



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.07.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.9354 of 2005
and M.P.No.10170 of 2005

Tamil Nadu Agricultural University
Coimbatore 641 003.
Rep.by its Registrar

... Petitioner

Vs

1. The Assistant Provident Fund Commissioner
Office of the Regional Provident Fund Commissioner
Dr.Balasundaram Road, Coimbatore - 18.
2. The Enforcement Officer
Employee's Provident Fund Organisation
Sub Regional Office,
Dr.Balasundaram Road,
Coimbatore - 18.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying to issue a writ of certiorari to call for the records from the file of the first respondent in his proceedings bearing No.TN/CBE/PDC/28898/Cir.17/FLO/2004-05 dated 17.02.2005 and consequential reference of the 2nd respondent in No.TN/CBE/EO/CC1(3)/TNAU/2004 dated 02.11.2004 and to quash the same.

For Petitioner : Mr.S.Jayaraman

For Respondents : Mr.C.Kulanthaivel
Standing Counsel for R1

O R D E R

This writ petition has been filed to call for the records from the file of the first respondent in his proceedings bearing No.TN/CBE/PDC/28898/Cir.17/FLO/2004-05 dated 17.02.2005 and consequential reference of the 2nd respondent in No.TN/CBE/EO/CC1(3)/TNAU/2004 dated 02.11.2004 and to quash the same.



2. When the matter is taken up for hearing, Mr. Jayaraman, learned counsel for the Petitioner / University has produced a copy of the order of the Apex Court made in W.P.(C) No.1471 of 1987 dated 16.01.1991, wherein it was held that the EPF Act is applicable to the Tamil Nadu Agricultural University / petitioner herein.

3. It is seen that the University has challenged the show cause notice dated 17.02.2005. The Hon'ble Supreme Court in the case of Union of India and another vs. Kunisetty Satyanarayana, reported in (2007) 1 SCT 452, has been pleased to lay down as under:

"It is well settled by a series of decision of this Court that ordinarily no writ lies against a charge sheet or show cause notice vide Executive Engineer, Bihar State Housing Board vs. Ramdish Kumar Singh and others JT 1995 (8) SC 331, Special Director and another vs. Mohd. Ghulam Ghouse and another in 2004 (1) SCT671 (SC), Ulagaappa and others vs. Divisional Commissioner, Mysore and others (2001) 10 SCC 639, State of U.P. vs. Brahm Dutt Sharma and another in AIR 1987 SC 943 etc."

4. The Hon'ble Supreme Court in this very judgement held that in some very rare and exceptional cases, the High Court can quash the charge sheet or show cause notice, if it is found to be without jurisdiction, or for some other reason, if it is wholly illegal, though normally, the High Court should not interfere. In the absence of any such violation and infringement of rights, there is no scope for this Court to interfere with such show cause notice impugned in this writ petition.

5. In view of the settled proposition of law, the University has to participate in the enquiry and depending upon the determination, if any against the University, it is open to them to question the same by way of filing a Review, if available or by means of an appeal under Section 7(I) of EPF Act, 1952.

6. For the foregoing reasons, this Court is not inclined to interfere with the impugned proceedings and the Petitioner / University is permitted to reply to the show cause notice and after affording an opportunity of being heard, production of records, examination and cross examination of witnesses if any, the Authorities concerned shall take a decision at the earliest



point of time, as more than 16 years have gone by from the date of show cause notice impugned herein.

With the above observation, this Writ Petition is disposed of. No costs.

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Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

dpq

To:

1. The Assistant Provident Fund Commissioner
Office of the Regional Provident Fund Commissioner
Dr.Balasundaram Road, Coimbatore - 18.
2. The Enforcement Officer
Employee's Provident Fund Organisation
Sub Regional Office,
Dr.Balasundaram Road,
Coimbatore - 18.

+1CC to Mr.C.Kulanthaivel, Advocate, Sr.No.35239

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NRI (CO)
K.RK. (29.11.2021)