

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD
WRIT PETITION NO.1149 OF 2015

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.S.B.Ghatol Patil, advocate for the Petitioner.
Mr.K.G.Patil, Addl. Govt. Pleader for the State.

**CORAM : S.V.GANGAPURWALA &
V.L.ACHLIYA, JJ.**
Date : 04.03.2015.

PER COURT :

1. Heard.
2. Leave to amend.
3. The matter is circulated by the petitioner on the ground that on 3.3.2015 on Roznama the Regional Provident Fund Commissioner (II), Sub-Regional Office at Aurangabad has passed an order holding the petitioner liable. The petitioner has filed his say and in fact, the final orders are yet to be passed but while passing the orders on Roznama, the authority in a pre-determined manner has passed the order.
4. According to Mr.Ghatol Patil, learned counsel, the petitioner is not liable U/s 14B, 7Q and 17B of the Employees Provident Fund Act, inasmuch as there is no voluntary transfer of

the establishment and the petitioner has only purchased assets in auction under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The various judgments of the Apex Court are relied by the learned counsel.

5. Mr.Choudhari, learned counsel for Respondent submits that petitioner had filed application stating that the Writ Petition is pending. The judgment of the Apex Court in a case of **“M/s Mcleod Russel India Ltd. Vs. RPFC Jalpaiguri”** in **C.A.No.5927/2014**, clearly lays down the liability of such a purchaser in auction. The same has been considered by the authority.

6. When the proceedings are pending and the proceedings are quasi judicial in nature, it is expected of the authority to decide the proceedings finally in a fair manner and not in a pre-determined manner. It is always open for the party to put-forth its interpretation on the judgment delivered and convince the authority about its case. The observations are made in a Roznama i.e. daily order sheet dated 3.3.2015 holding the petitioner liable. Such an approach is improper. While deciding the contention of the petitioner, the authority is expected to discuss the judgments referred by the petitioner and consider the same on its own merits. The authority has to arrive at a judicious decision. It may take a

particular view but only after considering the arguments canvassed by the other party.

7. The aforesaid procedure has not been adhered. In light of the above, the impugned observation/order dated 3.3.2015 on the daily order sheet is quashed and set aside. The Respondent No.1 shall consider the submissions canvassed by the petitioner, case laws cited by it, so also the cases relied by the Respondents and determine the contentions raised by the petitioner on merits by giving reasons.

8. The Writ Petition is disposed of. No costs.

(V . L . ACHLIYA, J .)

(S . V . GANGAPURWALA, J .)

Dt..04.03.2015.
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