

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2020

CORAM

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

W.P. No. 5839 of 2017

and

W.M.P. Nos. 6258 and 33678 of 2017

R. Aravind,

Secretary,

Pallavaram Nagaratchi Pathivupetra Oppanthakarargal Nala Sangam,

No. 82, Srinivasan Nagar,

Chitlapakam, Hasthinapuram,

Chennai - 600 064.

.... Petitioner

-vs-

1. The Commissioner,

Pallavaram Municipality,

Chromepet,

Kancheepuram District.

2. The Regional Provident Fund Commissioner,

Employees Provident Fund Office,

No. 3, Rajaji Salai,

West Tambaram,

Chennai - 600 045.

.... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the impugned order of the First Respondent in Na. Ka. No. 10558/2012/E1 dated 16.12.2016 and quash the same.

For Petitioner : Mr. R.Kannan

For Respondents: Mr. P.Srinivas, Standing Counsel
(for R1)

Mr. K.Ramu, Standing Counsel (for R2)

ORDER
(through video conference)

The Central Government by Notification No. S.O 30(E) dated 08.01.2011 in exercise of the powers conferred by Section 1(3) (b) of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred as 'the Act' for short) specified the Municipal Councils and Municipals Corporations constituted under Article 243-Q(1)(b) and (c) of the Constitution of India employing 20 or more persons as a

class of establishments to which that Act shall apply with effect from the date of its publication in the Official Gazette.

2. In furtherance thereto, the Commissioner of Municipal Administration by Letter No. 57084/2011/L3 dated 21.10.2014 addressed to all Commissioners of Municipal Councils has communicated the decision of the State Government that though the Municipalities/Corporations take up works through private contractors, the authorities concerned should ensure that the contractors pay the PF subscription of their employees duly to the PF organization, otherwise, the responsibility for the same will be fixed on the concerned Municipalities/Corporations, which is the principal employer, if the contractors default in this regard.

3. It has been brought to notice that the Government of Tamil Nadu by another Letter No.18823/MC5/2016-1 dated 19.08.2016, sent to the Commissioner of Municipal Administration has required all the Municipal Councils in the State to comply with the provisions of the Act, to withdraw the Court cases, in addition to share the details of contractors/contracts awarded by them in the Principal Employer portal available in the website of Employees Provident Fund Organization to facilitate the extension of social security benefits to all eligible persons.

4. That apart, yet another Letter ROC No.1819/2016/L3, dated 19.10.2016, was sent by the Commissioner of Municipal Administration to all Municipal Commissioners to take necessary action in connection with implementation of the Act and the schemes framed thereunder in respect of employees of Municipalities and Corporations and send the report directly to the Employees Provident Fund Organization concerned.

5. In that backdrop, the First Respondent viz., the Commissioner, Pallavaram Municipality, had sent a notice in Na.Ka.No.10558/2012/E1 dated 16.12.2016 to the Secretary, Pallavaram Nagaratchi Pathivupetra Oppanthakararkal Nala Sangam to require the contractors, who are its members, to comply with the provisions of the Act.

6. The Petitioner, who claims to hold the office of the Secretary, Pallavaram Nagaratchi Pathivupetra Oppanthakararkal Nala Sangam, has filed this Writ Petition in his personal capacity challenging the said notice in Na.Ka.No.10558/2012/E1 dated 16.12.2016. Though the impugned order has been sent to the Secretary, Pallavaram Nagaratchi Pathivupetra Oppanthakararkal Nala Sangam, the Petitioner cannot be a 'person aggrieved' to challenge the same either in his personal capacity or merely because he holds the office of the Secretary, Pallavaram

Nagaratchi Pathivupetra Oppanthakararkal Nala Sangam, in view of the ruling of the Hon'ble Supreme Court of India in Mahinder Kumar Gupta -vs- Union of India [(1995) 1 SCC 85], in which it has been held that an Association cannot file a Writ Petition seeking relief espousing the cause of its individual members and does not affect any legal right of that Association.

7. In view of the aforesaid legal position, the Writ Petition, at the instance of the Petitioner, who does not have any locus standi to file the same for the relief claimed, cannot be entertained.

Accordingly, the Writ Petition is dismissed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner,
Pallavaram Municipality,
Chrompet,
Kancheepuram District.
2. The Regional Provident Fund Commissioner,
Employees Provident Fund Office,
No. 3, Rajaji Salai,
West Tambaram,
Chennai - 600 045.

सत्यमेव जयते

W.P. No. 5839 of 2017

AK(CO)
RV(07/08/2020)

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