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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.4396 of 2015

and

M.P.(MD)No.1 of 2015

Pavendar Bharathidasan Engineering College,
represented by the Managing Trustee M.R.Arun.

... Petitioner

Vs.

1. The Assistant Provident Fund Commissioner,
EPF Organization,
Sub Regional Office,
Trichy.

2. The Recovery Officer,
EPF Organization,
Ministry of Labour and Employment,
Sub-Regional Office,
Trichy – 620 008.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a ***Writ of Certiorarified Mandamus***, call for the records relating to the order of the 2nd respondent in No.Recy/43150/CB-TRY/CP16/C-12/2014-15 dated 16.03.2015 and quash the same and consequently forbearing the



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respondents 1 and 2 from invoking any modes of recovery against the petitioner till the disposal of the review application, dated 28.04.2014 filed by the petitioner pending before 1st respondent herein.

For Petitioner : Mr.J.Anandkumar

For R-1 : Mr.N.Dilip Kumar
Standing Counsel

ORDER

This writ petition is filed challenging the impugned order, dated 16.03.2015 with a consequential relief to forbear the respondents by invoking recovery until disposal of the Review application, dated 28.04.2014.

2. The petitioner is a Engineering College coming under the purview of the Employees Provident Fund Act. The respondents have issued summons for penal interest and damages for a period from 25.07.2010 to 29.07.2013, totally a sum of Rs.19,06,303/-. Since the petitioner has not attended any enquiry proceedings, the respondents have passed an exparte order. However, the contention of the petitioner is that though they sought time, the respondents have not granted the time, but passed an order.



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3. It is seen from the records that the petitioner has filed a review application, dated 28.04.2014. However, the learned Standing counsel appearing for the respondents on instructions submitted that the review application is not available with the 1st respondent's office.

4. Considering the case of the petitioner, this Court is inclined to grant relief to the petitioner and hence, the impugned order is liable to be set aside.

5. Accordingly, the impugned order passed by the respondents, dated 16.03.2015 is hereby set aside. The respondents are directed to consider the review application, dated 28.04.2010. Until the disposal of the review application, the respondents shall not take any coercive steps to recover the amount from the petitioner. Since the respondents is not having a copy of the review application the petitioner is directed to submit a copy of the review application, so that the respondents shall consider the same. The said exercise shall be completed within a period of 3 months from the date of receipt of a copy



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of the order. The petitioner shall cooperate with the enquiry proceedings without seeking any further adjournments.

6. With these observations and directions, this Writ Petition is allowed. No Costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes
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To

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S.SRIMATHY, J

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**Order made in
W.P.(MD)No. 4396 of 2015**

14.06.2023