



W.P.(MD)No.28341 of 2022

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 16.12.2022**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**W.P.(MD)No.28341 of 2022**

**and**

**W.M.P.(MD)No.22390 of 2022**

M/s Senkottai Municipalities  
Senkottai, Thirunelveli - 627 809,  
Through its Commissioner

... Petitioner

**Vs.**

1. The Assistant Provident Fund Commissioner,  
Employees Provident Fund Organization,  
Regional Office, Bhavishya Nidhi Bhavan,  
N.G.O.B Colony, Thirunelveli - 627 007.

2. The Recovery Officer  
Employees Provident Fund Organization,  
Regional Office, Bhavishya Nidhi Bhavan,  
NGOB Colony, Thirunelveli - 627 007.

... Respondents

**PRAYER :** Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records from the file of the CGIT cum Labour Court, Chennai herein EPFA No.42/2022 and to quash the order of directing the petitioner to



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deposit 35 % of the ordered amount of Rs.1,69,07,686/- as pre-deposit under Sec.7(O) of the EPF Act dated 13.09.2022.

For Petitioner : Mr. M.Pandiarajan

For Respondents : Mr. Mohaboob Athiff  
Standing Counsel

### **ORDER**

This Writ Petition has been filed to call for the records from the file of the CGIT cum Labour Court, Chennai herein in EPFA No.42/2022 and quash the order directing the petitioner to deposit 35% of the entire dues of Rs.1,69,07,686/- (Rupees One Crore Sixty Nine Lakhs Seven Thousand Six Hundred and Eighty Six only) as pre-deposit under Section 7(O) of the EPF Act, dated 13.09.2022.

2. The case of the petitioner is that the petitioner Municipality is the Government Body and it involves in public services and development activities as per the directions of the Government of India and the Government of Tamil Nadu. The petitioner Municipality which is not a profit oriented Organisation, is providing the basic obligatory needs of the



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public, such as water supply, sewage, solid waste management, storm water drainage and public health services to the dense population residing within the Municipality limit. While so, the first respondent, from the year 2013 onwards, initiated the proceedings under Section 7A of the EPF Act and frequently fixed the hearings. The Enforcement Officer of the respondent EPF Organisation has also visited the petitioner Municipality and requested to give the particulars and documents regarding the contractors engaged by the petitioners and also regarding Amma Unavagam. The petitioner has also furnished all the records and particulars as required by the Enforcement Officer as well as by the first respondent. However, the Enforcement Officer and the first respondent have not furnished the copy of the visited note. Without issuing any summons to the contractors, the Enforcement Officer and the 1<sup>st</sup> respondent are getting the payments made to the contractors. The petitioner is not aware of the employees identification. Hence, there was a delay in payment of EPF. Thereafter, the petitioner Municipality has issued notices to the contractors to produce all the necessary particulars relating to EPF for their contract work. However, challenging the notice issued by the petitioner Municipality, the contractors filed the writ petitions in



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W.P.(MD).No.8230 and 8231 of 2014. This Court, by order dated 20.07.2021, dismissed the writ petitions by giving a direction to the Contractors to furnish all the details required to the petitioner under EPF Act. However, since the first respondent had passed the order on 14.10.2019, directing the petitioner to pay a sum of Rs.1,69,07,686/- (Rupees One Crore Sixty Nine Lakhs Seven Thousand Six Hundred and Eighty Six only) for the period from 01/2011 to 09/2019, the petitioner Municipality has preferred an appeal in E.P.F.A.No.42 of 2022. On 13.09.2022, during the time of admission, the learned counsel for the petitioner had clearly stated that the verdicts of this Court in W.P.(MD).Nos. 8230 and 8231 of 2014 have to be considered for remanding back the matter to the 1<sup>st</sup> respondent for fresh consideration and to include the contractors as parties. However, the same was not accepted by the Labour Court and directed the petitioner to deposit 35% of the entire dues amount as pre-deposit. Challenging the same, the present Writ Petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the petitioner is the Principal employer and there are sub-contractors.



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Instead of taking action against the sub-contractors, directing the petitioner to deposit 35% of the entire dues amount is not sustainable one without providing any opportunity to the petitioner. Hence, he prays for allowing the present writ petition.

4. Per contra, the learned Standing Counsel appearing for the respondents would submit that the present impugned order is an interim order and the appeal filed by the petitioner is pending. Insofar as the pre-deposit amount ordered by the Labour Court is concerned, it is a very meagre amount and it cannot be interfered with by this Court.

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

6. The facts in the present case are not in dispute. Admittedly, for non-payment of EPF, the first respondent has initiated the proceedings under the EPF Act and passed an order on 14.10.2019 directing the petitioner to deposit a sum of Rs.1,69,07,686/- (Rupees One Crore Sixty



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Nine Lakhs Seven Thousand Six Hundred and Eighty Six only). Aggrieved by the same, the petitioner has preferred an appeal in E.P.F.A.No.42 of 2022 before the Labour Court. The Labour Court directed the petitioner to deposit 35% of the entire dues amount as pre-deposit under Section 7(O) of the EPF Act. Admittedly, a sum of Rs.1,69,07,686/- (Rupees One Crore Sixty Nine Lakhs Seven Thousand Six Hundred and Eighty Six only) is the contribution of the employee and the Appellate Authority directed the petitioner to deposit 35% of the entire dues amount which is a meagre amount. Hence, this Court is not inclined to interfere with the impugned order. However, if such amount is deposited, the Appellate Authority is directed to hear the petitioner and pass appropriate orders on the appeal filed by the petitioner as expeditiously as possible.

7. Accordingly, this Writ Petition is dismissed. No costs.

Connected miscellaneous petition is closed.

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Index : Yes / No

Speaking Order : Yes / No

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**M.DHANDAPANI,J.**

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