



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5250 OF 2022

Saraswati Education Society, through its authorized ... Petitioner
representative

Versus

Union of India & Anr.

...Respondents

Mr. Akshay R. Kapadia for the petitioner.

Mr. Suresh Kumar for the respondents.

CORAM: G. S. KULKARNI &
FIRDOSH P. POONIWALLA, JJ.
DATED: 21 February, 2024

P.C.

1. Heard learned counsel for the parties.
2. This petition under Article 226 of the Constitution of India is filed
praying for the following substantive reliefs:

“a) That this Hon’ble Court may kindly issue writ of mandamus and/or order and/or directions or any other writ of that nature and thereby direct the respondent no. 2 to release/disburse/pay the PF dues of ex-employees of petitioner as mentioned in EX A hereto.

b) That this Hon’ble Court may kindly issue writ of mandamus and/or order and/or directions or any other writ of that nature and thereby direct respondent no. 2 to kindly consider the representation dated 8.10.2020, 26.10.2020, 23.10.2020, 23.03.2021, 25.03.2021 and 18.02.2022 to respondent no. 2 made by the petitioner which is annexed below Exh. G and decide the same within stipulated period of 15 days.

c) pending the hearing and final disposal of the present writ petition, this Hon’ble Court may kindly direct respondent no. 2 to disburse the Provident Fund amount to the ex-employees of the petitioner to the extent of their claim.”

3. It appears from the record that a show cause notice before issuance of arrest warrant was already issued to the petitioners. In the reply affidavit as filed on behalf of the Regional Provident Fund Commissioner, it is stated that under 11 orders which are passed against the petitioners, there is recovery of Rs.7,04,76,033/- as Employees Provident Fund dues payable by the petitioner. However, against the said orders, only an amount of Rs.65,48,077/- has been received and an amount of Rs.6,39,27,956/- is required to be recovered. The land which is mortgaged by the petitioner is of the value of Rs.2.15 crores and no bidders are coming forward to take the said land.

4. Thus, the purpose of filing this petition does not appear to be merely to recovery any money for the employees. If the employees are entitled to receive any money, they have their independent right to assert by approaching the respondent-authority.

5. In the facts and circumstances of the case, in our opinion, the respondents are required to execute the orders passed by them in accordance with law. However, this shall be subject to any order if at all passed in any other collateral proceedings.

6. Needless to observe that the petitioner would be required to furnish all particulars of its movable and immovable assets to the respondents. We keep

open all rights and contentions of the respondents in that regard to seek relevant information from the petitioner.

7. Considering the above observations as made by us, in our opinion, no reliefs can be granted to the petitioner.

8. We leave the matter to the respondents to take appropriate action against the petitioners as per law

9. Writ Petition is dismissed subject to above observations. No costs.

(FIRDOSH P. POONIWALLA, J.)

(G. S. KULKARNI, J.)