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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 7201/2010, CM APPLs. 14275/2010 & 17040/2020**

SHRI SAI BHAKTA SAMAJ

..... Petitioner

Through: Mr. Harvinder Singh and Mr. Shiven
Khurana, Advocate. (M:9810000107)

versus

REGIONAL PROVIDENT FUND COMMISSIONER AND
ANR

..... Respondents

Through: Mr. Manish Dhir, Advocate for R-1.
Mr. Shailesh K. Kapoor, Advocate for
R-2. (M:9910277077)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **15.09.2020**

1. This hearing has been held through video conferencing.
2. Mr. B.B. Gupta, Id. Senior Counsel, who was appointed as one of the Administrators of Shri Sai Bhakta Samaj has appeared, pursuant to the last order dated 30th July, 2020. Id. Sr. Counsel submits that the newly elected Managing Committee has now taken over the administration of the Petitioner-Society and the Administrators have been discharged, as recorded in the order dated 22nd July, 2020 passed in ***Shri. K.M. Bhatnagar & Anr. v. Union of India & Ors. [W.P.(C) 7445/2017]***. He further submits that the Society has sufficient cash reserves and in fact, it is not incurring enough expenditure being a Charitable Society, as per the provisions of the Income Tax Act. Id. Sr. Counsel also submits that the Society has more than 56 employees apart from contractual employees. He further submits that while the Administrators were in-charge of the running of the Society, the

Provident Fund payments were made for the period from July, 1984 to 31st March, 1993 and thereafter payments are also being made December, 2019 onwards. These submissions are taken on record. Mr. B.B. Gupta, Id. Sr. Counsel need not further appear in this matter, in view of the fact that the new Managing Committee has taken over the administration of the Society.

3. Vide application being CM. Appl. 17040/2020, the Respondents seek directions to the effect that the Petitioner-Society should deposit Employee Provident Fund (*hereinafter 'EPF'*) amounts continuously till date, in view of the finding given in the impugned order dated 3rd March, 2010 of the EPF Appellate Tribunal, to the effect that the Society is covered by the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (*hereinafter, 'EPF Act'*). It is their submission that since no interim order has been passed in the present petition, therefore the Petitioner is obliged to take steps in accordance with the impugned order.

4. Mr. Harvinder Singh, Id. counsel for the Petitioner however submits that the impugned order only relates to the particular period from July, 1984 to March, 1993 and for the said period, the deposit has already been made. He therefore submits that no direction ought to be passed for continuous deposit of EPF amounts as there is no determination. He further relies on the previous order passed in 16th May 2010 wherein it was held that the Petitioner is not a 'Society'.

5. Mr. Manish Dhir, Id. counsel appearing for the Regional Provident Fund Commissioner (*hereinafter 'RPFC'*) submits that the Petitioner-Society having been held to be covered under the EPF Act, there is an obligation upon the Society to continuously deposit the EPF amounts.

6. A perusal of the order of the RPFC dated 18th April, 2001, shows that

the findings given by the RPFC are:

“In view of the above, I N.K. Prasad, Regional Provident Fund Commissioner-II (E&R), Delhi, hold that the Act is applicable on M/s SAI BHAKTA SAMAJ (Regd.) w.e.f. 12.6.1984 under the Head Societies, Club or Associations which provide board or lodging or both or facility for assessment or any other service to any of their members or to any of their guests on payments as per Central Government notification dated 31.05.1963.

I further order that for the purpose of determination of dues, though the same can be determined on the basis of facts and material available on record, still in the interest of justice, for determining the EPF and allied dues, the Establishment is given an opportunity to produce relevant documents i.e. Attendance sheet, wage sheet at 11 AM on 30.4.2001 before the undersigned in his office chamber.”

7. The said order as well as the order dated 8th June, 2001 was assailed before the Appellate Tribunal by the Petitioner herein, which has upheld the same and dismissed the appeal, vide order dated 3rd March, 2010. The present petition challenges the said order of the Appellate Tribunal and has remained pending for almost 10 years. In the meantime, this Court had in a separate writ petition being ***K.M Bhatnagar & Anr. (supra)***, appointed Administrators to run the affairs of Shri Sai Baba Temple at Lodhi Road. However, the said Administrators have been subsequently discharged, after the newly elected Management Committee has taken over.

8. In the opinion of the Court, the RPFC is free to make a determination

as regards the EPF amounts, since the finding of the RPFC has not been stayed by this Court, as is clear from the order dated 9th October, 2019. In fact, there is an obligation upon the Petitioner-Society to deposit the EPF amounts, in accordance with law.

9. Accordingly, the Petitioner is directed to place on record a complete statement of the EPF amounts deposited by it with effect from 1st June 1984. The Petitioner shall also place on record a complete statement of the number of employees who are working with the establishment. The said statements shall be filed within a week, with advance copies to the Id. counsels for Respondents. If the Petitioner wishes to file a detailed reply to the application filed by the Respondent, being CM APPL. 17040/2020, let the same be filed within two weeks. Rejoinder to the Reply filed by the Petitioner be filed within two weeks thereafter.

10. List on 3rd November, 2020, for hearing on the application and the writ petition.

PRATHIBA M. SINGH, J.

SEPTEMBER 15, 2020

dj/A