IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8213 of 2011

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St. Marys School,Samastipur through the Secretary of the School, at Present Fr.Joseph Sahayaraj, R/O Catholic Church Camastipur, P.S.Samastipur Town, Distt-Samastipur, State Of Bihar

... ... Petitioner/s

Versus

1. Employees Provident Fund Organ Bhavishya Nidhi Bhawan, 14, Bhikaiji Cama Place, New Delhi-110066
2. Assistant Provident Fund Commissioner Muzaffapur Employees Provident Fund Organization Sub Regional Office, New Vakalatkhana Building Court Compound, Muzaffarpur-842001, Bihar
3. Enforcement Officer, Muzaffarpur, Employees Provident Fund Organization Sub Regional Office, New Vakalatkkhana Building, Court Compound, Muzaffarpur-842001, Bihar

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. K.M.Joseph, Advocate
For the Respondent/s	:	M/s Prashant Sinha Amar Kr. Singh Shrish Anurag Aniket Rai, Advocates

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT
Date : 20-02-2026

1. The petitioner has filed the instant application for the following relief:

> *"That a writ in the nature of certiorari or any other appropriate writ, order or direction be issued quashing order dated 6.4.2011 (Annexure 8) passed by the Presiding Officer, Employees Provident Fund, Appellate Tribunal at New Delhi in A.T.A. No. 62 (3) of 2010 whereby the Learned*

Appellate Tribunal while setting aside the demand of interest on damages, has upheld the impugned order dated 23.11.2009 passed in 7A proceeding by Assistant Provident Fund Commissioner Muzaffarpur, assessing damages under Section 14 B of the Employees Provident Fund and Miscellaneous Provisions Act (hereafter called the Act) with consequential benefits including refund of interim deposit made by the petitioner.

ii. That the impugned order dated 23.11.2009 (Annexure -5) passed in 7A proceeding against the petitioner St. Mary's School Samastipur in Ref. No. SRO/ MUZ/ PD/ 5575/ Order/1331 by Assistant Provident Fund Commissioner Muzaffarpur, Bihar, assessing Damages under Section 14B for period 04/1981 to 12/1999 and interest under section 7Q for period 07/97 to 12/1999 of the Act, be set aside.

iii. That during the pendency of this application before this Hon'ble Court the operation of impugned orders dated 23.11.09 passed by the Assistant provident Fund Commissioner Muzaffarpur and of order dated

6.4.2011 passed by the Presiding Officer, EPF Appellate Tribunal be stayed."

2. The case of the petitioner, as culled out from the Writ petition, is that the petitioner, St. Mary's School, Samastipur, is a Christian minority educational institution established and administered by the Catholic Church. It is a non-profit charitable institution dependent upon moderate fees. The petitioner contends that at all relevant times it had less than 20 employees, and therefore Section 1(3) of the Employees Provident Fund Act was not applicable.

3. It is submitted that the school had voluntarily introduced its own Provident Fund Scheme from 01.03.1981, pursuant to service rules framed by the Church authorities. Contributions were deposited in joint bank accounts in the names of employees and the management.

4. It is urged that the Act was extended to educational institutions by Government Notification by S.O. No. 986 dated 19.02.1982 with

effect from 06.03.1982, and in any event only establishments employing 20 or more persons were covered. According to the petitioner, the Enforcement Officer’s direction in 1994 requiring transfer of amounts from private PF accounts to the statutory EPF account was illegal, as the school had only 13–14 employees.

5. It is contended that the applicability of the Act was never adjudicated in a proper proceeding under Section 7A determining whether the establishment had 20 or more employees.

6. The petitioner asserts that the freezing of its bank accounts and joint PF accounts under Section 8F was arbitrary and coercive, compelling the school and its employees to agree to coverage under Section 1(4). Such coverage, it is argued, could only be prospective and not retrospective.

7. The petitioner further contends that damages under Section 14B cannot be imposed for any period prior to 01.01.2000/01.04.2001 when, according to the petitioner, it was brought under

the scheme.

8. It is also contended that the Appellate Tribunal erred in applying the decision in D.A.V. College vs. R.P.F.C. (1988 Supp SCC 518), as that case concerned an institution employing more than 20 persons.

9. The Learned counsel for the petitioner submitted that the Act applies only to establishments employing 20 or more persons under Section 1(3), and the petitioner never satisfied this threshold. That any alleged coverage could only be under Section 1(4) upon mutual consent and notification, which would operate prospectively.

