

(1986) 12 RAJ CK 0007

In the Rajasthan High Court

Case No : Civil Writ Petition No. 776 of 1983

Rajasthan Machinery Mart

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 05-12-1986

Acts Referred:

Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 7A

Citation : (1987) WLN 3

Hon'ble Judges : A.K. Mathur, J

Bench : Single Bench

Judgement

Ashok Kumar Mathur, J.—The petitioner, by this writ petition, has prayed that the respondents may be directed that the petitioner is not covered by the Employees Provident Fund Miscellaneous Provisions Act, 1952. It has further been prayed that the order Anx. 11 dated 23rd July, 1982 and the order dated 2nd November, 1982 and the order dated 3rd February, 1983 and the notice dated 8th February, 1982 may be quashed and the respondent may be prohibited from proceeding with the enquiry.

2. The petitioner is a registered partnership concern. The partnership concern was formed under a deed of Partnership on 1st November, 1976. A registered letter was sent by the Provident Fund Inspector, Udaipur to the petitioner concern. By this letter, the petitioner is asked to submit certain information in a required proforma. The petitioner submitted that it is not covered by the Employees Provident Fund Miscellaneous Provisions Act, 1952 (here in after referred to as "the Act"). Thereafter, petitioner received another communication from the Provident Fund Inspector requiring certain more information. Thereafter, a communication was received from the Regional Provident Fund Commissioner and it was advised that petitioner should deposit the provident fund. It was submitted that the petitioner sent his objection that he is not covered by the Act. Ultimately, the Regional Provident Fund Commissioner, Jaipur, by his communication dated 3rd February, 1983, informed the petitioner

that the matter has been examined and the establishment is covered under the Act.

3. The petitioner was called upon to attend hearing before the Regional Provident Fund Commissioner, Rajasthan, on 11th February, 1983 at P.F. Inspector's Office at Udaipur. When the petitioner reached the Office of the Provident Fund Inspector, he found that a notice has also been served to M/s Rajasthan Machinery Mart (P) Ltd. The Regional Provident Fund Commissioner then called the petitioner's representative Mr. Dhiraj Murdia and the Counsel of M/s Rajasthan Machinery Mart (P) Ltd., Shri M.L. Surana at the same time in his chamber and informed the petitioner that he treated the registered firm M/s Rajasthan Machinery Mart as a part and parcel of the M/s Rajasthan Machinery Mart Private Limited Company. That inspite of the petitioner's resistance, an enquiry u/s 7A of the Act was initiated and notice dated 8-2-83 was issued. Aggrieved against this, the petitioner has filed the present writ petition.

4. A return has been filed by the respondent and it has been submitted that the petitioner is not coming forward to assist the Provident Fund Commissioner and in order to determine that whether petitioner's case is covered by the Act or not a notice has been given to the petitioner to place all the record before the Commissioner and, thereafter, a proper decision can be taken that whether the petitioner-concern is covered by the Act or not. It is submitted that the representative of the petitioner appeared and sought the adjournment and the matter was adjourned to 23rd March, 1983 and before matter could proceed further petitioner has filed a present writ petition and has also obtained a stay order. Thus, learned Counsel for the petitioner submits that enquiry could not be completed.

5. I have heard both the learned Counsel for the parties and perused the record, I think the present writ petition is pre-mature because a regular enquiry is already pending before the Provident Fund Commissioner. Unless the petitioner co-operates in the enquiry and produces all the relevant record, it is not possible for the Provident Fund Commissioner to determine whether the present concern is covered by the Act or not. The respondent has disclosed that the Provident Fund Commissioner is already seized of the matter and the petitioner has appeared and sought the time, therefore, the matter was adjourned to 23rd March, 1983 but before that petitioner approached this court and got the stay order, resulting that the enquiry could not proceed further and matter has been delayed unduly long on account of petitioner's own conduct. Unless the enquiry is completed by the Commissioner and he arrives at a proper finding that whether the petitioner-concern is covered by the Act, it will not be proper for this Court to embark on this enquiry. Thus, I direct that the petitioner should participate in this enquiry to enable the Provident Fund Commissioner to arrive at a decision whether the present Establishment is covered by the Act or not. The respondent is also directed to dispose of the matter expeditiously. The petitioner is directed to appear before the respondent Provident Fund Commissioner on

18th December, 1986 with all relevant record so as to determine that whether petitioner is covered by the Act or not.

6. The writ petition is disposed of with the above directions. There will be no order as to costs.