



WEB COPY



W.P.No.32943 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.32943 of 2016

And

W.M.P.No.28484 of 2016

M/s.National Film Development Corporation Ltd.,
Rep. by its Deputy General Manager
Co-optex Warehouse Building – I Floor
No.350, Pantheon Road,
Egmore,
Chennai – 600 008.

... Petitioner

Vs.

1.The Assistant Provident Fund Commissioner (C&R)
Employees Provident Fund Organisation
Regional Office,
Chennai – 600 014.

2.C.Balu

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration declaring that the initiation and continuation of the proceedings U/s 7 (A) of the Employees Provident Fund and Miscellaneous Provisions Act, by the first respondent on the application filed by the second respondent as illegal and contrary to law in the circumstances of the case.



WEB COPY



W.P.No.32943 of 2016

For Petitioner : Mr.M.Ravi
For Respondents : Mr.V.Sundareswaran for R1
R2 – Not ready in notice

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Declaration declaring that the initiation and continuation of the proceedings U/s 7 (A) of the Employees Provident Fund and Miscellaneous Provisions Act, by the first respondent on the application filed by the second respondent as illegal and contrary to law in the circumstances of the case.

2.The learned counsel appearing for the petitioner submitted that the second respondent was only engaged as peon on daily wages and not engaged on regular or continuous basis and there is no condition either in the standing orders of the petitioner Management or in the Employees Provident Fund and Miscellaneous Provisions Act to make contribution for daily wage employee, however, without considering the same, the first respondent initiated proceedings under Section 7 (A) of the Employees Provident Fund and Miscellaneous Provisions Act, based on the application filed by the second respondent which is not sustainable one.



W.P.No.32943 of 2016

WEB COPY

3.Perusal of records disclose that the first respondent has only issued notice under Section 7 (A) of the Employees Provident Fund and Miscellaneous Provisions Act. Mere issuance of notice will not prevent the right of the petitioner from agitating the issue and the petitioner have opportunity before the Appellate Authority. Any notice issued under Section 7(A) of the Employees Provident Fund and Miscellaneous Provisions Act is appealable under Section 7(I) of the Act before the Appellate Authority. The petitioner instead of availing such remedy has filed this writ petition, which is not sustainable one.

4.In view of the above, this writ petition is dismissed. However, liberty is granted to the petitioner to canvass all the points before the first respondent. The first respondent is directed to provide opportunity to the petitioner and to pass appropriate orders. No costs. Consequently, connected miscellaneous petition is closed.

17.08.2023

pri

Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

3/4



WEB COPY



W.P.No.32943 of 2016

M.DHANDAPANI,J.
pri

To

1.The Assistant Provident Fund Commissioner (C&R)
Employees Provident Fund Organisation
Regional Office,
Chennai – 600 014.

W.P.No.32943 of 2016
And
W.M.P.No.28484 of 2016

17.08.2023