

(2014) 10 RAJ CK 0076
In the Rajasthan High Court
Case No : Civil Writ Petition No. 807/1999

Vivekanand Memorial Public School

APPELLANT

Vs

The Regional Provident Fund Commissioner

RESPONDENT

Date of Decision : 30-10-2014

Acts Referred:

Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 7A
Prevention of Corruption Act, 1988 — Section 13(1)(d), 7

Citation : (2015) 147 FLR 979 : (2016) LLR 192

Hon'ble Judges : Dr. Vineet Kothari, J

Bench : Single Bench

Advocate : V.K. Aggarwal, Advocate for the Appellant; Yashwant Mehta,
Advocate for the Respondent

Judgement

Dr. Vineet Kothari, J.—Heard learned counsel for the parties.

2. In the instant writ petition, a challenge has been laid by the petitioner, Vivekanand Memorial Public School, Raisinghnagar (for short, hereinafter referred to as "Institution") to the impugned order (Annex. 15) dated 19.11.1998 passed by Employees Provident Fund Appellate Tribunal, New Delhi (for short, hereinafter referred to as "PF Tribunal") holding the petitioner Institution is covered by the provisions of the Employees Provident Funds Miscellaneous Provisions Act, 1952 (Act of 1952) and scheme framed thereunder. Therefore, the appeal against the order passed under Section 7A of Act of 1952 by the competent authority on 22.06.1998 was rejected by the learned PF Tribunal.

3. Mr. V.K. Aggarwal, learned counsel for the petitioner submits that the controversy that recognized private educational institutions covered by the State control or aided under the Grant-in-Aid Rules, is exempted from the provisions of the PF Act of 1952 and this controversy has been settled by this Court as well as by the Hon'ble Supreme Court in the judgment annexed with the writ petition in the case of Union of India (UOI) and Others Vs. Digamber Jain Secondary

School, and by the Hon''ble Apex Court in the case of Regional Provident Fund Commissioner Vs. Sanatan Dharam Girls Secondary School & Ors. (Appeal (Civil) No. 7016/2004 decided on 30.10.2006). He has also submitted that about number of employees recorded by the Inspector during the survey, there were interpolations made by the said authority and he was prosecuted under the provisions of Sections 7, 13(1)(d) of the Prevention of Corruption Act and vide judgment/order dated 24.12.2000 in Criminal Case No. 7/95 (16/98)- Union of India Vs. M.S. Maurya, and the said person has been convicted for the offences of corruption and based on his report, the coverage of the petitioner Institution could not be upheld by the learned PF Tribunal as has been done in the impugned order (Annex. 15) dated 19.11.1998.

4. On the other hand, learned counsel appearing on behalf of respondent PF Department, Mr. Yashwant Mehta, does not dispute the applicability of these judgments cited at Bar by the learned counsel for the petitioner, referred to above, on the question of fact and the matter is required to be examined by the said Tribunal in view of aforesaid legal position as well as the effect of conviction of the person, who gave an adverse report against the petitioner Institution by the competent court in criminal case and the writ petition, is therefore, liable to be disposed of setting aside the impugned order passed dated 19.11.1998 passed by learned PF Tribunal.

5. Accordingly, the present writ petition filed by the petitioner Institution is allowed and the impugned order (Annex. 15) dated 19.11.1998 passed by learned PF Tribunal, New Delhi, is quashed and set aside and the matter is remanded back to the said PF Tribunal to re-decide the appeal filed by the petitioner in accordance with legal position as indicated herein above. No costs. A copy of this order be sent to the concerned parties forthwith.