

February 02, 2021

ARDR
(35)

WPA 17736 of 2013

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(IA 1/2020) (Old CAN 1052 of 2020)

The Kamarhati Municipality & Ors.

Vs.

The Union of India & ors.

Ms. Chandrani Bhattacharyya,

Ms. Shrabani Chatterjee,

...for the petitioners/Municipality.

Mr. Ujjwal Datta,

...for the respondents.

The matter is taken up for hearing and a preliminary point is raised on behalf of the Provident Fund authorities that in view of an alternative, efficacious remedy available to the petitioner under the provisions of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (the Act), the writ petition is not maintainable.

It is submitted on behalf of the respondent authorities that Section 7(I) of the Act provides for a statutory remedy of appeal to the petitioner which has not been availed of by the petitioner. The respondent authorities also rely on an order passed by a Division Bench of this Hon'ble Court in Central Provident Fund Commissioner –vs.- Tarakeswar Municipality & Ors. in MAT 626 of 2019 (In CAN 6298 of 2019) wherein, the Hon'ble Division Bench had dismissed two writ petitions filed by two separate Municipalities on the

ground that the petitioners had an alternative, efficacious remedy.

It is well settled that ordinarily, availability of an alternative, adequate, efficacious legal remedy is a ground for a Writ Court to decline to exercise its jurisdiction. There are exceptions to this Rule. However, in the facts of the instant case, the petitioner has been unable to make out any exceptional ground as to why the Writ Court should exercise its jurisdiction. Moreover, it is also well settled that once a petition is admitted it could always be dismissed on the ground of alternative remedy (*Genpact India Ltd. vs. Deputy Commissioner of Income Tax*) reported in 2019 SCC Online 1500 para 26.

In view of the efficacious, alternative remedy available to the petitioner, I find that there are no grounds made out as to why the Writ Court should exercise its extraordinary jurisdiction in respect of this matter.

In view of the aforesaid, WPA 17736 of 2013 is dismissed.

Interim orders, if any, stands vacated.

The connected applications also stand disposed off.

Liberty is granted to the petitioner to take all steps in accordance with law.

(Ravi Krishan Kapur, J.)