



W.P.(MD)No.1193 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:31.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.1193 of 2023

and

W.M.P(MD)No.1102 of 2023

K.Tamilarasan,
Management Trusty,
Pachiamman Educational Trust,
M/s.Amma Polytechnic College,
Vilangadu, Idumbhavanam,
Thiruthuraipoondi Post 614 703.

... Petitioner

Vs.

1.The Recovery Officer / Regional Provident Fund
Commissioner – II,
Employees' Provident Fund Organisation,
Regional Office,
P.B.No.588, Shree Complex, D Block,
No.18, Madurai Road, Trichy – 620 008.

2.The Enforcement Officer,
Employees' Provident Fund Organisation,
Thanjavur II Division,
Thanjavur.

3.M/s.MSTC Ltd.,
Government of India Enterprises,
ISPAT Bhavan, 3rd Floor, No.5, Kodampakkam High Road,
Chennai – 600 034.

... Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned order issued by the first respondent in his proceedings No. Recovery/CB/RO-TRY/81539/CP-13/532/2022-23 dated 23.12.2022 and quash the same and consequently, to direct the respondents to permit the petitioner to pay the Provident Fund arrears on installment basis by reserving the appeal remedy.

For Petitioner : Mr.M.Saravanakumar
For R-1 & R-2 : Mr.N.Dilipkumar

ORDER

This writ petition has been filed to quash the impugned order issued by the first respondent in his proceedings No.Recovery/CB/RO-TRY/81539/CP-13/532/2022-23 dated 23.12.2022 and consequently, to direct the respondents to permit the petitioner to pay the Provident Fund arrears on installment basis by reserving the appeal remedy.

2. The case of the petitioner is that the petitioner is a Managing Trusty of Pachiamman Educational Trust and the Trust was created by the members of the petitioner's family. The downtrodden students were admitted in the said Polytechnic College and they have completed their



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education at free of cost. However, due to financial crisis, the Educational Institution was closed in the year 2017. While so, the Enforcement Officer of the first respondent Corporation visited the petitioner Institution and affix the order or attachment notice stating that the petitioner Institution failed to pay a sum of Rs.18,49,592/- towards Provident Fund contribution and thereby, imposed penal interest also. Consequently, the second respondent passed the impugned order proposing to conduct E-auction sale of the petitioner Educational Institution's property on 24.01.2023. Challenging the same, the petitioner has filed this writ petition with the aforesaid prayer.

3. The learned counsel for the petitioner would submit that while entertaining the writ petition, this Court passed an interim order and directed the petitioner to deposit a sum of Rs.5,00,000/- before the first respondent within a period of one week. However, due to financial crisis, the said order was not complied with and they are able to arrange for a sum of Rs.1,50,000/- and they have taken a Demand Draft in favour of the first respondent and for the balance amount, they are not able to manage and accordingly, prayed for appropriate orders.



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4. The learned counsel appearing for the respondents would submit that the the petitioner has to pay a sum of Rs.18,49,592/- towards Provident Fund Contribution and for non-payment of Provident Fund contribution, the original authority had already passed an order under Section 7(A) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952(hereinafter referred to as 'the Act'), vide order dated 11.06.2018. However, the petitioner did not challenge the order passed by the Original Authority under Section 7(A) of the Act. Without challenging the order passed by the original authority, filing of this writ petition challenging the consequential order is not at all maintainable. Further, pursuant to the impugned proclamation sale notice, e-auction was already conducted on 24.01.2023, since no bidders turned up, the e-auction was not successful and prays for appropriate orders.

5. Heard the learned counsel appearing for the petitioner, the learned counsel appearing for the respondents and perused the materials placed before this Court.



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6. Admittedly, for non payment of Provident Fund contribution, the original authority conducted an enquiry under Section 7(A) of the Act, by issuing summons and the petitioner has also attended the enquiry and thereafter, the original authority passed an order on 11.06.2018 and the same was served on the petitioner on 14.06.2018. Even thereafter, no remittance was made by the petitioner Institution. Thereafter only, the proclamation of sale notice was issued. Further, the sale was not conducted for want of bidders and therefore, the prayer made in the writ petition has become infructuous.

7. Moreover, the petitioner did not challenge the order passed by the Original Authority and therefore, the present writ petition filed challenging the subsequent sale notice is not maintainable and the same is liable to be dismissed.

8. In the result, this writ petition is dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

31.01.2023

PM

NCC:Yes/No

Index:Yes/No



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M.DHANDAPANI, J.

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