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W.P.No.43547 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.43547 of 2016

And

W.M.P.Nos.37368 and 37369 of 2016

Fatima Matriculation Higher Secondary School
Rep. by its Correspondent
Rev.Sr. Nirmala Lazar
10, United India Colony,
V Cross Street,
Kodambakkam,
Chennai – 600 024.

... Petitioner

Vs.

1.The Regional Provident Fund Commissioner
Employees Provident Fund Organization
Regional Office,
Chennai Region
No.37, Royapetteah High Road,
Chennai – 600 014.

2.The Assistant P.F.Commissioner (G&R)
Employees Provident Fund Organization,
Regional Office,
Chennai Region
No.37, Royapetteah High Road,
Chennai – 600 014.

3.The Enforcement Officer
Employees Provident Fund Organization,
Regional Office – Chennai Division,
No.37, Royapetteah High Road,
Chennai – 600 014.

... Respondents



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Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records, in respect of the impugned order 03.11.2016 in No.CCII/27/TN/16154/Enf/Regl/2016-17, on the file of the second respondent, and quash the same and directing the respondents not to bring the Catholic religious nuns under coverage of Employees Provident Fund, in so far as the petitioner school is concerned.

For Petitioner : Dr.Fr.A.Xavier Arul Raj
Senior Counsel
for M/s.A.Arul Mary

For Respondents : Mr.V.Sundareswaran
Standing Counsel

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records, in respect of the impugned order 03.11.2016 in No.CCII/27/TN/16154/Enf/Regl/2016-17, on the file of the second respondent and to quash the same and to direct the respondents not to bring the Catholic religious nuns under coverage of Employees Provident Fund, in so far as the petitioner school is concerned.



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2.The learned Senior Counsel appearing for the petitioner submitted that the petitioner has filed this writ petition challenging the impugned order dated 03.11.2016 passed by the second respondent under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, directing the petitioner to remit a sum of Rs.6,53,560/- to the respective Employees' Provident Fund Account numbers and that the belated remittances will attract levy of damages under Section 14B and interest under Section 7Q at the rates specified under Employees ' Provident Funds and Miscellaneous Provisions Act, 1952 on the ground that the petitioner has already filed application seeking exemption before the Government for payment of provident fund contribution, however, the said application has not yet been considered.

3.The learned Senior Counsel appearing for the petitioner, on instructions, further submitted that the petitioner is now ready to remit the amount demanded in the impugned order, within a period of four weeks from the date of receipt of a copy of this order and this Court may issue direction to the respondents to close the files as against the petitioner without proceeding under Sections 14B and 7Q



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of the Employees ' Provident Funds and Miscellaneous Provisions Act, 1952, after receipt of the amount.

4.The learned Standing Counsel appearing for the respondents submitted that this Court vide order dated 19.12.2016 made in W.P.No.43547 of 2016 and W.M.P.Nos.37368 and 37369 of 2016 granted an order of stay of the impugned order and hence, the respondents were not able to proceed under Sections 14B and 7Q of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

5.The petitioner has filed application seeking exemption before the Government for payment of provident fund contribution and the said application has not yet been considered. However, mere pendency of the application seeking exemption before the Government will not prevent the respondents from claiming provident fund contribution under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

6.However, considering the limited request now made by the learned Senior Counsel appearing for the petitioner, this Court



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permits the petitioner to remit the amount demanded in the impugned order dated 03.11.2016, within a period of four weeks from the date of receipt of a copy of this order. On receipt of the said amount, the respondents shall close the files as against the petitioner without proceeding under Sections 14B and 7Q of the Employees ' Provident Funds and Miscellaneous Provisions Act, 1952, since there is no willful default as the petitioner has pursued the case before this Court and is enjoying the order of this Court dated 19.12.2016 made in W.P.No.43547 of 2016 and W.M.P.Nos.37368 and 37369 of 2016.

7.The writ petition is disposed of with the above observation. No costs. Consequently, the connected miscellaneous petitions are closed.

03.08.2023

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

To

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Employees Provident Fund Organization
Regional Office,
Chennai Region
No.37, Royapetteah High Road,
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M.DHANDAPANI,J.
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2.The Assistant P.F.Commissioner (G&R)
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Regional Office,
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