



W.P.No.24531 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2025

CORAM

THE HONOURABLE MR.JUSTICE P. DHANABAL

W.P.No.24531 of 2022

and

W.M.P.No.23499 of 2022

Mr. Kaleeswaran Karuppih

...Petitioner

Versus

1.The Regional Provident Fund Commissioner II & Recovery Officer,
The Employees Provident Fund Organisation,
Dr. Balasundaram Road, Coimbatore.

2.The Official Liquidator,
Official Liquidator of PGC Corporation Limited,
UTI building, II Floor, Rajaji Salai, Chennai – 01,
Beach Road, Mannadi, George Town, Chennai,
Tamil Nadu – 600 001.

...Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent pertaining to the show-cause notice in the file No.TN/CB/CBE/ RECOVERY/ 77038/CC-21/2022, dated 19.08.2022 and quash the same, and consequently direct the first respondent to drop all further proceedings as against the petitioner.

For Petitioner : Ms. M. Sree Vishwanthini

For Respondents : Mr. R. Thirunavukkarasu (for R1)

: The Official Liquidator is present (for R2)



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ORDER

WEB COPY This writ petition has been filed challenging the order passed by the first respondent dated 19.08.2022 for arresting the petitioner.

2. Heard the learned counsel for the petitioner, learned counsel appearing for the first respondent and the learned counsel appearing for the second respondent.

3. The brief facts of the case is as follows:

(i) The petitioner initially joined as Accounts Manager in Prem Durai Exports on 22.10.1996, which is one among the group of companies, and gradually promoted as Senior Vice President, Global Treasure Accounts, on 02.04.2012, in M/s. PGC Textile Corporation Private Limited. Since the petitioner joined in Perm Durai Exports in 1996, he was eligible for 12% of Provident Fund and received a sum of Rs.45,930/- per month. The company later become a public limited company and was subsequently changed to PGC Corporation Limited. According to the petitioner, he acted as a Director only for name sake and was a salaried employee and managing the employees and their work-related affairs. While so, by orders dated 31.10.2012 and 26.11.2012, passed by the Regional provident Fund Commissioner the



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Company's liability was determined at Rs.31,20,030/- and interest of Rs.18,67,515/- respectively towards arrears of Employees Provident Fund. The

Company preferred appeals against those orders before the Employee Provident Fund Appellate Tribunal (in short 'EPFAT'), which, vide its order dated 14.06.2013, set aside the order dated 26.11.2012, reduced the interest rate, and granted time of 36 month to pay the amount in instalments.

(iii) Aggrieved by the said order passed by the EPFAT, a writ petition in W.P.No.6643 of 2014 was filed before this Court, which was disposed of on 18.09.2019, wherein, this Court held that the company is a sick company and also held that EPFAT has no power to reduce the interest rate. Against which, the respondents filed an appeal in W.A.No.101 of 2020, which was dismissed on 12.02.2020, in which, this Court observed that the Tribunal failed to record any finding that the Company had been declared as sick company and directed the Company to pay the due within 12 weeks.

(iv) Subsequently, a show-cause notice dated 15.03.2022 was issued by the first respondent under Section 8B of the EPF Act against the petitioner and other directors of the company for a sum of Rs.31,20,030/-. Consequently, on 25.03.2022, the Ex-Managing Director of the company, viz., Mr. D. Prem, was



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called upon to appear before the first respondent who requested time to pay the money, citing the company's liquidation with the second respondent.

(v) Despite Prohibitory Orders dated 26.04.2022 and 19.07.2022 under Section 8F of the EPF Act issued by the first respondent against the petitioner, for payment of Rs.21,20,030/- and Rs.16,15,755/- respectively, and for other amounts, on 29.07.2022 another Prohibitory Order was also issued. While so, the first respondent issued the impugned Show-Cause Notice dated 19.08.2022 for arrest of the petitioner under Section 8B of the EPF Act for non-payment of Rs.4,80,196/-. Though the petitioner sent a reply to the notice on 23.08.2022, the first respondent issued the said impugned notice. Therefore, the petitioner is constrained to file the present writ petition for the above said prayer.

4. Learned counsel for the petitioner submits that the petitioner is an employee of M/s. PGC Corporation Limited ('the company'), which was under liquidation vide order dated 12.07.2016 in C.P.No.411 of 2015. An Official Liquidator was appointed and the proceedings were initiated and pending. While so, the first respondent passed the impugned order dated 19.08.2022 for arresting the petitioner *inter alia* calling upon the petitioner to appear before

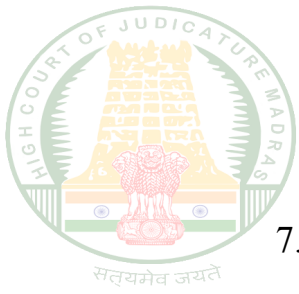


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the first respondent and show-cause why he should not be arrested and subjected to civil imprisonment. Since the petitioner is only an employee of the company which is already under liquidation and the liquidation proceedings were closed, he is not liable to pay the amount. Therefore, this writ petition is filed to quash the show-cause notice issued by the first respondent.

5. The learned counsel for the first respondent submits that what is challenged in this writ petition is only a show-cause notice and the petitioner was only required to appear in person. Instead of appearing in person, the petitioner sent a reply through post. If the petitioner appears in person, and give a proper explanation, the first respondent will consider the matter and pass appropriate orders in accordance with law.

6. The learned counsel for the second respondent/Official Liquidator submits that the Official Liquidator was already appointed, and the proceedings were closed. Therefore, the second respondent is not a necessary party to this petition.



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7. This Court has carefully considered the submissions made on either side and perused the materials available on record, including the counter affidavit filed by the first respondent.

8. Upon perusal of the records, this Court find that the petitioner is challenging the show-cause notice issued by the first respondent calling upon the petitioner to appear on 02.09.2022, which was already lapsed and no final order has been passed. However, the learned counsel for the petitioner also admitted that the petitioner sent reply to the show cause notice through post and the same was not considered.

9. Since the proceedings are pending before the first respondent for the appearance of the petitioner, it is for the petitioner to appear before the first respondent. On appearance of the petitioner, the first respondent shall adjudicate the case, after affording an opportunity for personal hearing to the petitioner and thereafter, he can pass appropriate orders in accordance with law. It is made clear that till such time, there will be an interim protection to the petitioner from arrest. After hearing the petitioner, depending upon the nature of order to be passed, the first respondent can proceed with further in accordance with law.



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WEB COPY10. With the above observations and directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Speaking/Non-Speaking Order : Yes/ No
Neutral Case Citation : Yes/ No
Index : Yes/ No

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