



W.P.No.29190 of 2023 & W.M.P. No.28791 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R.HEMALATHA**

W.P.No.29190 of 2023 & W.M.P. No.28791 of 2023

M/s. Thangavelu Engineering College,
Represented by its Principal, Dr.M.Venkatesan\
Rajiv Gandhi Salai, Karappakkam
Chennai 600 097

...Petitioner

Vs.

1. Regional provident Fund Commissioner (Gr.II)
Employees Provident Fund Organisation,
Regional Office, Chennai South
37, Royapettah High Road,
Chennai 600 014.

2. The Branch Manger,
Bank of India,
No.33/3, 1st Main Road,
Gandhi Road, Adyar, Chennai 600 020

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ or order or direction more specifically in the nature of Writ of Certiorari to quash the impugned order passed by the 1st respondent bearing Ref.No.TN/40101/CHN(South)/Comp/Div-16/8F/Reg1/2023 dated 22.09.2023.

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For Petitioner : Mr. P.Thangaraju
For R1 : Mr.R.Vishnu, Standing counsel

ORDER

The Writ Petitioner is an Educational Institution established in the year 1995 by the Ponniamman Educational Trust. The 1st respondent, Regional provident Fund Commissioner (Gr.II), Employees Provident Fund Organisation, initiated proceedings under Section 7A of the Employees Provident Fund & Miscellaneous Provisions Act, 1952 to determine the outstanding Provident Fund dues of the employees of the petitioner's Educational Institution and issued summons dated 20.06.2016 and accordingly an authorised representative of the petitioner's Educational Institution appeared for the enquiry held on 15.07.2016. The Enforcement Officer requested the writ petitioner to submit various documents and since those documents were lost in the floods during December 2015, they could not produce the relevant portions of those documents. Therefore, the 1st respondent passed an order dated 24.02.2020 in and by which the outstanding



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provident fund payable by the petitioner was determined as Rs.1,05,05,460/-. According to the writ petitioner the said order passed by the Enforcement Officer is a non speaking order as against which, the petitioner had filed an appeal under Section 7-I of the Employees Provident Fund & Miscellaneous Provisions Act, 1952, before the Employees Provident Fund Appellate Tribunal, Chennai, which is numbered as EPFA No.157 of 2023. Since there is no Presiding Officer in the Employees Provident Fund Appellate Tribunal, Chennai, to hear the appeal and pass interim orders, the writ petitioner has approached this Court by way of filing the present Writ petition.

2. Mr. P.Thangaraju, learned counsel for the petitioner contended that the writ petitioner is not liable to pay any amount towards Provident Fund and that the 1st respondent had passed a non speaking order directing the writ petitioner to pay a sum of Rs.1,05,05,460/-.

3. Mr.R.Vishnu, learned Standing Counsel accepted notice for the 1st respondent and contended that the 1st respondent, after giving



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sufficient opportunity to the writ petitioner had passed a well considered order and therefore no interference is called for by this Court.

4. Challenging the orders passed by the 1st respondent the writ petitioner had filed an appeal before the Employees Provident Fund Appellate Tribunal, Chennai, and the contention of the writ petitioner is that there is no Presiding Officer in the Tribunal. In the circumstances, the Writ Petitioner is directed to pay a sum of Rs.50,00,000/- (Rupees fifty lakhs only) to the credit of the 1st respondent within a period of four weeks from the date of receipt of a copy of this order and on payment of the said amount, there shall be an order of stay which includes de-freezing of bank account till the matter is decided by the Tribunal. It is made clear that the order of stay would be coming into operation only on payment of Rs.50,00,000/- to the credit of the 1st respondent . If the amount is not paid, the Enforcement Officer can proceed further and take further course of action.



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5. With the above observations, the Writ Petition is disposed of. No costs. Consequently connected Writ Miscellaneous Petition is closed.

06.10.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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To

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R. HEMALATHA, J.
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