



W.P.(MD)No.4269 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.4269 of 2023

and

W.M.P.(MD)Nos.4046, 4049, 4050 and 4051 of 2023

The Kilakkarai Municipality,
Represented by its Municipal Commissioner,
Kilakkarai,
Ramanathapuram District.

... Petitioner

Vs.

1. The Secretary,
Department of Ministry of Labour and Employment,
New Delhi.
2. The Central Provident Fund Commissioner,
Employees Provident Fund Organization,
Bhavishya Nidhi Bhavan,
14 Bhikaji Cam Place,
New Delhi - 110 066.
3. The Assistant Provident Fund Commissioner (compliance),
Employees Provident Fund Organization,
Regional Office,
Lady Doak College Road,
Chokkikulam,
Madurai - 625 002.



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4. The Regional Provident Fund Commissioner-II,
Employees Provident Fund Organization,
Regional Office,
Lady Doak College Road,
Chokkikulam,
Madurai - 625 002.
5. The Recovery Officer,
Office of the Recovery Officer,
Employees Provident Fund Organization,
Regional Office,
Lady Doak College Road,
Chokkikulam,
Madurai - 625 002.
6. The Enforcement Officer,
Ramanathapuram Office at Regional Office,
Employees Provident Fund Organization,
Regional Office,
Lady Doak College Road,
Chokkikulam,
Madurai - 625 002.
7. The Branch Manager,
State Bank of India,
Kilakkarai Branch,
Kilakkarai,
Ramanathapuram District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the impugned proceedings of the third respondent No.TN/RO/MDU/91171/1.B-C/M-5/2016, dated 21.07.2016 and in consequential of the same impugned



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order of the fourth respondent No.MD/MDU/RO/Recy/91171/8F/M-5/2023 dated 10.01.2023 along with the fifth respondent order dated 25.03.2022 and to quash the same as illegal and arbitrary and consequently, directing the seventh respondent to allow the petitioner to operate their account as usual.

For Petitioner : Mr.A.Kannan
For Respondents : Mr.M.Karunanithi

O R D E R

This Writ Petition has been filed to call for the impugned proceedings of the third respondent No.TN/RO/MDU/91171/1.B-C/M-5/2016, dated 21.07.2016 and in consequential of the same impugned order of the fourth respondent No.MD/MDU/RO/Recy/91171/8F/M-5/2023 dated 10.01.2023 along with the fifth respondent order dated 25.03.2022 quash the same, and consequently, direct the seventh respondent to allow the petitioner to operate their account as usual.

2. The case of the petitioner is that the petitioner Municipality has not contributed the Employees' Provident Fund amount to their contract employees, thereby the third respondent initiated proceedings under Section 7A of the Employees Provident Funds and Miscellaneous Provisions Act,



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1952 and determined the payment for the workers engaged through various contractors for the period from 05/2013 to 06/2016 and passed an impugned order as against the petitioner Municipality by the third respondent which has been subsequently followed by the respondents 4 and 5. Challenging the same, the present Writ Petition.

3. The learned counsel appearing for the petitioner would submit that the present Writ Petition has been filed on the sole ground that no opportunity was given prior to passing of the impugned order to the petitioner. Hence, the impugned order is clearly in violation of principles of natural justice.

4. The learned counsel appearing for the respondents would submit that as against the order passed by the third respondent, the petitioner has an efficacious appeal remedy before the Tribunal and without exhausting the appeal remedy before the Tribunal, filing the present Writ Petition is not sustainable one. Accordingly, he prayed for dismissal of the Writ Petition.



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5. Heard the learned counsel appearing for the parties and perused the materials placed before this Court.

6. In view of the above, it is alleged that the present impugned order is passed without hearing the petitioner. However as against impugned order there is effective alternative remedy is available before the appellate authority. Without exhausting appeal remedy, filing this petition under Article 226 is not maintainable. Hence, this Court, without interfering the order impugned in this Writ Petition, permits the petitioner to make an appeal before the respondents within a period of four weeks from the date of receipt of a copy of this order. If any appeal is made, the respondents are directed to consider and pass appropriate orders within a period of twelve weeks thereafter.

7. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

01.03.2023

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No
vji



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