



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2021

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P. (MD) No. 14242 of 2021 and

WMP (MD) No. 11177 and 11178 of 2021

WEB COPY

NN630 Kombukkaranendal Primary Agricultural
Cooperative Bank

now called as

NN630 Kombukkaranendal Primary Agricultural

Coopeartive Credit Society,

rep. by its Secretary,

Kombukkaranendal,

Manamadurai,

Sivagangai District - 630 609.

... Petitioner

Vs.

1. The Asst. P.F. Commissioner/
Employees Provident Fund Organization,
Regional Office,
Lady Doak College Road,
Madurai.

2. The Recovery Officer,
Employees Provident Fund Organization,
Regional Office,
Lady Doak College Road,
Madurai.

3. Sivagangai District Central Cooperative Bank Ltd.,
through its Branch Manager,
Manamadurai Post and Taluk,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records of the impugned order passed by the 1st respondent made in TN/RO/MD/MDU/29677/ Recovery/ M-3 / 8F 2021, dated 14.07.2021 and quash the same.

For Petitioner	:	Mr. R. Saravanan
For RR1 & 2	:	Mr. A. John Xavier
		Standing Counsel

**O R D E R**

This petition has been filed seeking for issuance of a Writ of Certiorari to call for the records of the impugned order passed by the 1st respondent made in No.TN/RO/MD/MDU/29677/ Recovery/ M-3 / 8F 2021, dated 14.07.2021 and quash the same.

2. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents.

3. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

4. According to the petitioner, the petitioner Society is a Co-operative Institution registered under the Tamilnadu Co-operative Societies Act. The petitioner Society voluntarily enrolled the scheme under the provisions of Section 1(4) of EPF Act and therefore, the petitioner Society is not covered under the EPF Act. Due to financial crisis and also due to various reasons, the petitioner could not pay the retirement benefits to the employees, who retired earlier. During the year from 4/2012 to 7/2012 and 10/2013 to 4/2017, due to various reasons, the petitioner could not pay the EPF contributions to the respondents and as belatedly the amount was remitted, there was a delay for the payment of contribution by the petitioner which was neither willful nor wanton.

5. According to the petitioner, the first respondent has initiated action under Section 14B and 7Q of the EPF Act for the belated payment of contribution and proposed damages amounting to Rs.4,47,193/- and interest amount of Rs.2,33,277/- for the above said period and at the time of personal hearing, the petitioner has submitted his explanation and asked for waiver of damages amount and interest. According to the petitioner, the delay is neither willful nor wanton. The first respondent, without considering the same, confirmed the notice amount and ordered the aforesaid damages amount and the same was not communicated to the petitioner's Society.

6. According to the petitioner, since the first respondent had not served the above said order, the petitioner Society could not file the appeal before the EPF Appellate Tribunal, Chennai. The first respondent has sent a letter dated 16.04.2021, wherein, he has enclosed the above said order and the same was received by the petitioner on 22.04.2021.

7. The second respondent had passed impugned order on 14.07.2021 under Section 8F of EPF Act to attach the petitioner Society Bank Account and sent the same to the third respondent



Branch. According to the petitioner, the action of the first and the second respondents is contrary to law and before the expiry of appeal time, the execution proceedings initiated by the second respondent is illegal and liable to be set aside.

8. Therefore, in the meantime, the petitioner Society seeks protection from this Court to restrain the respondents from proceeding to recover the amount from the third respondent Bank.

9. The learned Standing counsel appearing for the respondents 1 & 2 would submit that according to him, the writ petition is not maintainable and the writ petitioner has to seek his remedy before the appellate Authority.

10. In view of the submissions made by the learned counsel on either side and also taking note of the fact that the respondent has initiated action against the petitioner to recover the said amount through the third respondent Bank, which caused much hardship to the petitioner Society and the petitioner wants to prefer an Appeal before the Appellate Authority and no prejudice would be caused to the respondent in granting interim relief for the limited period and further to seek appropriate remedy before the Appellate Authority. In view of the above, this Court is inclined to grant interim protection to the petitioner Society. Accordingly, the impugned order dated 14.07.2021 passed by the second respondent under Section 8F of the Employees' Provident Funds and Miscellaneous Provisions Act shall be kept abeyance for a period of four weeks. In the meantime, it is for the petitioner to work out his remedy before the Appellate Authority. The Appellate Authority shall not be influenced by the order passed by this Court in the present Writ petition and the Appellate Authority shall consider the Appeal to be filed by the petitioner independently and dispose of the same in accordance with law.

11. With the above observations, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



To

1. The Asst. P.F. Commissioner,
Employees Provident Fund Organization,
Regional Office,
Lady Doak College Road,
Madurai.

2. The Recovery Officer,
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Regional Office,
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3. Sivagangai District Central Cooperative Bank Ltd.,
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+1 CC to M/s. R. SARAVANAN, Advocate (SR-26602[F] dated 18/08/2021)

W.P. (MD) No. 14242 of 2021 and
WMP (MD) No. 11177 and 11178 of 2021
17.08.2021

DJ (CO)
SB (27.08.2021) 4P 5C