

Items-
187 &
188.

Ct. 8

sg

FMA 799 of 2021
CAN 2 of 2017 (Old No: CAN 11794 of 2017)

The State of West Bengal & Ors.
Vs.
Satirtha Mohanty & Ors.

With

FMA 669 of 2019
CAN 3 of 2019 (Old No: CAN 1090 of 2019)

State Project Director,
Paschim Banga Sarva Siksha Mission,
Government of West Bengal
Vs.
Satirtha Mohanty & Ors.

Mr. T.M. Siddiqui, Adv.
Mr. Suddhadav Adak, Adv.
...for the State.

Mr. L.K. Gupta, Sr. Adv.,
Mr. Arjun Roy Mukherjee, Adv.
Ms. Saheli Mukherjee, Adv.
...for the appellant in FMA 669 of 2019 &
Respondent No. 52 in FMA 799 of 2021.

Mr. Subir Sanyal, Adv.
Mr. Goutam Dey, Adv.
Mr. Dipendu Sarkar, Adv.
Ms. Ankita Ghosh, Adv.
Mr. Ankan Mondal, Adv.
...for the Respondents/Writ petitioners.

Mr. Anil Kr. Gupta,
...for the PF Authorities.

Mr. Shiv Chandra Prasad,
...for the U.O.I.

1. The affidavits filed in Court today are taken on record.
2. Mr. L.K. Gupta, learned Senior Counsel representing the appellants in FMA 669 of 2019 and respondent no.52 in FMA 799 of 2021 has produced a document and submits that, subsequent to the order dated 26th July, 2023, the Ministry of Labour and Employment, Government of India passed an order on 14th August, 2023 allowing exemption under Section

16(2) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 for the period from 1st April, 1999 to 31st March, 2015.

3. For the sake of brevity, the relevant portion of the order of Secretary to Government of India is reproduced hereinbelow:

“Now, therefore, I order that Paschim Banga Samagra Shiksha Mission, previously known as Paschim Banga Sarva Shiksha Mission, is eligible for exemption under section 16(2) of the Employees' Provident Funds & Miscellaneous Provisions Act, 1952 for the period from 1st April, 1999 to 31st March, 2015 and all the actions and notices as well as orders issued by the Regional Office, EPFO, Kolkata for making the Act applicable and securing compliance from the period 1st April, 1999 to 31st March, 2015 are set aside as these are ultra vires and void ab initio.

The representation dated 25th August, 2022 made by the State Project Director, Paschim Banga Samagra Shiksha Mission stands disposed of accordingly, in compliance to the direction made by the Hon'ble High Court of Calcutta vide order dated 11.10.2022 in WPA No. 23037 of 2022. This order also disposes of the representation of the establishment dated 03.11.2016 as well made for the same relief and having a mention in the representation dated 25.08.2022.”

4. Mr. Anil Kumar Gupta, learned Counsel representing the Provident Fund Authorities has submitted that the Provident Fund Authorities have received the communication granting exemption to the Paschim Banga Samagra Shiksha Mission, Government of West Bengal for the aforesaid period.
5. Mr. Subir Sanyal, learned Counsel representing the employees/writ petitioners submits that the exemption order may not completely absolve the employer from payment of the provident fund and they may have a right to challenge the

order of exemption.

6. That issue is not required to be gone into in this appeal and, accordingly, the same is not decided.
7. The Secretary, Ministry of Labour and Employment, Government of India has not filed any affidavit disclosing the steps taken with regard to the application filed for exemption on 3rd November, 2016.
8. However, having regard to the fact that the appellants have filed an affidavit disclosing the order passed by the Ministry of Labour and Employment, Government of India dated 14th August, 2023, the filing of affidavit by the Secretary is dispensed with.
9. In view thereof, the appeals succeed and the appeals and the connected applications are, accordingly, disposed of.
10. There is a typographical mistake in the column of appearance of the order dated 26th July, 2023. Mr. L.K. Gupta along with his juniors appeared on behalf of the appellant in FMA 669 of 2019 and on behalf of the respondent no.52 in FMA 799 of 2021. But inadvertently, in the said order, 'FMA 799 of 2021' has wrongly been mentioned as 'FMA 779 of 2021'.
11. Let this correction be incorporated in the order dated 26th July, 2023.
4. Server copy shall also be corrected accordingly.
5. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Uday Kumar, J.)

(Soumen Sen, J.)