

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

208

CWP-6703-2020

Date of decision: 15.06.2020

Hindu Girls College, Sonipat

.....Petitioner

Versus

Regional Provident Fund Commissioner-II and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Gaurav Mohunta, Advocate
for the petitioner.

Mr. Sandeep Goyal, Advocate
for respondent No.1.

ARUN KUMAR TYAGI, J (ORAL)

The case has been taken up for hearing through video conferencing.

The petitioner has filed the present petition under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing order/letter dated 08.11.2019 (Annexure P-1) passed by respondent No.1 whereby the account of the petitioner has been frozen and the amount of Rs.43,99,028/- has been ordered to be paid towards recovery of defaulted amount under Section 14-B of the Employees' Provident Funds & Miscellaneous Provisions Act, 1952 (for short, "the 1952 Act").

Notice of the petition was given to the respondents vide order dated 16.03.2020.

The petition has been contested by respondent No.1 in terms of reply received through e-mail print out of which is taken on record.

None has appeared for respondent No.2 and in the facts and circumstances of the case, presence of respondent No.2 is considered unnecessary and is accordingly dispensed with.

I have heard learned counsel for the petitioner and learned counsel for respondent No.1 and gone through the relevant record.

Learned counsel for the petitioner has submitted that before expiry of the period of 60 days permissible for filing of appeal, respondent No.1 had frozen the bank account of the petitioner. After filing of the appeal operation of the order passed by respondent No.1 was stayed subject to the deposit of 20% of the amount. The petitioner has already deposited the same but the account of the petitioner has not been de-frozen and the same may accordingly be ordered.

On the other hand, learned counsel for respondent No.1 has submitted that vide order 29.11.2019 passed by the appellate Tribunal respondent No.1 was restrained from taking any coercive proceedings and, therefore, no order for de-freezing of the account could be passed by respondent No.1. The petitioner may be asked to furnish security for payment of the amount in the eventuality of the dismissal of its appeal. The petitioner is not entitled to any relief. Therefore, the petition may be dismissed.

Respondent No.1 vide order/letter dated 08.11.2019 issued on the basis of impugned order dated 11.10.2019 had frozen the bank account of the petitioner for Rs.43,99,028/- towards recovery of defaulted amount before expiry of the period of 60 days for filing of the appeal against order dated 11.10.2019. On filing of the appeal by the petitioner, operation of the impugned order dated 11.10.2019 was

stayed by the appellate Tribunal subject to deposit of 20% of the assessed amount. The petitioner has accordingly deposited the amount of Rs.8,79,810/- on 27.12.2019 but the order/letter dated 08.11.2019 freezing account of the petitioner has not been withdrawn. In view of the staying of operation of the impugned order and deposit of 20% of the assessed amount, the petitioner is entitled to de-freezing of its account and order/letter dated 08.11.2019 is liable to be set aside.

In view of the above, the petition is allowed, order/letter dated 08.11.2019 (Annexure P-1) is set aside and respondent No.2 is directed to de-freeze the account of the petitioner who shall be entitled to operate the same.

However, respondent No.1 shall be entitled to take appropriate proceedings under Section 8F of the 1952 Act on decision of the appeal as the case may be.

15.06.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No