

225

**GOVERNMENT OF WEST BENGAL
DEPARTMENT OF MUNICIPAL AFFAIRS
WRITERS' BUILDINGS: KOLKATA**

No. 404(258)/MA/O/C-5/CC/2P-1/2011 Dated, Kolkata, the 10th day of September, 2014.

From: The Joint Secretary to the Govt. of West Bengal

To: (1) The Chairman/ Chairperson,
..... Municipality.

(2) The Municipal Commissioner,
Kolkata Municipal Corporation.

(3) The Commissioner,
..... Municipal Corporation.

(4) The Executive Officer,
..... Municipality.

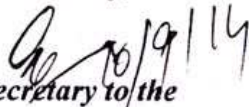
Sub: Issues related to application of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 for the urban local bodies.

Sir,

I am directed to send herewith the copies of this Department letter No. 296/MA/O/C-5/CC/2P-1/2011 dated 02.09.2013 addressed to the Joint Secretary, Ministry of Labour and Employment, Government of India , letter No. S-35018/2/2013-SS.II dated 01.07.2014 received from the Under Secretary, Ministry of Labour and Employment, Government of India addressed to Joint Secretary, Municipal Affairs Department, Government of West Bengal and copy of judgment of Hon'ble High Court in Calcutta vide W.P. No. 17736(W) of 2013 in the case of Kamarhati Municipality & ors. -vs- Union of India & ors for favour of your information and taking necessary action at your end.

Encl : 1. Letter of Ministry of Labour and
Employment, Government of India.
2. Copy of judgment of Hon'ble
High Court in Calcutta.
3. Letter No. 296/MA/O/C-5/CC/2P-1/2011
dated 02.09.2013 of Municipal Affairs Department.

Yours faithfully,


*Joint Secretary to the
Government of West Bengal*

219

Court Case

No. S-35018/2/2013-SS.II
Government of India
Ministry of Labour & Employment

2755-SO/2014
07-07-14

Shram Shakti Bhawan, Rafi Marg,
New Delhi, dated 14 July, 2014

To,
The Central Provident Fund Commissioner,
Employees' Provident Fund Organisation,
14, Bhikaji Cama Place,
New Delhi-110066.

Subject: W.P. No 17736 (w) of 2013 titled as Kamarhati Municipality & Ors Vs Union of India filed before Hon'ble High Court of Calcutta under the EPF & MP Act, 1952-reg.

Sir,

I am directed to forward a copy of letter No 224/C-12/M/3S-118/2013 dated 17.06.2014 received from Department of Municipal Affairs, Government of West Bengal alongwith a copy of judgment on the above mentioned subject which is self explanatory. The Hon'ble High Court has directed the PF authorities shall not take any coercive measures against the writ petitioner till the disposal of this writ application.

2. EPFO is, therefore, requested to take further necessary action on the orders of the Hon'ble High Court. EPFO is also requested to file counter affidavit on behalf of Union of India also and protect/defend interests of Union of India in the matter/case properly. This Ministry may kindly be got informed of the development of the case from time to time.

Yours' faithfully,

(Signature)
01/7/14

(Subhash Kumar)

Under Secretary to the Govt. of India

Encl: As above.

Copy to: Joint Secretary to the Govt of West Bengal, Deptt of Municipal Affairs, Writers' Buildings, Kolkata-1 with reference to their letter no 224/C-12/M/3S-118/2013 dated 17.06.2014 for information. Further, as this Ministry has not received the said proposal from Govt. of West Bengal regarding exemption of Urban Local Bodies of West Bengal from purview of Notification No SO 30(E) dated 08.01.2011. It is requested that the same may be sent to this Ministry at the earliest to facilitate taking further necessary action in the matter. It is however clarified that Ministry of Labour & Employment neither has the charter to find urban local bodies nor does it have any such scheme.



JS(BP) 177

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P. put up in own file
of CCU - u. Bandy
07/7/14

In the High Court at Calcutta
Constitutional Writ Jurisdiction
W.P.No.17736(W) of 2013
Kamarhati Municipality & Ors.
Vs
Union of India & Ors.

Mr. Dipiak Kumar Mukherjee
Mr. Rajib Kumar Mukherjee .. for the petitioners.

Mr. Narayan Chandra Bhattacharya
Ms. Sujata Ghosh. .. for the State.

Ms. Aparna Banerjee. .. for the PF authorities.

In terms of the order passed by this court on February 13, 2014, Mr. Narayan Chandra Bhattacharya, learned counsel appearing on behalf of the State authorities, submits before this court that steps have been taken by the Joint Secretary, Department of Municipal Affairs, Government of West Bengal.

