

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2330 of 2023

In
Civil Writ Jurisdiction Case No.8924 of 2011

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Raj Kumar Gupta Son of Late Prabhu Kumar Gupta, Resident of Mohalla-Maripur, P.S.-Kazimohammadpur, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The Regional Provident Fund Commissioner Employees Provident Fund Organisation, Bhavishyanidhi Bhawan R Block Road No. 6, Bihar, Patna namely Mr. Shishir Kant Jha.
2. The Assistant Provident Fund Commissioner Sub Regional Officer, Employees Provident Fund Organisation, Muzaffarpur namely Mr. Manish Mani.
3. The Recovery Officer, Sub Regional Office, Employees Provident Fund Organisation, Muzaffarpur namely Mr. Uday Gupta.
4. The Enforcement Officer Sub Regional Office Employees Provident Fund Organisation, Muzaffarpur namely Mr. Chandra Mohan Chaudhary.
5. The State of Bihar through the Additional Chief Secretary, Finance Department, Bihar Patna namely Mr. A.K. Choudhary.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Rana Ishwar Chandra, Advocate
For the EPFO	:	Mr. Prashant Sinha, Advocate
		Ms. Ruchi Mandal, Advocate
For the State	:	Mr. Sarvesh Kumar Singh, AAG-13

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL JUDGMENT

Date : 06-05-2025

The petitioner has filed the present contempt application for initiation of contempt proceeding against opposite parties for willful and deliberate non-compliance of the order passed by this Court in C.W.J.C. No. 8924 of 2011 dated 14.08.2018. This Court in the said judgment quashed the order dated 03.02.2011 passed in ATA No. 14(3) of 2009 by Tribunal and the assessment order dated 31.10.2008/06.11.2008 and the

order dated 24.11.2008/28.11.2008 passed by the Assessing Authority on the same ground as mentioned in the order dated 01.07.2013 passed in C.W.J.C. No. 4061 of 2011. The Court gave liberty to the respondents to proceed in the matter against the petitioner in accordance with law after following the observation made by the Hon'ble Supreme Court in **Food Corporation of India vs. Provident Fund Commissioner; (1990) 1 SCC 68.**

2. The learned counsel for the petitioner submits that this order has not been complied and no assessment in terms of **Food Corporation of India** (supra) has been done by the opposite parties. He placed reliance upon the information given under Right to Information Act by the Public Information Officer dated 24.07.2024, Annexure-P/4 to the rejoinder and submits that it has specifically been informed to the petitioner that no assessment order has been passed pursuant to the direction issued by this Court in C.W.J.C. No. 8924 of 2011 dated 14.08.2018.

3. He further submits that opposite parties are relying on the assessment order annexed along with show-cause filed on behalf of O.P No. 2, at Annexure-A/1 dated 28.03.2018, in order to say that direction given by this Court on 14.08.2018

has already been complied and assessment in terms of the judgment of **Food Corporation of India** (supra) has already been done. Since order passed by this Court for re-assessment is dated 14.08.2018, it would not be possible for the opposite parties to comply the order prior to 14.08.2018 i.e., on 28.03.2018.

4. On the other hand learned counsel for opposite party no.2 submits that order passed by this Court has already been complied inasmuch as the writ petitioner filed two writ petitions challenging the assessment order for the period March 1992 to July 2000 and for the period August 2003 to December 2007. For the first period between March 1992 to July 2000, the petitioner filed a writ petition bearing C.W.J.C. No. 4061 of 2011, which was disposed of vide order dated 01.07.2013, by quashing the impugned order of assessment and directing the respondents/opposite parties to refund the amount within a period of six weeks. The respondents/opposite parties preferred L.P.A against the aforesaid order dated 01.07.2013 and Division Bench of this Court vide order dated 18.09.2017, did not interfere with the order passed by the learned Single Judge and has given the observation that in case the orders passed under Section 7(A) has duly been rejected on non-technical ground,

the appellant can always proceed in the matter in accordance with law after following the procedure laid down by the Hon'ble Supreme Court in the case of **Food Corporation of India** (supra).

5. Another writ petition was filed by the writ petitioner bearing C.W.J.C. No. 8924 of 2011 for a different period of assessment i.e., August 2003 to December 2007, which was disposed of vide order dated 14.08.2018 in terms of the order passed by this Court in earlier writ petition bearing C.W.J.C. No. 4061 of 2011, with liberty to proceed in the matter against the petitioner in accordance with law after following the observation made by the Hon'ble Supreme Court in **Food Corporation of India** (supra). Since, the establishment as well as the party are the same, the respondent/opposite parties initiated the assessment proceeding against the establishment/petitioner jointly for both the period which was involved in the first writ petition as well as in the second writ petition.

6. In the assessment proceeding as per the observation given by this Court in the first writ petition which is similar in the second writ petition, the petitioner participated which would be evident from paragraph no. 8 of the assessment

order, annexed with the show-cause at Annexure-A-1. The assessment order was passed by the competent authority on 28.03.2018.

7. He further submits that the petitioner has been misusing the process of Court inasmuch as during pendency of the L.P.A the petitioner filed a contempt petition bearing M.J.C. No. 6112 of 2013 arising out of C.W.J.C. No. 4061 of 2011 i.e., first writ proceeding and this Court vide its order dated 07.10.2014 disposed the contempt petition with the observation that the decision to be rendered by the Division Bench will now govern the issue.

8. After disposal of the L.P.A., another contempt petition was filed by the petitioner for non-compliance of the order passed by this Court in first writ petition being C.W.J.C. No. 4061 of 2011, which was disposed by order dated 25.04.2018, giving liberty to the petitioner to assail the order of assessment passed by the authority under Section 7(A) before the appropriate forum. The petitioner did not file any appeal against the order of assessment dated 28.03.2018 and chose to file another contempt application bearing M.J.C. No. 827 of 2020 arising out of first writ petition which was withdrawn by the petitioner on 30.11.2020, with liberty to file an appeal.

9. Now the fourth contempt petition has been filed for initiation of contempt arising out of the second writ petition. The petitioner was well aware that the assessment proceeding under Section 7(A) initiated by the authority pursuant to the order passed by this Court includes both period as involved in the first writ petition as well as in the second writ petition. The assessment order dated 28.03.2018 has been passed after clubbing together both period of assessment involved in the writ orders.

10. The petitioner responded in the assessment proceeding. This Court time and again directed the petitioner to file appeal against the assessment order dated 28.03.2018, if he so desires but instead of filing an appeal challenging the order a frivolous contempt petition has been filed again.

11. Having heard learned counsel for the parties, taking into consideration the aforesaid submissions and on perusal of the records, it appears that the order passed by this Court in the writ petition has fully been complied.

12. The opposite parties/respondents have passed the assessment order for both the periods, which was the subject matter of the two writ petitions.

13. The order of assessment of the establishment of the petitioner is dated 28.03.2018. The petitioner instead of

challenging the order of assessment has filed the present contempt petition which in my opinion is frivolous in nature and in abuse of law.

14. Accordingly, the contempt petition is dismissed of with a cost of Rs. 25,000/- to be paid by the petitioner to the respondent authorities within two months.

15. The respondent authorities shall be at liberty to recover the amount of cost in accordance with law as decree of the Civil Court.

(Anil Kumar Sinha, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	13.05.2025.
Transmission Date	