

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3912 of 2022

Mr. Krishna Kumar Choudhary, S/o Radhe Shyam Choudhary, Resident of 30/11, Behind Dr.Pallavi Roy, Ramni Mohan Garden, Kalambagh Road, Musahri, P.S. - Kazi Mohamadpur, Muzaffarpur, Bihar as a partner for and on behalf of M/s Krishna Kumar and Associates, a partnership firm having its registered office address at Ramni Mohan Garden, Kalambagh Road, Opposite Reliance Petrol Pump, Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Agriculture Department, Govt. of Bihar, Patna.
2. The Director, Horticulture, Agriculture Department, Bihar, Patna.
3. The Mission Director, Bihar Horticulture Development Society, Bihar State Horticulture Mission, Patna.
4. The Deputy Director, Bihar Rajya Bagwani Mission, Patna.
5. The Deputy Director, Bihar Bagwani Vikas Society, Pant Bhawan, 2nd Floor, Bailey Road, Muzaffarpur.
6. The Regional Provident Fund Commissioner - II, Regional Office, Employees Provident Fund Organization, Surya Complex, Laxmi Chauk, Muzaffarpur.
7. The Assistant Provident Fund Commissioner, Regional Office, Employees Provident Fund Organization, Surya Complex, Laxmi Chauk, Muzaffarpur.
8. The Assistant Provident Fund Commissioner, The Recovery Officer, Employee Provident Organization, Regional Office, Bihar, Patna.
9. The Director, Matadee Marketing and Finance Pvt. Ltd., having its registered office address at Radhika Puri, Kalambagh Road, Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mrs. Smriti Singh, Advocate
For the E.P.F.O. (Res. 6 to 8)	:	Mr. Satyendra Kumar Jha, Advocate
For the State	:	Mr. Anant Prasad Singh (SC 15)
For the Respondent No. 9	:	Mr. Samir Singh, Advocate.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

12 31-10-2023

In the instant writ petition, petitioner has prayed for
the following relief(s):-



“a. For issuance of writ in the nature of mandamus directing Respondent nos. 2 to 5 to disburse the contribution of employer towards Employee Provident Fund including salary to the petitioner to the tune of Rs.8,73,151/- (Rupees eight lakhs seventy-three thousand one hundred and fifty-one) along with accrued interest and damages which might be imposed thereon till the date of actual payment as the petitioner has already deducted the employees contribution and both the amounts shall be submitted to the EPF account/department in order to avoid any further delay/non-compliance.

b. For holding that the respondents are the employer for the purpose of payments of EPF amount relating to the tender work being done by the accountants working for the respondents in terms of section 2(f) of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (EPF Act') as the petitioner was only a service provider/intermediary as the relationship entered into between the petitioner and the respondent was a 'contract of service' and not a 'contract for service'.

c. For a direction to the respondent department to honour their letter no.1205 dated 31.07.2019 by which the petitioner was asked to give all necessary bills which were due against the respondent mission along with the EPF/ESIC deductions so that the payments may be made without delay.

d. For holding that the letter no.93 dated 16.01.2015 is bad in law to the extent wherein it states that the respondents are not employer but petitioner is the employer of the accountants working for the respondents for payment of EPF etc.



e. For such other relief(s), direction(s) to which the Petitioner may be entitled to in the facts and circumstances of this case.”

02. *Prima facie* the writ petition is not maintainable in the light of the statutory provision which is available to the petitioner under Section 7 and analogous provisions of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (for short ‘EPF Act’).

03. Accordingly, the present writ petition is disposed of as a premature, reserving liberty to the petitioner to invoke statutory remedy and approach the concerned authority/forum by filing application/petition. If such application/petition is filed before the concerned authority, the concerned authority is hereby directed to take note of Section 14 of the Limitation Act for the purpose of condonation of delay, if any, read with the relevant statutory provision under the EPF Act.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

Ashish/-
Annu Kumar/-

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