The Joint Secretary has written a letter to the Joint Secretary, Ministry of Labour and Employment, Government of India requesting the said authority to take necessary action to exempt the Urban Local Bodies of West Bengal from the purview of the Notification No.S.O.30(E) dated January 8, 2011 issued for inclusion of the employees of the Urban Local Bodies within the ambit of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 considering the financial stringencies the Urban Local Bodies are facing as well as taking into consideration the need of the Urban Local Bodies to engage casual/ temporary/piece rate/daily rate workers through contractors/sub-contractors in the public interest.

The said Ministry of Labour and Employment is also requested to provide necessary fund from the Government of India to meet the required expenditure since the Urban Local Bodies are not profit making organisation and a letter to that effect has already sent to the Joint Secretary, Ministry of Labour and Employment on September 2, 2013. The Director of Local Bodies is also requested to assess the financial liabilities involved in implementation of the advice of the Provident Fund and, thereafter, the proposal would be forwarded to the Finance Department for their view.

In view of the aforesaid, hearing of the writ application is adjourned till **May 7, 2014**.

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4/6/14

URGENT
S.O (new)
Sisir Babu

S. Banerjee
04.06.14.

15/6/14

Cell-8/4
18/6/14

It is expected that the Department of Municipal Affairs of the Government of West Bengal as well as Ministry of Labour and Employment of the Government of India would take a decision in this matter, so that the matter can be resolved once for all.

Till the disposal of this writ application, the PF authorities shall not take any coercive measures against the writ petitioner.

The report filed by Mr. Bhattacharya is kept with the record. A copy of the said report has been circulated amongst the parties.

Parties are to act on the server copy of this order.

(SOUMEN SEN, J.)

216

**GOVERNMENT OF WEST BENGAL
DEPARTMENT OF MUNICIPAL AFFAIRS
WRITERS' BUILDINGS: KOLKATA.**

No. 296/MA/O/C-5/CC/2P-1/2011

Dated, Kolkata, the 2nd day of September, 2013.

**From: Joint Secretary to the
Government of West Bengal,**

**To: Joint Secretary,
Ministry of Labour and Employment,
Government of India,
New Delhi.**

Subject: Issues related to application of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 for the urban local bodies.

Sir,

In reference to Notification No. S.O. 30 (E) dated the 8th January, 2011 issued by your good office for bringing the employees of the Municipalities and the Municipal Corporations within the ambit of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, and also in view of the activities of the Regional P.F. offices under your control in this State by making demand of huge amount of arrear etc. for the ULBs, I am directed to draw your kind attention to the following facts:

- (1) Department of Municipal Affairs, Government of West Bengal, did not get any information prior to issuance of the said notification, and thus, it was not possible for this Department to express views in the matter to your good office.
- (2) The Urban Local Bodies, recognised as one of the third tier of Government by the Constitution (74th Amendment) Act, 1992, and as a result almost all the civic service related works, as enumerated in the 12th Schedule of the Constitution, have been entrusted with the Urban Local Bodies. In view, of continuous upward growth in urban population resulting in greater demand for providing civic service, especially with the sudden increase in the workload of the Municipalities with enactment of the Constitution (74th Amendment) Act, 1992, the Municipalities were compelled to utilize the services of the persons on the basis of contingent/ casual/ temporary/ piece rate/ daily rate/ contract by or through Contractors/ sub Contractors or any other such employees either seasonally or perennially in the public interest.
- (3) It is necessary to mention that the ULBs are not profit making organizations, and on ground implementation of the Constitution (74th Amendment) Act, 1992 is going through the

necessary incubation period, and the ULBs need some time to shift themselves to the status of a true local self Government by acquiring financial viability. Until then, most of the affairs of the ULBs are run by the fund provided by the State Government, and truly most of the ULBs on the present date can be termed as 'Cash Strapped'. In this situation, bearing the financial liability, as enumerated in Notification No. S.O. 30 (E) dated the 8th January, 2011 issued by your good office, is next to impossible for the ULBs.

- (4) The ULBs are raising this issue with the State Government for assistance, and the State Government is in no position to assist the ULBs by meeting this unforeseen expenditure from its own exchequer.

In view of above, I am directed to request you kindly to take necessary action either to exempt the ULBs of this State from the purview of the said notification, or to provide fund from the Central Government to meet this expenditure, or to provide proper guidelines how the Municipalities, being a non profit making organization, with the financial paucity, can meet such expenditure.

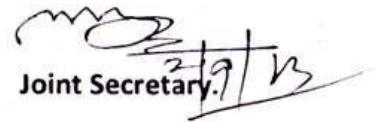
Yours faithfully,
Sd./- B.N. Das
Joint Secretary.

No. 296/1(4)/MA/O/C-5/CC/2P-1/2011

Dated, Kolkata, the 2nd day of September, 2013.

Copy forwarded for information to the, -

- (1) Joint Secretary, Labour Department, Government of West Bengal.
- (2) Director of Local Bodies, Government of West Bengal.
- (3) P.S. to the Minister-in-Charge, MA & UD Department.
- (4) Pr. S. to the Secretary, Municipal Affairs Department.


Joint Secretary. 2/9/13