



W.P(MD)No.13950 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.04.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13950 of 2022

and

W.M.P.(MD)No.9929 of 2022

M/s.RR Infraa Constructions,
a Partnership Firm,
Represented by its Partner Mr.R.Murugaperumal,
Old No.4, New No.2, Visalakshipuram,
Madurai-625 014.

... Petitioner

Vs.

Regional PF Commissioner,
Employees Provident Fund Organisation,
Regional Office No.1,
LDC Road, Chokkikulam,
Madurai-625 002.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to forbear the respondent from proceeding-initiating enquiry TN/RO/MD/MDU/1544567/A INQUIRY/Diary No.440/2021/M-4 under Section 7A of the EPA Act against the petitioner without complying with the Circular No.C-II/20/76/Misc/2020/CBE/TN/027 dated 14.02.2020 and to consequently, direct the respondent to initiate fresh inquiry by following due process of law.



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called upon the petitioner establishment to make available certain documents.

Since the directions issued by the enforcement officers were not complied with, the prosecution notice came to be issued. That was followed by the issuance of Section 7(A) notice on 10.11.2021. The argument of the learned standing counsel is that the rights of the petitioner have not been infringed at this stage and that no cause of action has arisen. He pressed for dismissal of the writ petition.

5. I carefully considered the rival contentions and went through the materials on record. Section 7(A)(1) & (3) of the Act are as follows:-

7A.Determination of moneys due from employers:- The Central Provident Fund Commissioner, any Additional Central Provident Fund Commissioner, any Deputy Provident Fund Commissioner, any Regional Provident Fund Commissioner, or any Assistant Provident Fund Commissioner may by order-

(a) in a case where a dispute arises regarding the applicability of this Act to an establishment, decide such dispute; and

(b) determine the amount due from any employer under any provision of this Act, the (Pension) Scheme or the Scheme or the Insurance Scheme as the case may be,

3. No order shall be made under sub-section (1), unless the employer concerned is given a reasonable opportunity of representing his case.



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6. A reading of the impugned communication dated 10.11.2021 gives an indication that the authority had already made up his mind. However, the expression 'prima facie opinion' is also employed in the impugned notice. It is also stated across the bar that the authority who issued the said notice has already been transferred. The petitioner through their counsel gives an undertaking that they would appear before the respondent on any date that may be fixed by this Court. I direct the petitioner to appear before the respondent on 26.05.2023 at 11.00 am. It is further undertaken by the petitioner that whatever documents that are available with them and whatever information that the petitioner can provide will be placed before the respondent authority. When this writ petition was admitted, interim stay was granted. The petitioner also undertakes to cooperate in Section 7(A) enquiry. No purpose will be served by keeping the prosecution notice alive. The prosecution notice dated 30.12.2020 is set aside. The writ petitioner is called upon to abide by the undertaking now given before this Court.

7. The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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