



W.P.(MD)Nos.1292 of 2019

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.02.2025

CORAM:

THE HONOURABLE **MR.JUSTICE MUMMINENI SUDHEER KUMAR**

W.P.(MD)No.1292 of 2019

and

W.M.P.(MD)Nos.1104 of 2019 & 970 of 2020

M/s.Santhy Bakery and Milk Stall,
Rep. by its Proprietor,
S.R. Sridhar.

... Petitioner

Vs.

1. The Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
Sub Regional Office, Bhavishya Nidhi Bhawan,
N.G.O. B Colony,
Tirunelveli 627 007.

2. The Recovery Officer,
Bhavishya Nidhi Bhawan,
N.G.O. B Colony,
Perumalpuram Post,
Tirunelveli 627 007.

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the 1st respondent dated 28.08.2017 in MD/TNY/9016/CD-II(22)/2017 and the consequential recovery notice dated 11.04.2018 issued by the 2nd respondent in Ref.No. MDTNY33520/0009016/06/04/2018/512/35 and quash the same.

For Petitioner : Mr.G.Mohankumar
for Mr.R.Vijayakumar
For Respondents : Mr.K.Murali Sankar

ORDER

This writ petition has been filed seeking a Writ of Certiorari, calling for records pertaining to the impugned order dated 28.08.2017 passed under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, (hereinafter referred to as “Act, 1952” for brevity) as well as the order passed under Section 8F of the Act, 1952, dated 11.04.2018.

2. This Court, while entertaining this writ petition, granted an interim stay by order dated 24.01.2019 as against the order dated 28.08.2017 passed under



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Section 7A of the Act, 1952. The petitioner has got an effective alternative remedy of appeal before the Appellate Tribunal under Section 7-I of the Act, 1952. But, the petitioner, instead of availing the said opportunity, approached this Court by filling this writ petition complaining violation of principles of natural justice and proper opportunity before passing the order dated 28.08.2017.

3. This Court, after having heard the learned counsel appearing for the petitioner for quite sometime, is of the considered view that it is a fit case, where the petitioner should be relegated to remedy of appeal as provided under Section 7-I of the Act, 1952, instead of this Court entertaining this writ petition under Article 226 of the Constitution of India.

4. In view of the above, though this Court has formed opinion on the merits of the case, is not inclined to express any opinion on merits and accordingly, the petitioner is relegated to avail alternative remedy available under Section 7-I of the Act, 1952. Accordingly, this writ petition is disposed of permitting the petitioner to avail the said remedy under Section 7-I of the Act,



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1952, within a period of 30 days from the date of receipt of a copy of this order and on filing of the same within the time stipulated above, the learned Tribunal shall entertain the same without reference to the period of limitation prescribed under the provisions of the Act and Rules and dispose of the same on its own merits. The interim order passed by this Court on 24.01.2019 shall be operative for a period of 45 days from today. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

14.02.2025

Neutral Citation: Yes / No
Index : Yes / No
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MUMMINENI SUDHEER KUMAR, J.

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Order made in
W.P.(MD)No.1292 of 2019

Dated:
14.02.2025