



2023:DHC:7379

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IN THE HIGH COURT OF DELHI AT NEW DELHI
W.P.(C) 12888/2023 and CM APPL.50775/2023 & 50776/2023

Date of Decision: **03.10.2023****IN THE MATTER OF:**

REGIONAL PROVIDENT FUND COMMISSIONER
(GURGAON EAST)
PLOT NO. 43, SECTOR 44
GURGAON - 122002

.... PETITIONER

Through: Mr.Sandeep Mishra, SC EPC,
Ms.Nandika Vyas, Mr.Ashish Choudhary and
Mr.,Shurbhit Nandan, Advocates.

versus

M/S BSC- C AND C JV
PLOT NO. 70, INDUSTRIAL SECTOR 32
GURGAON-122002

..... RESPONDENT

Through: Counsel through VC (Appearance not
given).

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV**ORDER****PURUSHAINDRA KUMAR KAURAV, J. (ORAL)**

1. The present petition has been filed by the Regional Provident Fund Commissioner, Gurgaon East (hereinafter '*RPFC*') challenging the order dated 23.03.2023, passed in appeal by the Presiding Officer, Central Government Industrial Tribunal cum Labour Court-II, Rouse Avenue, Delhi (hereinafter '*CGIT*'), whereby the order in original passed by the RPFC was

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set aside.

2. When questioned about the aspect of territorial jurisdiction, learned counsel appearing on behalf of the RPFC submits that since the impugned order has been passed by the CGIT situated in Delhi, therefore, this court has the jurisdiction to entertain the instant petition.

3. I have heard learned counsel for the petitioner.

4. The facts of the case show that the concerned RPFC is situated in Gurgaon, East, Haryana. The respondent-Establishment is also situated in Gurgaon, Haryana. It is also to be noted that it is only the appellate authority i.e. CGIT, Delhi that is situated within the territorial jurisdiction of this court.

5. Undoubtedly, a fraction of cause of action does arise within this court's jurisdiction as the appellate authority is situated in Delhi. However, it is well settled that the writ jurisdiction of this court is discretionary and has to be exercised in consonance with the principle of *forum non-conveniens*.

6. The Hon'ble Supreme Court, in the cases of ***Kusum Ingots & Alloys Ltd. v. Union of India***¹, ***Ambica Industries v. CCE***² and ***State of Goa v. Summit Online Trade Solutions (P) Ltd.***,³ has unequivocally held that even if a small part of the cause of action arises within the territorial jurisdiction of a High Court, the same alone cannot be a determinative factor for courts to entertain a writ petition.

7. The principle of *forum non-conveniens* has also been fleshed out

¹ (2004) 6 SCC 254

² (2007) 6 SCC 769

³ (2023) 7 SCC 791



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through a decision of the Full Bench of five Hon'ble judges of this court in ***Sterling Agro Industries Ltd. vs. Union of India & Ors.***⁴, wherein it was held that the whole foundation of the cause of action cannot be the *situs* of the tribunal/ appellate authority/ revisional authority while excluding the concept of *forum non-conveniens*. This view has been subsequently followed in a plethora of cases including the case of ***Chinteshwar Steel Pvt. Ltd. v. Union of India***⁵, where the court has held that the mere fact that the statutory authorities are located within the jurisdiction of the court is not sufficient to constitute a material cause of action. This court has pithily made the following observations in paragraph 27 of the order:

"27. The enunciation of legal principles in the aforementioned judgments would show that in case of pan India Tribunals, or Tribunals/statutory authorities having jurisdiction over several States, the situs of the Tribunal would not necessarily be the marker for identifying the jurisdictional High Court. If the submission of the petitioner is accepted, it would potentially lead to conflict of orders and possible misuse by the litigants. In nutshell, applying the ratio of the judgment of the Full Bench of this Court in Sterling Agro-industries, in particular observations made in paragraphs 33(a), (c) and (d), as explained by various judgments of this Court, I am of the view that this Court would not be a convenient forum for the following reasons: the order impugned in the present writ petition is not only of the Revisional Authority but also of the respondent no. 2/State of Maharashtra. There are several applicants, as noticed above, who are potentially aggrieved by the decision of the respondent No. 2/State Government of Maharashtra. The petitioner, the State Government of Maharashtra and respondent No. 3 and other respondents except the Revisional Authority, are located outside the jurisdiction of this Court. At the stage at which, challenge has been laid before the Revisional Authority, the Central Government has little or no role to play."

[Emphasis supplied]

8. In the present case, both the parties are situated within the territorial

⁴ 2011 SCC OnLine Del 3162

⁵ 2012 SCC OnLine Del 5264



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jurisdiction of another High Court. The sole fact that the appellate authority is incidentally located in Delhi is not a compelling ground to entertain the instant petition.

9. In view of the aforesaid, this court is not inclined to entertain the instant petition and therefore, the same is accordingly, dismissed alongwith the pending applications.

10. The petitioner would, however, be at liberty to approach the appropriate forum to seek redressal of its grievance, in accordance with law.

PURUSHAINdra KUMAR KAURAV, J

OCTOBER 3, 2023/MJ/rg

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