

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF JULY, 2017

BEFORE

THE HON'BLE MR. JUSTICE RAGHVENDRA S. CHAUHAN

WRIT PETITION NO.31907 OF 2017 (L-PF)

BETWEEN:

Sree Veerendra Heggade,
Aged About 69 Years,
Dharmadhikari
The Institution at Dharmasthala,
Dharmasthala – 572 216
Dakshina Kannada

...Petitioner

(By Sri. Chandranath Ariga K., Advocate)

AND:

1. The Commissioner,
Provident Fund Commission in Karnataka,
Queens Road,
Bengaluru-560 001
2. The Asst. Provident Fund Commissioner,
Regional Office,
Bhavisha Nidhi Bhavana,
Sirur Road High Lands,
Mangaluru-575 002
3. The Assistant Provident Fund Commissioner
(Coverage & Enrolment)
Regional Office,
Bhavisha Nidhi Bhavana,

Sirur Road High Lands,
Mangaluru-575 002

4. The Enforcement Officer,
Employee PF Organization
Bhavisha Nidhi Bhavana,
Sirur Road High Lands,
Mangaluru-575 002

... Respondents

This writ petition is filed under Articles 226 and 227 of the Constitution of India praying to quash the notice dated 08.06.2017 issued by R-3 at Annexure-B and etc.,

This writ petition coming on for Preliminary Hearing, this day, the Court made the following:

ORDER

The petitioner is aggrieved by the notice dated 08.06.2017 and the communication dated 30.06.2017 sent by Employees' Provident Fund Organisation.

2. Briefly the facts of the case are, the petitioner claims to be the Dharmadhikari of Shri Kshethra Dharmasthala, and his status as Heggade. He further claims that Heggade is an integral and inseparable component of Shri Kshethra

Dharmasthala. According to him, Shri Kshethra Dharmasthala is a composite institution which consists of shrines of Sri Manjunatha, Sri Chandranatha Basthi, the Nellyady Beedu, Shrine of Ammanavaru and other deities and Heggadeship.

3. On 25.05.2017, the petitioner received a request from respondent No.2 – the Assistant Provident Fund Commissioner for registering and obtaining a Code Number from the Provident Fund Department, so that the benefit of Employees Provident Fund and Miscellaneous Provisions Act, 1952 ('the Act', for short) could be extended to those employees who were working at the Shri Kshethra Dharmasthala temple.

4. On 08.06.2017, respondent No.2 sent a notice informing the petitioner that the petitioner is employer of an establishment located at Shri Kshethra Dharmasthala Manjunatheshwara Temple Trust. Since

the exemption granted by the Central Government is withdrawn, the petitioner is now covered under the Act.

5. On 10.06.2017, the petitioner received another notice. The petitioner replied on 19.06.2017, wherein he claimed that the temple has been declared as not being “a temple”, by the Hon’ble Supreme Court in the case of **Commissioner, R & CE, Mysore v. Rathnavarma Hegde** (Deceased by his LR’s) (**AIR 1977 SC 1848**). Therefore, the petitioner requested the respondent No.2 to drop the proceedings.

6. However, the respondent No.2 replied and pointed out that Sri Dharmasthala Temple is already registered with Income Tax Department, and has a PAN Number, and it has been included as a temple, a place of public religious worship, in the Gazette Notification dated 14.05.2010. Furthermore, that the judgment pronounced by the Hon’ble Supreme Court in the aforementioned case does not apply to the Act.

Therefore, respondent No.2 had sought for co-operation of the petitioner for getting the temple registered with the department, and for being granted a Code.

7. Thereafter, on 30.06.2017, respondents have assigned Code Number to the petitioner, hence, the present petition before this Court.

8. Initially, when the writ petition was filed and the case was listed on 25.07.2017, this Court had noticed the fact that the letter dated 25.05.2017 issued by respondent No.2 had mentioned two notifications namely, the notification dated 14.05.2010 and notification dated 07.09.2015. The first notification dealt with the exemptions granted to temples and trusts. The second notification dated 07.09.2015 is the notification whereby exemption granted by the Central Government was revoked. Interestingly, the petitioner had submitted the first notification, but had not submitted the second notification. Therefore, by order

dated 25.07.2017, this Court had directed the petitioner to bring the notification dated 07.09.2015 on record.

9. Today, when the case was called out, the learned counsel for the petitioner referred to a letter dated 23.06.2017 (Annexure-F). The said letter was sent by the Regional P.F. Commissioner-I to the Dharmadhikari, namely, the petitioner. The said letter mentions a notification dated 14.05.2010. It also mentions that the copy of the said notification is available with the petitioner. According to the notification dated 14.05.2010, a Temple is a place of public religious worship. Therefore, according to the letter dated 07.09.2015, the provisions of the Act are applicable to Sri Dharmasthala Manjunatheswara Temple. Despite the fact that the notification dated 14.05.2010 is available with the petitioner, the petitioner has failed to submit the said notification before this Court. Therefore, this Court enquired from

the learned counsel for the petitioner as to why the said notification is being withheld from this Court. To this query, the learned counsel submits that unless and until the Court asks for the notification, the petitioner will not submit the same before this Court.

10. The reply of the learned counsel for the petitioner is certainly curious. For, firstly it is the duty of a litigant to submit all the necessary documents, even those documents which may weaken this case, before this Court. After all, a litigant has to approach the Court with clean hands. Secondly, a litigant cannot expect the Court to call for documents, which are readily available with him.

11. Repeatedly, it has come to the notice of this Court that petitioner is intentionally and willfully hiding the material documents from this Court. On the first occasion, the petitioner did not place the notification dated 07.09.2015, a notification which clearly reveals

that the petitioner is no longer entitled to the exemptions granted by the Central Government by its notification dated 14.05.2010. The said notification was produced by the petitioner only after the Court directed him to produce the same by order dated 25.07.2017. **Even today, the notification dated 14.05.2010 has not been produced by the petitioner.** Thus, clearly the petitioner is withholding material documents from the perusal of this Court. Despite the fact that the petitioner claims to be a Dharmadhikari of a temple, he has approached this Court, a temple of justice, without clean hands.

12. Therefore, this Court is of the opinion that the petitioner is trying, his level best, to take this Court out for a ride by withholding documents which may weaken his case. Since the petitioner has approached this Court without clean hands, this petition deserves to

be dismissed on this ground alone. Therefore, the petition is hereby **dismissed**.

SD/-
JUDGE

Mds/-