



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2025

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CORAM:

THE HONOURABLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.3608 of 2025
and
WMP.No.3999 of 2025

M/s. District Programme Co-Ordinator
Cum Chief Educational Officer
(Sarva Shiksha Abhiyan Scheme
now Samagra Shiksha)
100, Gengu Reddy Road
Presidency MHSS Campus
Rep.by Chief Educational Officer

... Petitioner

Vs.

- 1.The Assistant Provident Fund Commissioner
Employees Providence Fund Organization Regional Office
No.37, Royapettah High Road
Chennai 600 014.
- 2.Union of India
Rep.by its Secretary
Department of School Education and Literacy
Ministry of Human and Development
Shasthri Bhavan
New Delhi 110 001.



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3.The National Advisory Council

Rep.by its Secretary

Ministry of Human Resource and Development

Shasthri Bhavan

New Delhi 110 001.

4.The Executive Committee

Project Approval Board

Ministry of Human Resource and Development

Shasthri Bhavan

New Delhi 110 001.

....Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records in connection with an impugned order passed by the first respondent in his proceedings No.TN/CHN1/ENG/COMP/1587 9557/7A Order /2023-24 dated 28.06.2024 and to quash the same as illegal without jurisdiction.

For Petitioner : Mr.R.Neelakandan
Additional Advocate General
Assisted by
Mrs.S.Mythreye Chandru
(Education)

For Respondents : Mr.R.Vishnu for R1

ORDER



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This Writ Petition is filed challenging the order dated 28.06.2024 made by the respondent organization. By the said order the contribution payable was determined under Section 7A of the *Employees Provident Fund and Miscellaneous Provisions Act, 1952* and a total sum of Rs.1,34,37,008/- was determined.

2. Heard the learned Additional Advocate General appearing on behalf of the petitioner.

3. The District Programme Co-Ordinator-cum-Chief Educational Officer, (*Sarva Shiksha Abhiyan Scheme now Samagra Shiksha*) is the petitioner.

4. It is the contention of the learned Additional Advocate General that the *Sarva Shiksha Abhiyan* Programme is implemented nation wide. As a matter of fact, since exemption is sought for by various States, the matter is pending. If exemption is granted, there will be no liability at all. Even the funding is made by the Central Government. Therefore, in view of the special



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circumstances, this Court should consider entertaining the Writ Petition. A similar Writ Petition has been entertained before the Madurai Bench of this Court and an interim order is also granted in W.P(MD).No.791 of 2025. He would further submit that the bank account has been attached. Today is the date on which the salary has to be paid for about 1000 employees working under the *Sarva Shiksha Abhiyan Scheme*. Therefore, he prays for urgent interim orders in this case also.

5. *Mr.R.Vishnu*, learned counsel, who takes notice for the first respondent, would submit that as on date there is no exemption. The order has been passed on 28.06.2024. The period of limitation and the condonable limit is also over. Therefore, the Writ Petition is not entertainable.

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

7. Though it may be true that in one matter the Writ Petition is



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entertained by the *Madurai Bench of this Court*, that will not be a binding precedent for this Court since no final orders have been passed in the Writ Petition. Even in the interim relief, the question as to the maintainability of the Writ Petition is not decided. As far as this case is concerned, the order determining the liability was passed on 28.06.2024. As per the Employees Provident Fund Appellate Tribunal Rules, the appeal has to be filed within a period of 60 days. The outer condonable limit is also prescribed as another 60 days. By the judgment of the Honourable Supreme Court of India in ***CCT Vs. Glaxo Smith Kline Consumer Health Care Ltd.,¹***, the position is very clear that this Court under Article 226 can not extend the period of limitation when the outer limit is mentioned and the same is mandatory. It is also further held that this Court cannot entertain a Writ Petition under Article 226 when the orders are subject to statutory regime of appeal and the authorities omit to exercise that right available to them.

8. In view thereof, I am unable to entertain the present Writ Petition. But however, in view of the difficulty expressed by the petitioner

1 (2020) 19 SCC 681,



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authority and the petitioner authority being an organ of the State they can be trusted for paying the amount in installments. The entire amount is permitted to be paid in 15 equal monthly installments. Therefore, deducting the first installment alone, the respondent authorities shall forthwith release the Bank attachment order so that the salary can be paid today itself.

9. The learned counsel shall inform the authorities to do the same without waiting for the copy of this order. It is open for the petitioner to pursue the exemption petition that may be prayed by them in the manner known to law. So long as the exemption is not granted, the monthly installments shall be paid on or before 10th of every succeeding month starting from the month of March-2025 and if the petitioner defaults even a single monthly installment, the respondent authority is entitled to proceed further.

10. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.



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Neutral Citation : Yes
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To

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Rep.by its Secretary
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D.BHARATHA CHAKRAVARTHY, J.
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