



W.P.No.28501 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2024

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P. No.28501 of 2024

Parveen Travels (P) Limited,
AB Towers,
No.148, Perambur Barracks Road,
Purasawalkam,
Chennai - 600 007.

... Petitioner

Vs.

1.Regional Provident Fund Commissioner-I &
Recovery Officer,
Employees Provident Fund Organisation,
Ministry of Labour & Employment,
Regional Office, Chennai (North),
37, Royapettah High Road,
Chennai - 600 014.

2.The Equitas Small Finance Bank,
Parrys Branch,
Old No.153, New No.317,
Thambu Chetty Street,
George Town, Chennai 600 001.

... Respondents

(R2 suo motu impleaded as per
order dated 18.10.2024 in W.P.
No.28501 of 2024 by RNMJ)

Writ Petition is filed under Article 226 of the Constitution of India to



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issue a Writ of Mandamus directing the respondents herein to forthwith defreeze the petitioner's accounts held with Equitas Small Finance Bank Ltd., Parrys Branch Viz., 200001359728, 200000039062, 200000656420, 200000746195 and with Purasaiwakkam Branch of the said Bank viz. 200001509180, 200001549734 and 200001591436.

For Petitioner : Mr.Radha Gopalan,
Senior Counsel for
Ms.Bhargavi Gopalan

For Respondents : Mr.K.Venkatesan,
Standing Counsel for PF for R1

ORDER

The petitioner has filed this writ petition, challenging the warrant of attachment issued on 20.08.2024 for attaching the buses plied by the petitioner's company and also to defreeze the bank account of the petitioner.

2.On 26.09.2024, this Court had passed the conditional order by directing the petitioner to make a payment of atleast 25% of the defaulted instalments in one go within a period of three weeks, in order to raise the attachment and defreeze the bank account temporarily.

3.On 18.10.2024, it is submitted by the petitioner that the only source



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the petitioner had was the amount lying in his bank account and unless the bank account is defreezed, the condition imposed by this Court cannot be complied. It is further submitted that the bank has taken the amount lying in the petitioner's account for itself for settling the outstanding dues of the Over Due account of the petitioner and hence, it is not possible to mobilise any fund.

4.In view of the above submission made by the learned counsel for the petitioner, on 18.10.2024, this Court, had suo motu impleaded the petitioner's Bank i.e. the Equitas Small Finance Bank as the second respondent and notice is issued to the Bank.

5.Despite notice has been served on the second respondent, there is no appearance. Once an order of attachment is issued by the first respondent, the Bank is obliged to comply the order just by freezing the account. The bank is not entitled to operate the account for its own self-serving benefit by appropriating the amount available in the petitioner's account to itself.

6.In this regard, it is appropriate to refer clauses ix and x of Section



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8-F(3) of the Employees' Provident Fund and Miscellaneous Provisions

Act, 1952:

"8F. Other modes of recovery.—

3.

...

...

...

(ix) Any person discharging any liability to the employer after the receipt of a notice under this sub-section shall be personally liable to the Central Provident Fund Commissioner or the officer so authorised to the extent of his own liability to the employer so discharged or to the extent of the employer's liability for any sum due under this Act, whichever is less.

(x) If the person to whom a notice under this sub-section is sent fails to make payment in pursuance thereof to the Central Provident Fund Commissioner or the officer so authorised he shall be deemed to be an employer in default in respect of the amount specified in the notice and further proceedings may be taken against him for the realisation of the amount as if it were an arrear due from him, in the manner provided in sections 8B to 8E and the notice shall have the same effect as an attachment of a debt by the Recovery Officer in exercise of his powers under section 8B. "

7. As per the above provision, if a person to whom notice is issued, fails to comply the order, the person shall be deemed to be the defaulting employer in respect of the amount specified in the notice and further proceedings for recovery would be taken against him in the same manner.

8. In the instant case, the Bank, without complying the orders of the



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first respondent and without realising the seriousness of the notices issued for freezing the account, had consumed the amount lying in the account of the petitioner for itself. The above act of the second respondent bank is not only against the legislative mandate, but also against the very object of freezing the account. The bank has invited the risk of getting itself to be treated as a defaulting employer. In view of the erratic and illegal act of the second respondent bank, the very purpose of freezing the account itself got defeated.

9. Hence, the second respondent bank is directed to defreeze the petitioner's account forthwith by remitting back the amount that has been taken away from the petitioner's account on two occasions, i.e., 07.10.2024 and 16.10.2024, amounting to the total sum of Rs.44,66,882.23 (Rs.23,50,039.92 + Rs.21,16,842.31), to the petitioner's account and allow the petitioner to take the above amount from the bank for the purpose of complying the order of the Court.

10. If the second respondent fails to comply the above direction, the first respondent is at liberty to attach the properties of the Bank and take all



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other actions for recovery by deeming the second respondent himself as a defaulted employer.

11. In case petitioner fails to comply the condition even after the second respondent defreezes the account as per the direction given today, the first respondent is at liberty to issue the notice for attachment / enquiry once again.

12. With the above directions, this writ petition stands disposed of.

No costs.

29.10.2024

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Note: Issue order copy on 30.10.2024 and the order copy shall be served on the bank through the first respondent.



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