

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P(L) No. 2479 of 2015

M/s. Bharat Sanchar Nigam Limited, A Government of India Enterprises and a Company duly registered under the provisions of Companies Act, 1956 through its Divisional Engineer (Administration), Sri Shitesh Kumar Sinha, Son of Late J.N. Lal, Resident of 311/C Kanke Road, PO Ranchi University PS Gonda, Dist. Ranchi- 834008

... Petitioner

Versus

1. Employees Provident Fund Organization having its regional office at Bhagirathi Complex near circuit House, Karamtoli, Ranchi, Jharkhand, PIN 834001, through its Regional Provident Fund Commissioner having his office at Bhagirathi Complex near circuit House, Karamtoli, Ranchi Jharkhand, PIN 834001
2. Assistant Provident Fund Commissioner, Employees Provident Fund Organisation, Ranchi, Jharkhand, having office at Bhagirathi Complex near Circuit House, Karamtoli, Ranchi, Jharkhand, PIN 834001
3. Assistant Provident Fund Commissioner (Accounts RA-3), Employees Provident Fund Organisation having his office at Bhagirathi Complex near Circuit House, Karamtoli, Ranchi, Jharkhand, PIN 834001
4. Area Enforcement Officer, Employees Provident Fund Organisation, having office at Bhagirathi Complex near Circuit House, Karamtoli, Ranchi, Jharkhand, PIN 834001
5. Assistant Provident Fund Commissioner (PD), Employees Provident Fund Organisation, having office at Bhagirathi Complex near Circuit House, Karamtoli, Ranchi, Jharkhand, PIN 834001
6. Assistant Provident Fund Commissioner (Compliance), Employees Provident Fund Organisation, having his office at Bhagirathi Complex near Circuit House, Karamtoli, Ranchi, Jharkhand, PIN 834001
7. Sri Subhash Chandra Bose, Son of not known to the petitioner, resident of Pandra Middle School near Devi Mandir, Pandra, PO and PS Pandra, Dist. Ranchi
8. Union Bank of India, Ranchi main Branch, having its branch at Savitri Sadan, Saheed Chowk, Ranchi through its Chief manager having his office at Savitri Sadan, Saheed Chowk, Ranchi, POGPO, PS Kotwali, Dist. Ranchi-834001

... .. Respondents

CORAM: HON'BLE MR. JUSTICE SHREE CHANDRASHEKHAR

For the Petitioner	: Mrs. A. R. Choudhary, Advocate
For the Respondent	: Mr. Prashant Pallav, Advocate
For the Respondent No. 8	: Mr. P. A. S. Pati, Advocate

03/18.06.2015

The learned counsel for the petitioner refers to the impugned order dated 06.05.2015 and submits that, the impugned order by which liability under Section 7 A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 has been assessed in respect of 196 employees allegedly working under the petitioner, is erroneous for the reason that neither the complainant was examined nor any document disclosing employment of 196 persons by the petitioner was produced before the authority. Referring to the order passed in the proceeding under the Minimum Wages Act, 1948, the learned counsel for the petitioner submits that, award in the said case has been passed only for 39 persons. It is further submitted that, though the petitioner and the contractor employed by the petitioner have been depositing the amount under the Employees' Provident Funds and Miscellaneous Act, 1952 regularly, the same has not been considered by the authority while making assessment under Section 7A of the Act.

2. Mr. Prashant Pallav, the learned counsel appearing for the respondents submits that, the proceeding under the Minimum Wages Act, 1948 was initiated on behalf of 196 persons and therefore, the petitioner has been assessed under Section 7A of the Act for not depositing the P.F. amount for 196 persons.

3. From impugned order dated 06.05.2015 it does not appear that the assessment under Section 7A of the Act has been made on the basis of the order passed in the proceeding under the Minimum Wages Act, 1948 though, the impugned order dated 06.05.2015 refers to the same. It appears that on behalf of the workmen photo copy of ACE-2 was produced however, genuineness of the same was not established before the authority. The learned counsel for the petitioner submits that, no report of the Enforcement Officer was produced before the authority at the relevant time and the only report which was available was made prior to 10.12.2014.

4. The learned counsel for the respondents submits that,

the petitioner has alternative remedy in filing appeal under Section 7 I of the Act and the petitioner may also prefer review under Section 7B of the Act.

5. Issue notice to respondent no. 7 under registered cover with A/D as well as by ordinary process for which requisites etc. must be filed within a period of two weeks. Dasti in addition. Notice to indicate why the petitioner be not permitted to avail the remedy of review/appeal.

6. Mr. P. A. S. Pati, the learned counsel appears on behalf of respondent no. 8 and submits that, on 15.06.2015, a bank draft for Rs. 2,91,04,463 /- has been handed over to the Assistant Provident Fund Commissioner.

7. Considering the above, petitioner is permitted to operate the account.

8. The learned counsel for the petitioner submits that, Dasti notice upon the respondent no. 7 would be served within one week.

9. Post the matter on 30.06.2015.

10. In the meantime, the respondent shall not take any further coercive action against the petitioner.

(Shree Chandrashekhar, J.)

Amit/