IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

BEFORE:
The Hon'ble Mr. Justice Ravi Krishan Kapur

WPA 28018 of 2014

Genevieve Rebeiro & Ors.

Vs.

Central Provident Fund Commissioner & Ors.

For the petitioners	:	Mr. Shounak Mitra Mr. Rishav Dutta
For the respondent no.6	:	Mr. Soumabha Ghose Mr. Soumalya Ganguly
For the P.F. Authorities	:	Mr. S. C. Prasad
Heard on	:	28.01.2021
Judgment on	:	06.04.2021

Ravi Krishan Kapur, J.:

1. The petitioners are employees of the respondent no.6 company. The grievance of the petitioners is directed against the actions initiated against the respondent no.6 company by the respondent provident fund authorities.

2. The petitioners assail the letters dated 13 May, 2014, 26 August, 2014 and 16 September, 2014 issued by the respondent authorities. By the impugned letters the respondent authorities have inter alia rejected the exemption status of the respondent no.6 on the ground that the respondent no.6 had failed to rectify the deficiencies in their proposal

for grant of such exemption. Moreover, by the impugned communication dated 16 September, 2014 the respondent authorities have also directed the respondent no.6 to comply with their mandatory obligations under the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter referred to as "the Act").

3. The brief facts of this case are that the petitioners as employees of the respondent no.6 company seek continuance of an exemption status which was being enjoyed by the respondent no.6 company from operation of the scheme under the Act. It is alleged on behalf of the petitioners that the pension fund being run and operated by the respondent no.7 is more beneficial to the employees of the respondent no.6 company and the respondent no.6 company be exempted from the provisions of the Act. The petitioners further allege that they are enjoying a scheme under the Life Insurance Corporation which is far more advantageous than that provided by the respondent authorities. It is further alleged that the scheme of the respondent no.6 also provides the employees with a better standard of living. It is also alleged that the amount of pension received by the employees of the respondent no.6 post retirement from the fund maintained by the respondent no.7 would be more than that which an employee would be entitled to under the Act. The petitioners also assail the cancellation of the exemption status of the respondent no.6 company by the respondent authorities.

4. On behalf of the respondent authorities it is submitted that the petition is not maintainable since it has been filed by employees of the respondent no.6 company who have no locus to challenge the impugned actions which are directed only against the respondent no.6 company. It is also submitted that the EPS Scheme is far more advantageous than the scheme under the Life Insurance Corporation. It is said that the scheme under the EPS Scheme 1995 provides for more benefits to its members than the scheme of the LIC. It is further alleged that the respondent no.6 company has caused and instigated the petitioners to file this writ petition. It is also alleged that the respondent no.6 is in violation of all their mandatory obligations under the Act and the EPS Scheme 1995.

5. This petition has been pending since 2014. Upon filing of this petition, the petitioners had obtained an interim order dated 9 September, 2015 whereby the respondent authorities were restrained from taking any coercive steps against the respondent no.6 company.

6. I have considered the submissions made on behalf of the parties. It is true that the respondent no.6 was enjoying an exemption status under the provisions of the Act. Thereafter, the respondent no.6 had made a proposal for extension of such exemption which was duly considered by the respondent provident fund authorities and was rejected. The grounds for rejection of the exemption have been recorded in the impugned letters. It appears that the proposal of the respondent no.6 was primarily rejected on the ground that the

respondent no.6 had failed to rectify the deficiencies in their proposal and had also failed to submit any fresh proposal in accordance with law.

7. I am of the view that there are no grounds made out in this petition justifying any interference with the impugned communications issued by the respondent provident fund authorities. I am also of the view that the petitioners have no right to seek an extension of the exemption status which was being enjoyed by the respondent no.6 establishment. I find that the petitioners have been unable to demonstrate any legal entitlement or right which could conceivably accrue in their favour to maintain such a petition. The impugned actions of the respondent authorities are all directed only against the respondent no.6 establishment. I find that it is only the respondent no.6 establishment which can claim any infringement of their rights.

8. Moreover and in any event, I am of the view that there are no grounds warranting any interference with the impugned actions of the respondent authorities. Neither the petitioners nor the respondent no.6 have been able to confirm or satisfy the respondent authorities as to how the pension fund has been invested or not. In any event, the respondent no.6 has not been able to rectify the deficiencies that had been pointed out to them by the respondent provident fund authorities within the stipulated time period. I also find that the respondent no.6 company had failed and neglected to comply with their obligation to rectify the deficiencies in the proposal submitted by

them. I find that the impugned actions of the respondent provident fund authorities are in accordance with law and there are no grounds whatsoever to interfere with the same. The petitioners as employees of the respondent no.6 cannot challenge the rejection of the application for grant of exemption of the respondent no.6 under paragraph 39 of the 1995 Scheme. I find that there are no grounds to compel the respondent provident fund authorities to grant continuance of an exemption status to the respondent no.6. I also find no reason to interfere with any of the impugned letters addressed to the respondent no.6 company. I find no illegality nor perversity nor contravention of any law in the impugned actions of the respondent authorities.

9. In view of the aforesaid, I find no merit in this petition. Accordingly, WPA 28018 of 2014 is dismissed with costs assessed at Rs.5 lacs (Five lacs) to be paid by the petitioners jointly and/or severally to the respondent no.1. All connected interlocutory applications also stand disposed off. Interim orders are vacated.

10. Urgent certified photostat copies of this judgment, if applied for, be given to the parties upon compliance with all necessary formalities.

(Ravi Krishan Kapur, J.)