



W.P(MD)No.20942 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 03.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.20942 of 2014 and
MP(MD) No.1 of 2014

M/s Good Shepherd Schools,
Diocesan Missionary Prayer Band,
CSI Bishop Bungalow Campus,
Nagercoil – 629 001,
Kanyakumari District.

... Petitioner

Vs

1.The Presiding Officer,
Employees Provident Fund Appellate
Tribunal,
Scope Minar, Core II,
4th Floor,
Laxmi Nagar,
District Centre,
New Delhi – 110 092.

2.The Regional Provident Fund Commisisoner,
Employees Provident Fund Organisation,
Sub-Regional Office,
66, Water Tank Road, Nagercoil,
Kanyakumari District - 629 001.

...Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of of Certiorarified Mandamus, to call for the records on the file of the 1st respondent in ATA No. 224 (13) 2014 dated 11.09.2014 and quash the same as illegal and direct the second respondent to refund the sum of Rs. 4,57,484/- with interest to the petitioner.

For Petitioner	: Mr.M.Azeem
For R2	: Mr.Mahaboob Athiff

ORDER

An Interim order of the Employees Provident Fund/Appellate Tribunal, New Delhi in ATA No. 224 (13) 2014 dated 11.09.2014, is challenged in this writ petition.

2.The petitioner Organization is a Charitable Organization, running Schools and Homes for the welfare of tribal people, which is covered under the Employees Provident Fund and Miscellaneous Provisions Act. The second respondent has passed an order under Section 14B of the Employees Provident Fund and Miscellaneous Provisions Act, (hereinafter called Act) levying



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damage for a sum of Rs.4,57,484/- towards belated payment of contribution of EPF for the period from June 2006 to March 2010 by the petitioner. As against the damages imposed by the second respondent, the petitioner School has preferred a statutory appeal, under Section 7(I) of the Act. A representation, dated 18.03.2014 has been sent to the respondent, not to recover any amount from the petitioner Banks for the belated contribution of EPF amount. Even then, before expiry of the period of limitation for filing the appeal, the respondent has passed an order under Section 8F of the Act, dated 12.03.2014 for freezing the petitioner's Bank accounts. Irrespective of pendency of the appeal preferred by the petitioner in ATA 224(13) 2014, in order to defeat the appeal filed by this petitioner, the second respondent/the Regional Provident Fund Commissioner has recovered a sum of Rs.6,77,072/- (Penal damages Rs.4,57,484/- + Interest Rs.2,19,588/-) from the petitioner's bank account on 18.03.2014. In the meantime, the first respondent has dismissed the Miscellaneous petition, observing that the recovery has already been made before the date of hearing of Miscellaneous



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petition filed by the petitioner. Challenging the same, the petitioner has filed this writ petition in the year 2014.

3.The learned counsel for the petitioner submits that the second respondent has imposed damages under Section 14b of the Act, without considering that this petitioner School is doing service to the tribal students. The damages imposed by the second respondent is not just and therefore, the petitioner has preferred a statutory appeal in the month of March 2014. The appeal was taken up by the Appellate Authority on 19.03.2014 and the Appellate Tribunal considering the case has granted interim order of stay, in favour of the petitioner on 19.03.2014. Knowing that this petitioner has moved the Tribunal in a hurried manner, even before the expiry of statutory period, the second respondent has recovered the amount and therefore, the impugned order is liable to be quashed.

4.The learned counsel for the second respondent submits that after the order, dated 04.02.2014, they are entitled to



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recover the amount, imposed on the petitioner as there is no prescribed limit that it has to be recovered only after the period of limitation. The learned counsel further submits that due to pendency of this writ petition, the appeal filed by this petitioner is still pending.

5.This Court considered the rival submissions made and also perused the materials placed on record.

6.The second respondent has initiated proceeding under Section 14(b) of the Act that there was a belated payment by the petitioner Institution towards EPF contribution for the period from June 2006 to March 2010, has imposed damages of Rs.4,57,484/- by order dated 04.02.2014. As against the same, the petitioner has filed an appeal before the Appellate Tribunal at New Delhi, under Section 7(I) of the Act. As per Rule 7 of the Tribunal Procedures Rules, time limit for filing an appeal as against the order passed under Section 14(b) is 60 days. In this case, the petitioner has filed the appeal well



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in advance on 05.03.2014, even before the expiry of statutory period. The Appellate Tribunal has also entertained and taken up the appeal on 19.03.2014 and granted interim stay. However, even before that the respondent proceeded with recovery under Section 8F of the Act, by passing an order on 12.03.2014 and the amount towards damages was recovered from the petitioner Bank on 18.03.2014. In view of the same, the Tribunal recalled the order of interim stay, dated 19.03.2014 on 11.09.2014.

7. Though this Court is not inclined to endorse the recovery made by the EPF authority without waiting till the statutory period available for the establishment, this Court cannot find fault with the order of the Tribunal in recalling the interim order on the facts and circumstances of the case. The petitioner ought to have challenged the order passed under Section 8F of the Act, dated 12.03.2014. The Tribunal cannot be found fault with. This Court also take note, in view of this writ petition, the appeal preferred in the year 2014 is kept pending without any progress.



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8. Therefore, this writ petition is dismissed with a direction to the Appellate Tribunal to conclude the appeal within a period of eight weeks from the date of receipt of a copy of this order. The petitioner is entitled for refund of the amount, which was recovered from the petitioner Institution, as per the decision in the appeal. No Costs. Consequently, connected Miscellaneous Petition is closed.

03.10.2024

NCC: Yes/No

Index: Yes

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B. PUGALENDHI, J.

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