



W.P.No.9386 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2023

CORAM

THE HONOURABLE MR. JUSTICE Dr.D.NAGARJUN

W.P.No.9386 of 2015

and

M.P.No.1 and 2 of 2015

C.B.M. College,
Kovaipudur, Coimbatore-641 042,
Rep by its Secretary C.M.Ramraj.

... Petitioner

Vs.

The Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
Regional Office, Bhavishya Nidhi Bhavan,
P.B. No. 3875, Coimbatore 641 018.

... Respondent

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari, to call for the records relating to the impugned proceedings issued by the respondent in No. TN/RO/CBE/45727/ENF/CC-11/2015 dated .02.2015 and to quash the same.

For Petitioner : Mr.J.Jayamalan for
Mr.S.Nedunchezhiyan

For Respondent : M/s.R.Meenakshi



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ORDER

This writ petition is filed seeking for a direction to set aside the impugned orders issued by the respondent in No.TN/RO/CBE/45727/ENF/CC-11/2015.

2. The facts in brief are that the petitioner is the Secretary of CBM College and also Managing Trustee of CBM Sakuntala Memorial Trust. The said College has been established in the year 1974, by Thiru.C.B.Muthusamy Chettiyar to cater the educational needs of public in general and also to the persons whose mother tongue is Telugu in particular. The college began to impart education at the degree level and was affiliated to University of Madras. Post Graduate Institution was started in the year 1980-1981 and was affiliated to Bharathiyar University from 1983-1984, educational year. The college is functioning for more than four decades to achieve the object of imparting quality education to poor and needy people, particularly belonging to the Telugu Linguistic Minority Community.



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3. In respect of the teaching and non-teaching staff working in the College, the P.F. Contributions are to be made by Management to the respondent Employee Provident Fund Organisation (EPF Organisation) under the provisions of Employees Provident Fund and Miscellaneous Provident Fund Act 1952 (EPF & MPF Act).

4. The respondent has issued Notice under Section 7(A) of the EPF & MPF Act on 24.07.2014 on alleging that the petitioner College has failed to remit the P.F. Insurance Fund and Employees Pension fund Contributions and Administrative Charges due for the month from 04/2012 to 03/2014. Aggrieved by the impugned notice, the writ petition is filed stating that on account of going on strike for more than 4 months, PF dues could not be paid, and also the due amount was not properly assessed and no inquiry was conducted under Section 7A of the Act.

5. The respondents filed counter affidavit stating that the petitioner was given proper opportunity to participate in the inquiry under Section 7A of the Act, and though the petitioner has participated in the inquiry, failed to produce any material and after the orders were passed, the writ petition is filed without any basis.



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6. On perusal of the records, it is clear that the petitioner has attended the inquiry under Section 7A of the Act many a times. According to the learned counsel for the petitioner, though the petitioner has appeared in the inquiry, the respondent had not explained as to how the quantum of dues was arrived at. It is also submitted that he does not have the list of employees, thereby, he cannot compare the documents of the respondent.

7. All these questions being raised by the petitioner in the writ petition are the questions the petitioner should have raised during the course of inquiry. The petitioner appeared more than 10 times during the course of inquiry and after considering all the records, the impugned orders have been passed. Even then, if the petitioner is aggrieved by the impugned orders, he should have approached the statutory authority and file an appeal under the Act. Instead, the petitioner has directly filed the writ petition. The learned counsel for the respondent has also submitted that this writ petition cannot be entertained as the petitioner has filed it without availing the statutory appeal and approached this Court under Article 226 of the Constitution of India.



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8. As the petitioner has got alternative remedy of statutory appeal under EPF & MPF Act, this writ petition is not maintainable and therefore, the writ petition is liable to be dismissed.

10. However, petitioner is at liberty to file appeal under the EPF & MPF Act. In case, any such appeal is preferred by the petitioner, the appellate authority shall dispose of the same as quickly as possible by following the procedures known to law.

11. With these observations, the writ petition stands **dismissed**. No costs. Consequently, connected miscellaneous petition is closed.

27.11.2023

Index : Yes
Speaking Order
Neutral Citation : Yes
(sha)

To

The Assistant Provident Fund Commissioner,
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Dr.D.NAGARJUN. J.,

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