



सत्यमेव जयते

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL~CUM~LABOUR COURT, ERNAKULAM

Present: Shri.V.Vijaya Kumar, B.Sc., LLM, Presiding Officer.

(Thursday the 31<sup>st</sup> day of March, 2022)

**Appeal No. 747/2019**  
(Old No. 1005(7)2012)

Appellant : ITC English Medium School  
JDT Islam Orphanage Committee  
Calicut – 673 012.

By Adv. P.K. Ashfaq

Respondent : The Regional PF Commissioner  
EPFO, Sub Regional Office  
Eranhipalam  
Kozhikode – 673006

By Adv.Dr.Abraham.P.Meachinkara

This case coming up for hearing on 17/11/2021 and this Industrial Tribunal-cum-Labour Court issued the following order on 31/03/2022.

**ORDER**

Present appeal is filed from order No KR / KK /14198/ Enf-1(1)/2012-13/3291 dt. 16/11/2012 assessing regular dues U/s 7A of EPF & MP Act,1952 (hereinafter referred to as 'the Act')

for the period from 08/2006 to 12/2010. The total dues assessed is Rs.6,12,226/-.

2. The appellant is a school but not in the name and style against which the impugned order is issued. The name of the school is Iqra English Medium School run by JDT Islam Orphanage Committee, Vellumadukunnu, Calicut, Kerala, India and the same was recognized from the academic year 2003-04 onwards. The said school is not the ITC English Medium School and the impugned order is wrongly passed against the institution. JDT Islam Orphanage Committee has challenged the applicability of the Act by way of writ petition No. 5651/2010 which is pending adjudication before the Hon'ble High Court of Delhi. The respondent authority has not issued any show cause notice prior to passing the impugned order.

3. The respondent filed counter denying the above allegations. M/s ITC English Medium School, JDT Islam Orphanage Committee is an establishment covered under the provisions of the Act. The appellant defaulted in payment of provident fund contribution for the period 08/2006 to 12/2010. Summons dt.15/02/2012 was issued by the respondent directing the appellant to appear before the respondent on 19/04/2012. A

representative of the appellant attended the hearing on 05/06/2012. The Enforcement Officer of the respondent organization requested for time to collect the details of default from all the institutions run by the appellant trust. The appellant is running eleven institutions under the trust. The dues were assessed on the basis of the report furnished by the Enforcement Officer after inspecting the appellant establishment. The establishment M/s. ITC English Medium School, JDT Islam Orphanage Trust is covered under the provisions of the Act with effect from 01/10/1994 under code No. KR/KK/14198 and therefore the contention of the appellant that there is no such school is not correct. The appellant is referring to some other case which has no relation with the instant case hence the stand of the appellant that the decision in the writ petition filed before the Hon'ble High Court of Delhi will directly impact the present case has no basis. In **Kunhipali Vs RPFC and Others**, 1965 KLJ 668 the Hon'ble High Court of Kerala held that the Act comes into operation by its own vigor. It applies if the condition stated in the Act are satisfied. The Hon'ble High Court also held that the operation of the statute does not depend on any decision taken by the authority under statute. The Hon'ble High Court relied on an

earlier decision of the High Court in **Kokkalai Rice and Oil Mills Vs RPFC**, 1960 (2) LLJ 528 which followed the decision of the Hon'ble Supreme Court in **Associated Industries (Pvt) Ltd Vs RPFC**, 1963 (2) LLJ 652. Therefore the appellant is under legal obligation to deposit the contribution within the time stipulated by the provisions of the Act and Schemes. In **PF Inspector Vs Ramkumar**, 1983 LAB IC 717 ( P&H) it is held that the Act comes into operation by its own vigor and its operation is not depended on any decision being taken by the authority under the Act. The dues were determined on the basis of the records produced by the appellant and also on the basis of the report of the Enforcement Officer. The claim of the appellant that no summons were issued is not correct. The sum was acknowledged by the appellant and representative of the appellant attended the hearing and produced the records called for.

4. According to the learned Counsel for the appellant there is no school run by the appellant establishment as ITC English Medium School. JDT Islam Orphanage Committee is established in the year 1922 and run a group of educational institutions. JDT Islam Orphanage Committee runs a school by name IQRAA English Medium School which was recognized by

Government of Kerala during 2003-04. The appellant produced a reply given by the District Education Officer under Right to Information Act (RTI) that there is no government recognized school by name ITC English Medium School in the jurisdiction of Calicut District Educational Office. The appellant further produced a copy of the proceedings of the District Education Office Kozhikode dt.30/04/2004 granting permanent recognition to JDT Islam IQRAA English Medium High School. The learned Counsel for the appellant also pointed out that the Committee is also running a JDT Islam ITC. The appellant produced a copy of the letter of the Department of Industrial Training, Government Kerala dt. 13/07/1999 granting affiliation of trades to JDT Islam ITC by the department. From the above documents it is very clear that the appellant is running an English Medium School by name IQRAA English Medium School and is also running another education institution by name JDT Islam ITC. According to the learned Counsel for the appellant, the claim of the respondent authority that ITC English Medium School run by the appellant is covered under the provisions of the Act is not correct. It is seen from the written statement filed by the respondent that the respondent authority blindly refused the claim of the appellant.

Probably the school is covered in a wrong name in the records of the respondent organization and therefore it is for the respondent to investigate and come to a correct conclusion on the same.

5. The learned Counsel for the appellant also pointed out that the JDT Islam Orphanage Committee has challenged the applicability of the Act to the appellant in WPC No. 5651/2010 before the Hon'ble High Court of New Delhi. Though the learned Counsel submitted that the writ petition has got nothing to do with the appellant, it could not be confirm whether there is really an applicability dispute before the Hon'ble High Court of Delhi. It is also not clear as to how the Hon'ble High Court of Delhi will get jurisdiction in a matter which is exclusively a subject matter within the state of Kerala. However it is for the respondent to confirm the pendency of the writ petition and if so, the pleadings and relieves claimed in the writ petition before deciding whether there is any applicability dispute pending before the Hon'ble High Court of Delhi, regarding the applicability of the Act to the appellant establishment .

6. It is seen that the matter is pretty old and the assessment order is for the period from 08/2006 to 12/2012. There is already huge delay in implementing the extending social

security benefits to the employees of the appellant establishment .  
However, in view of lack of clarity on the above two issues raised by the learned Counsel for the appellant in this appeal, I am not in a position to decide the matter conclusively.

7. Considering the facts, circumstances, pleadings and evidence in this appeal, I am not inclined to accept the assessment of the respondent authority for the reason stated in the above paragraphs.

Hence the appeal is allowed, the impugned order is set aside and the matter remitted back to respondent authority to verify and confirm the above referred issues and pass a final order after issuing notice to the appellant within 3 months of the receipt of this order. If the appellant fails to appear or produce the records called for, the respondent is at liberty to decide the matter according to law. The pre-deposit made by the appellant U/s 7(O) of the Act as per the direction of this Tribunal shall be adjusted or refunded after finalization of the enquiry.

Sd/-

**(V. Vijaya Kumar)**  
Presiding Officer