
(2015) 08 MP CK 0021

In the Madhya Pradesh High Court

Case No : Writ Petition Nos. 14425, 15340, 15349 and 15351 of 2014

Dinkar Singh and Others

APPELLANT

Vs

Municipal Corporation

RESPONDENT

Date of Decision : 18-08-2015

Acts Referred:

Citation : (2015) 147 FLR 289 : (2015) LLR 1277

Hon'ble Judges : Rajendra Menon and S.K. Gupta, JJ.

Bench : Division Bench

Advocate : R.K. Tripathi, for the Appellant; Dileep Pandey, for the Respondent

Final Decision : Allowed

Judgement

Rajendra Menon and S.K. Gupta, JJ.

1. As the common question of law and facts are involved in all these petitions, they are being heard and decided by this common order. In all these petitions challenge is made to an order dated 19.8.2014 annexure P-15 issued by the Commissioner/Municipal Corporation, Rewa directing the petitioners-Contractors to tender the Provident Fund contribution under the Employees Provident Fund and Miscellaneous Provisions Act, 1952 for the period 2011 to July, 2014.

2. The only question involved in these petitions are, as to whether the Commissioner, Municipal Corporation can direct for recovery of Provident Fund due from the Contractor without there being any order of the statutory authority exercising jurisdiction under the Employees Provident Fund Act and Miscellaneous Provisions Act, 1952 and effect recovery or impose liability on the contractors, namely the petitioners herein.

3. During the course of hearing it transpires that for recovery of Provident Fund due proceedings under section 7-A of the Act of 1952 was held against the Nagar Palika Nigam, Rewa and by order passed on 12.2.2015 liability for payment of the provident fund dues under section 7-A has been imposed upon the Municipal

Corporation. Once the statutory liability for paying the provident fund in proceedings under section 7-A has been imposed upon the Municipal Corporation, until and unless the statutory authorities under the Act of 1952 gives liberty to the Municipal Corporation or direct them to recover the amount from the Contractors or in a proceedings under section 7-A liability is imposed upon the contractors to pay the provident fund dues by exercising administrative powers, Corporation has no authority to recover the provident fund dues from the contractors. The Municipal Corporation can only challenge the order passed under section 7-A before the appellate authority and after orders are passed by the appellate authority, holding the contractors liable, the Corporation may take action against the contractors for recovery of the Provident Fund dues. The Commissioner, Municipal Corporation cannot recover the amount in the, manner done by the impugned order dated 19.8.2014.

4. In view of above, the petitions are allowed. The impugned order dated 19.8.2015 passed by the Commissioner, Municipal Corporation, Rewa is quashed and liberty is granted to the Municipal Corporation to take up the matter with the authority under the Employees Provident Fund and Miscellaneous Provisions Act, 1952 and take steps as may be permissible under law for the purpose of recovery of provident fund dues from the Contractors in question in accordance to law after the matter is decided by the statutory authority under the Employees Provident Fund Act, 1952. With the aforesaid liberty, for the present, all these petitions are allowed and disposed of.