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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.10.2022

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THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No.15570 of 2013
and
W.M.P.(MD)Nos.1 & 2 of 2013

Dindigul Union Club,
represented through its Secretary N.Ramakrishnan ... Petitioner

vs.

1. The Employees Provident Fund Organization,
represented through its
Assistant Provident Fund Commissioner,
Lady Doak College, Road,
Madurai – 625 002.

2. The Enforcement Officer (Dindigul),
Employees Provident Fund Organization,
Lady Doak College Road, Madurai – 625 002.

3. R.Senthil Vasan ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of ***Certiorarified Mandamus***, calling for the records pertaining to the order passed by the 1st respondent, dated 06.08.2013 in FILE.No. TN/91715/MDU/ENF-B/33060/2013 and quash the same as illegal and arbitrary



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and without jurisdiction and consequently directing the 1st respondent to drop all further proceedings initiated against the writ petitioner under the provisions of Provident Fund Act.

For Petitioner : No appearance
For R-1 & R-2 : Mr.P. Karthick,
Standing Counsel
For R-3 : No Appearance

ORDER

This Writ Petition has been filed to quash the order passed by the 1st respondent, dated 06.08.2013 in FILE.No.TN/91715/MDU/ENF-B/33060/2013 and also sought for a consequential direction to the 1st respondent to drop all further proceedings initiated against the writ petitioner under the provisions of Employees Provident Fund Act.

2. There was no representation on the side of the petitioner. Hence, this Court is inclined to pass order on merits.



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3. Today, when the matter is taken up for hearing, Mr.P. Karthick, learned Standing Counsel appearing for the respondent Nos.1 & 2 has filed counter affidavit and put forth his argument.

4. The contention of the petitioner is that the petitioner's club is having 16 employees, as per the records. The Union Club provides additional amenity and a portion of the building was leased to the 3rd respondent for running a Canteen. It is further contended that the Canteen is not forming a part of the Union Club and submitted that the respondents cannot add the employees working in the Canteen and bring the employees to the Union Club list. Even according to the respondents, totally, there are 17 employees in the petitioner's club and 7 employees in the Canteen.

5. In the counter affidavit, the respondents have stated that the club is having separate Bar and the Bar is running by with 17 employees. The respondents took a plea that the Canteen and the Club are functioning for Club members only, not opened to the general public. Therefore, the petitioner's club



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is responsible to contribute under the Employees Provident Fund Scheme for the employees who are working in the club, as well as the 3rd respondent Canteen. This plea is not accepted. The criteria is that the employees are engaged by the petitioner or the 3rd respondent, if the Canteen employees are engaged by the 3rd respondent, then the 3rd respondent is responsible for the Employees Provident Fund Scheme payment and the petitioner is not responsible. Moreover, the respondent is adding the petitioner's employees and the 3rd respondent Canteen employees and coming to the conclusion that there are more than 20 persons and they will come under the purview of the Employees Provident Fund Scheme, which is without any evidence.

6. In view of the foregoing reasons, this Court deems fit that the matter is remitted back to the 1st respondent for further enquiry.

7. Accordingly, this Writ Petition is allowed. The impugned order passed by the 1st respondent, dated 06.08.2013 in FILE.No.TN/91715/MDU/ENF-B/33060/2013 is set aside. The 1st respondent is directed to issue fresh notice to the petitioner as well as the 3rd respondent, directing them to furnish the



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particulars of lease deed and other documents, explaining that how the Union club and the Canteen are running and thereafter, the 1st respondent shall come to the conclusion and pass an order. The said exercise shall be completed within a period of 12 weeks, from the date of receipt of a copy of the order. The petitioner and the 3rd respondent are directed to cooperate with the enquiry proceedings, conducted by the 1st respondent. No Costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
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S.SRIMATHY, J

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Order made in
W.P.(MD)No.15570 of 2013

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