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W.P.No.39441 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

W.P.No.39441 of 2024
and
W.M.P.No. 42703 of 2024

Christy Friedgram Industry (P) Limited,
A-2, A-3, SIDCO Industrial Estate,
Andipalayam,
Tiruchengode - 637 214.
Namakkal District.
Rep. by its DGM (HR & Admin)

... Petitioner

Vs

The Regional Provident Fund Commissioner,
Employees' Provident Fund Organization,
Regional Office, Steel Plant Road,
Dhalavaipatti, Salem - 636 002.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, forbearing the respondent from initiating any proceedings in terms of its Show Cause dated 29.09.2022 in proceedings No. CB/RO-SLM/Comp/SAL-I/35458/SCN/2022 and consequential notice dated 08.10.2024 in proceedings No. CB/RO/SLM/Comp-1/35458/S-1/2024 until such time the dispute between the petitioner and the 13 person now pending before Industrial Tribunal, Punjab in Amritsar is decided.



W.P.No.39441 of 2024

For Petitioner : Mr. G.Anand Gopalan
for M/s. Agam Legal

For Respondent : Mr.P.K.Paneerselvam

ORDER

This writ petition is filed with a prayer to restrain the respondent from initiating any proceedings based on the show cause notices dated 29.09.2022 and 08.10.2024.

2. Upon perusal of the same, these notices are in the nature of show cause notices, calling the petitioner management for an enquiry.

3. It is the contention of Mr.G.Anand Gopalan, the learned counsel appearing on behalf of the petitioner management that the petitioner management attempted to start a venture in Punjab. However, the proposal did not materialize. Anticipating the venture, the petitioner management had engaged thirteen workmen to work as coordinators in various Districts. Considering the fact that the venture of the petitioner management did not take off at the relevant point of time, the management had instructed the said workmen to go for some other work, even while paying a honorarium to each



W.P.No.39441 of 2024

of the workmen during the relevant period.

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4. It is the contention of the petitioner management that, as a matter of fact, these workmen were working in some other establishment and Provident Fund Contribution has been deducted in respect of these workmen and paid by a third party management. The workmen, after some delay, made a claim against the petitioner management and the same is pending consideration in A.No.49 of 2021 before the Industrial Tribunal, Amritsar. The learned counsel appearing on behalf of the petitioner management further submits that an earlier claim made by way of an industrial dispute was also rejected.

5. In view thereof, there was not even an occasion for the respondent organization to take up the matter for enquiry. Further, he would submit that whether there was any employment at all and whether wages were paid, are all being questioned before the Industrial Tribunal, where the computation petition under Section 33 of the Industrial Dispute Act, 1947 is now pending.

6. The management can let in detailed evidence and both sides can also cross-examine each other. A finding will be arrived at by the said Tribunal.



W.P.No.39441 of 2024

However, even before the Tribunal could render its finding and based only on the petition submitted by the workmen, the enquiry before the Provident Fund authorities has now been initiated. This is nothing but an attempt to create a record to fortify their case before the Tribunal. No detailed enquiry is contemplated by the respondent organization. In view thereof, the respondent organization shall await the further decision of the Industrial Tribunal before proceeding further.

7. Mr. P.K.Paneerselvam, the learned counsel takes notice on behalf of the respondent organization and submits that the Employment Provident Fund Authorities are not concerned with the outcome related to computation or non employment and will act strictly according to the mandate of the provisions of the Act. The impugned orders are merely showcase notices issued under Section 7A for the determination of the liability. Every argument of the petitioner will be considered on its merits, in accordance with the provisions of the Act and the Rules framed thereunder.

8. I have considered the rival submissions made on either side and perused the material records of the case.



W.P.No.39441 of 2024

9. As rightly contended, the impugned orders are only show cause notices directing the management as to why an enquiry should not be initiated under Section 7A. Therefore, all the contentions which are raised before this Court can very well be made before the respondent authorities and the respondent authorities will no doubt consider the same on its own merits with reference to the provisions of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 and the rules made thereunder. The authorities shall apply their mind to each and everyone of the contentions and decide on its own merits.

10. Therefore, this is not a case where this Court can intervene and issue a writ of prohibition, even prohibiting the authority before initiating action under Section 7A. It is made clear that the said exercise cannot be used as a ground for the workmen to claim that the Provident Fund authorities are also initiating action and therefore, they will be entitled for the benefit. The management will be entitled to make its contentions regarding the employment both before the Tribunal as well as before the respondent organization. If any detailed enquiry is necessary in the course of determining the liability, the management shall make application to examine themselves



W.P.No.39441 of 2024

and to produce any records, including calling the workmen for enquiry.

Therefore, I give liberty to the parties to contest the matter and establish their rights before the respondents. The workman, as they are not parties to the present writ petition, may also present their case. With these observations, this Court finds that it cannot interdict at this stage.

11. In view thereof, this writ petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

21.12.2024

Neutral Citation: Yes/No
nsl

To
The Regional Provident Fund Commissioner,
Employees' Provident Fund Organization,
Regional Office, Steel Plant Road,
Dhalavaipatti, Salem - 636 002.

D.BHARATHA CHAKRAVARTHY, J.

nsl



WEB COPY



W.P.No.39441 of 2024

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