Bank,
Karkoodalpatty Branch,
Rasipuram, Namakkal District,
Namakkal - 636 202.

...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records on the file of the First Respondent pursuant to the impugned orders in No. CB/SRO/SLM/COMP-I/90319/S-5/8F/2019 dated 05.02.2019 and in No. CB/SL/90319/RECY/SLM V/ CP-2/2019 dated 27.11.2019 passed by the First Respondent and quash the same as illegal.

For Petitioner	:	Mr. Ali Hasan Khan
For Respondents	:	Mr. R.Thirunavukkarasu, Standing Counsel (for R1 & R2) Service awaited (for R3)

O R D E R
(through video conference)

Heard Mr. Ali Hasan Khan, Learned Counsel for the Petitioner and Mr. R.Thirunavukkarasu, Learned Standing Counsel appearing for the Second and Third Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. It is contended by the Learned Counsel for the Petitioner that though the Petitioner has challenged the No. CB/SRO/SLM/COMP-I/90319/S-5/8F/2019 dated 05.02.2019 under Section 8-F of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the 'Act' for short) attaching the Account of the College of the Petitioner and Order No. CB/SL/ 90319/RECY/SLM V/CP-2/2019 dated 27.11.2019 under Section 8-G of the Act attaching the instruments and movable properties of the College of the Petitioner, the Petitioner would be satisfied if the arrears of provident fund dues accumulated are permitted to be remitted in 24 equated monthly installments and raise the order of attachment, which has been passed in the impugned orders.

3. In response to the query made, Learned Standing Counsel appearing for the Respondent has produced the Circular No. RRC/28(23)06/BIFR/23781 dated 11.02.2014 and the Circular No. RRC/28(23)06/BIFR/3345 dated 12.05.2014 issued by the Central Provident Fund Commissioner, containing the instructions approved by the Central Board of Trustees of the Employees Provident Fund Organisation in their earlier meetings to permit the arrears of provident fund dues accumulated to be remitted in monthly installments.

4. Learned Counsel for the Petitioner states that the Petitioner has submitted a representation dated 08.09.2020 through registered post for availing the said benefit of remitting the arrears of provident fund accumulated in 24 equated monthly installments, which has been sent to the Respondent on 08.09.2020 and a copy of the postal receipt to that effect has been produced before this Court.

5. Having due regard to the aforesaid submissions made, this Court without expressing any view on the correctness or entitlement of the claim made by the Petitioner, requires the Competent Authority to duly consider the aforesaid representation dated 08.09.2020 made by the Petitioner with reference to the parameters stipulated in the aforesaid circulars along with request made for raising the order of attachment, that has been impugned in this Writ Petition, and pass reasoned orders on merits and in accordance with law and

communicate the decision taken to the Petitioner under written acknowledgment by 15.10.2020. Before carrying out that exercise, if the Competent Authority is of the view that the Petitioner has not satisfied the prescribed requirements or eligibility criteria for that benefit, the deficiencies in that regard shall be informed in writing to the Petitioner by 21.09.2020 requiring the same to be furnished on or before 30.09.2020. In the event of the Competent Authority being of the opinion that the Petitioner has not satisfied the same even thereafter, an enquiry shall be conducted on 05.10.2020 affording an opportunity of personal hearing to the Petitioner to explain its position regarding such compliance. It is made clear that resort to coercive measures for recovery against the Petitioner shall be deferred till the representation is disposed in the aforesaid manner.

Accordingly, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vjt

To

1. The Assistant Provident Fund Commissioner,
Employees' Provident Fund Organisation,
Regional Office, S.J. Plaza,
Swarnapuri, Salem - 636 004,
Salem District.
2. The Enforcement Officer,
Employees' Provident Fund Organisation,
District Office,
Salem District.
3. The Bank Manager,
Canara Bank,
Karkoodalpatty Branch,
Rasipuram, Namakkal District,
Namakkal - 636 202.

W.P. No. 8823 of 2020

CA(CO)
KKV/17/09/2020