(1995) 05 P&H CK 0124

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 1218 of 1981

Gandhi Vanita Ashram	APPELLANT
Vs	
The Provident Fund Commissioner and Others	RESPONDENT

Date of Decision : 08-05-1995

Acts Referred:

Citation : (1995) 111 PLR 237

Hon'ble Judges : T.H.B. Chalapathi, J

Bench : Single Bench

Advocate : Ashok Aggarwal and Rajesh Bindal, for the Appellant; Manjit Singh, A.A.G., for the Respondent

Final Decision : Allowed

Judgement

T.H.B. Chalapathi, J.—This writ petition is filed for the issuance of a writ of certiorari by quashing the order of respondent No. 4 dated October 13, 1980, (Annexure P-1) and notice issued by respondent No. 1 dated December 30, 1980 (Annexure P-2).

2. Gandhi Vanita Ashram has been started in the year 1948 with the object of helping the widows and destitute women by giving training to them in various vocational courses and to provide relief to those persons who had migrated from West Pakistan. The petitioner Ashram is engaged in different types of activities, i.e., manufacturing of socks, hosetaps, woolen shawls, towels, cotton clothes, tailoring of mosquito mats, woolen clothes, embroidery, etc. After completion of the training, persons will seek employment elsewhere on the basis of the experience gained by them. They are paid by the Ashram, nominal remuneration for the work done by them. The material is supplied by Ashram for preparing the clothes etc. by the trainees and for this, funds are provided by the State Government. Every year nonrecurring budget provisions is also provided for the maintenance of the Ashram. While so, the Regional Provident Fund Commissioner, by his letter dated January 29, 1965, directed the petitioner Asharam to comply with the provisions of the Act on the ground that it is an

establishment engaged in the Textile Industry and, therefore, the provisions of Employees Provident Fund and Miscellaneous Provisions Act, 1952, are applicable to the petitioner Asharam. A reply has been given to the Regional Provident Fund Commissioner stating that the Asharam is not an establishment under the provisions of the Act and an appeal had been filed before the Government of India, who by its order dated October 15, 1980, held that the establishment has been rightly covered under the Act and accordingly dismissed the appeal filed by the petitioner through the Director, Social Welfare Department, Punjab, Chandigarh.

3. In pursuance of the view taken by the Government of India vide Annexure P-1 dated October 15, 1980, consequential order was issued by the Assistant Commissioner, Employees Provident Fund Organisation on December 30, 1980. This Writ Petition has been filed for quashing the said orders.

4. There is no dispute that the Asharam is a governmental institute started with the main object of providing rehabilitation to the migrants who have been evacuated from West Pakistan. In the course of time, the petitioner started training centres under the directions of the ministry of Rehabilitation, Government of India, to provide relief to destitute women and widows to make them independent and to train them in vocational courses so that they can have self-employment or seek employment in other organisation. There is no dispute that the aims and objects of the Asharam are only to provide relief to the destitute women and widows and that it is run on no profit-no loss basis. The trainees are paid nominal amount for the work done by them. This payment does not make the trainees regular employees of the petitioner Asharam. The crucial test for applying the provisions of Employees Provident Fund and Miscellaneous Provisions, Act, 1952, is to see whether any relationship of master and servant exists between the petitioner and the trainees. It is seen that after undergoing training in the training centre of the Asharam, the trainees will be discharged and it is for the trainees to seek employment elsewhere or have their own self-employment in which they have been trained. There is no question of maintaining the trainees as employees of the Asharam. The learned counsel was not able to show that Asharam had any control over the trainees. It is for the trainees, better to work or not. There is no compulsion to work. In order to provide relief to those persons who were undergoing training, the Government has been paying some amounts for the work done by them. This does not constitute salary for the people undergoing training. It is also not a monthly payment which depends on the output of the work done by them. The mere fact that the Textile clothes prepared by the trainees have been supplied to the governmental departments like police and health does not make the Asharam a commercial organisation. The learned A.A.G. placed before me the budget proposals. It shows that there was no recurring grant in the budget for the Asharam. It provides only the non-recurring relief to the Asharam. The learned A.A.G. also placed before me an order of the Government social welfare Department of 1991 which shows that some of the inmates were out after going

training by paying a lump-sum amount for one year so as to enable them to rehabilitate. After going through the contentions of the learned counsel for the petitioner and the respondents, I hold that the petitioner Asharam is not an establishment coming within the purview of the Employees Provident Fund and Miscellaneous Provisions Act, 1952, and that there exists no relationship of master and servant or employer and employee.

5. The petition is, therefore, allowed and the impugned orders of respondents Nos. 4 and (Annexure P-1 and P-2) are hereby quashed. No order as to costs.