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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 5917/2024 & CM APPL. 24515/2024**

M S KARVY DIGI KONNECT LIMITED Petitioner

Through: Appearance not given

versus

EMPLOYEES PROVIDENT FUND ORGANIZATION & ANR.

..... Respondents

Through: Mr. Siddharth, Standing Counsel for
EPFO with Mr. Anshul Saxena,
Advocate

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER
26.04.2024

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1. The instant petition under Article 226 of the Constitution of India has been filed on behalf of the petitioner seeking the following reliefs:

“a. Issue an appropriate writ (preferably writ of mandamus) thereby directing the Respondent No. 2 to remit the outstanding dues directly into the Petitioner’s account instead of remitting it to No. 1 in view of show cause notice dated 11.03.2024;
b. Grant a stay on the above mentioned recovery certificate, while this Hon’ble Court decides the legality of such demand by Respondent No 1, and save the sanctity of the contract between Petitioner and Respondent No 2.
c. Pass such other order or orders as may be deemed fit and proper in the facts and circumstances of the case.”

2. It is submitted that the respondent no. 2 i.e. Bharat Sanchar Nigam



Limited entered into a contract with the petitioner for establishment of Professionally Managed Wireless Services Call Centres (WSSC) in all four zones of the respondent no. 2. It is submitted that the respondent no. 1 directed the respondent no. 2 to remit the amount of recovery certificate into their account.

3. Learned counsel appearing on behalf of the petitioner submitted that due to that reason, the petitioner is affected by the show cause notice and the recovery certificate was issued by the respondent no. 1 to the respondent no. 2.

4. It is also submitted that respondent no. 2 is bound to transfer four years old dues to the petitioners' account but due to the show cause notice as well as recovery certificate, the respondent no. 2 has stopped giving the payment to the petitioner.

5. *Per contra*, learned counsel appearing on behalf of the respondent no. 1 vehemently opposed the instant petition and submitted that the instant petition is nothing but a gross misuse of process of law. The petitioner has no *locus* to file the instant petition for challenging the impugned show cause notice as the impugned show cause notice has not been issued to him and the same has been issued to the respondent no. 2. The respondent no. 2 has not challenged the impugned show cause notice.

6. It is submitted that the petitioner has failed to make out any case for challenging the show cause notice as the show cause notice has been issued by the competent authority as well as there is no illegality or error in the said show cause notice. It is submitted that the show cause notice issued to the respondent no. 2 is not contrary to any provision and therefore, the instant petition has no merit and this Court may not exercise its



extraordinary jurisdiction for interfering in the impugned show cause notice. The instant writ petition is devoid of any merit and may be dismissed.

7. Heard learned counsel appearing on behalf of the parties and perused the records.

8. It is the case of the petitioner that the impugned show cause notice has been issued against the respondent no.2 which has substantially affected the right of the petitioner to recover the due amount from the respondent no.2.

9. In rival submissions, the learned counsel for the respondent no.2 submitted that the petitioner does not have any locus to interfere with the lawful action taken against the respondent no.2 by way of issuance of the impugned show cause notices.

10. The contents of the said show cause notice reads as under:

WHEREAS, the undersigned in exercise of the powers conferred on him under Section B to Section 8F of the Employees s Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the Act has ze the basis of the information placed before him, has reason to believe that there are certain amounts due from M/S BSNL Limited against the services rendered at Office of the CGM, BSNL, 853 Ashoka Nagar, Unit 2 Bhubaneswar, Kordha, Odisha and office of the Chief General Manager, AP Telecom Circle BSNL, BSNL Bhawan, Chittugunta, Eluru Road. Vijayawada, Andhra Pradesh against whom a Recovery Certificate No 339/2023 has been issued for an amount of Rs. 18,09,90,832/-. and the said M/s BSN Lmtd has been directed to deposit such amounts as may be due to the defaulting establishment by way of a Demand Draft drawn in favour of the Regional Provident Fund Commissioner, Regional Office II (Madhapuri) payable at Hyderabad.

AND WHEREAS, it is observed that despite the above referred notice. M/s. BSNL has failed to pay the amounts as directed or



sent any reply so far, it shall be noted that where a notice under Section 8F of the Act has been issued and where the establishment or person failed to comply with such notice, he Shall be deemed to have committed default in respect of the amounts for which the Notice has been issued.

NOW, THEREFORE, in exercise of the powers conferred on me under Section 8B to 8G of the Act. M/s BSNL is hereby directed to show cause as to why action to declare the said establishment as deemed defaulter under Section 8F(3)(x) of the Act and action to recover the dues against Recovery Certificate No 339/2023 shall not be taken against him as provided under Section 8B to 8G of the Act. His explanation shall reach the undersigned within a week of receipt of the notice, failing which it shall be deemed that he has nothing to explain and action as stated above, will be taken against him without any further notice.

11. Upon perusal of the above cited show cause notice, it is made out that the respondent no.1 had issued the said show cause due to default on part of the respondent no.2.

12. The perusal of the said notice also depicts that the same is restricted only to the non-payment on part of the respondent no.2 and nowhere does the impugned notice depicts any violation of right of the petitioner herein.

13. In light of the same, this Court is of the considered opinion that the said show cause notice nowhere impacts the right of the petitioner as the same has been lawfully issued due to alleged non-payment on part of the respondent no.2.

14. Therefore, the petitioner does not have a locus to challenge the same by way of filing the instant petition and this Court cannot direct the respondent no. 2 to remit the alleged amount due towards the respondent no.1 to the petitioner.



15. In view of the above facts and circumstances, this Court does not find any merit to allow the instant petition.

16. Accordingly, the instant petition is dismissed along with the pending applications, if any.

CHANDRA DHARI SINGH, J

APRIL 26, 2024
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[Click here to check corrigendum, if any](#)