10. It is further submitted that that the petitioner's voluntary provident fund scheme does not automatically attract the Act. No valid adjudication of applicability was made under Section 7A; hence the subsequent proceedings under Section 14B and 7Q are void.

11. It is further submitted that the freezing of accounts under Section 8F without first

determining applicability violated Articles 26 and 30 of the Constitution of India. The damages under Section 14B are penal in nature and cannot be imposed in absence of wilful default.

12. A detailed counter affidavit was filed on behalf of the respondent Nos. 1 to 3. Per contra, the Learned counsel appearing on behalf of the respondents submitted that the issue of applicability of the Act was already adjudicated in proceedings under Section 7A culminating in an order dated 29.06.2000 determining dues against the establishment.

13. That the petitioner did not challenge the said order which attained finality and cannot raise the issue of applicability in the present proceedings. That inspection records revealed that the establishment had 28 employees, and therefore it was covered under Section 1(3)(b) of the Act and not under Section 1(4). That once coverage was determined and dues assessed, delay in payment necessarily attracted proceedings under Section 14B for

damages and Section 7Q for interest. That the power under Section 8F to attach bank accounts was lawfully exercised for recovery of assessed dues. That the Appellate Tribunal has already granted substantial relief by waiving interest under Section 7Q.

14. In reply to the counter affidavit, the Learned counsel for the petitioner submitted that the school always had less than 20 regular employees; Sisters (religious persons) engaged in teaching or management of the school were not salaried employees and could not be counted. That the list prepared by the Enforcement Officer in 1988 was incorrect and included persons not in service at that time. That the order dated 29.06.2000 passed by Assistant Provident Fund Commissioner under Section 7A was never served upon the petitioner. That the freezing of accounts compelled the school to accept membership under coercion. That even assuming consent under Section 1(4), it could not operate retrospectively. That damages under Section 14B for the period

1981–1999 are wholly without jurisdiction.

15. Heard The Learned counsel for the parties and perused the materials available on record. The following issues arise for consideration:

(i) Whether the Act was applicable to the petitioner establishment under Section 1(3) of the Act?

(ii) Whether applicability of the Act had already been adjudicated in proceedings under Section 7A?

(iii) Whether the petitioner can reopen the issue of applicability in proceedings under Section 14B?

(iv) Whether the order imposing damages under Section 14B calls for interference under Article 226 of the Constitution of India?

16. From the materials available on record, it is evident that proceedings under Section 7A were initiated and an order dated 29.06.2000 was passed determining the dues payable by the

petitioner establishment. Determination under Section 7A necessarily includes adjudication regarding applicability of the Act and quantification of dues.

17. The petitioner has not produced any material to show that the order dated 29.06.2000 was challenged before the appropriate forum. Once an order under Section 7A attains finality, the question of coverage cannot be reopened, in subsequent proceedings under Section 14B.

18. The plea that the establishment had less than 20 employees is a disputed question of fact. Such factual issues were required to be agitated in proceedings under Section 7A or in appeal therefrom. In exercise of Writ jurisdiction under Article 226 of the Constitution, this Court does not reappreciate disputed factual matters, particularly when a statutory determination has attained finality.

19. Proceedings under Section 14B are consequential in nature and arise on account of

default in payment of dues, determined under Section 7A. Once liability is determined and payment is delayed, damages under Section 14B follow as per statutory provisions.

20. The contention that consent under Section 1(4) was obtained under coercion is not supported by any cogent evidence. On the contrary, the records indicate that the establishment was treated as covered under Section 1(3) of the Act on the basis of number of employees found during inspection. The power under Section 8F to attach bank accounts is a statutory power for recovery of assessed dues. Once dues are validly determined, exercise of such power cannot be termed without jurisdiction. The Appellate Tribunal has already granted partial relief by setting aside the interest component under Section 7Q. This Court finds no patent illegality, perversity, or jurisdictional error in the impugned orders warranting interference under Article 226 of the Constitution of India.

21. This Court is of the considered

opinion that the applicability of the Act to the petitioner establishment was adjudicated in earlier proceedings under Section 7A. The petitioner did not challenge the said order, and it has attained finality. The issue of coverage cannot be reopened in proceedings under Section 14B. The order dated 23.11.2009 imposing damages under Section 14B and the order dated 06.04.2011 passed by the Appellate Tribunal do not suffer from any legal infirmity.

22. Accordingly, the Writ petition is devoid of merit and is dismissed.

23. Interlocutory Application(s), if any, shall stands disposed of.

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.02.2026
Transmission Date	