

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
LETTERS PATENT APPEAL NO.74 OF 2015 IN
WRIT PETITION NO.8307 OF 2010

The Regional P.F. Commissioner, Nasik,
through
the Assistant P.F. Commissioner,
Sub-Regional Office, P-11,
Bhavishya Nidhi, M.I.D.C.,
Satpur, Nasik-422 007.

Appellant

Versus

M/s Orbit Exports Pvt. Ltd.,
Plot No.00, Additional M.I.D.C. Area,
Jalgaon, Jalgaon (Maharashtra)

Respondent

Mr.K.B.Chaudhari, advocate for the appellant.
Mr.S.R.Patil, advocate for the Respondent.

CORAM : R.M.BORDE &

P.R.BORA, JJ.

DATE : 21st July, 2015

ORAL JUDGMENT (Per R.M.Borde, J.):

1 Heard. Admit. The appeal is taken up for final hearing by consent of learned Counsel for respective parties.

2 The petition presented by the Regional Provident Fund Commissioner, Nasik, through the Assistant Provident Fund Commissioner, Nasik, being Writ Petition No.8307 of 2010, has been dismissed by the learned Single Judge referring to the judgment in the matter of **The Assistant Provident Fund Commissioner, Goa Vs. M/s Nirmitee Holidays (P) Ltd., Pune**, reported in 2011 LLR 28. It is held by the learned Single Judge

that since the Assistant Provident Fund Commissioner acted as a quasi judicial authority and himself passed the impugned order, which was subject matter of challenge before the appellate Tribunal, such exercise is impermissible and that the writ petition, at his instance, is not tenable.

3 Learned Counsel appearing for the appellant has invited our attention to the judgment in the matter of **Assistant Provident Fund Commissioner, Nagpur Vs. M/s Sai Constructions Company, Tukkum, District Chandrapur** (Writ Petition No.4948 of 2011, decided by the learned Single Judge on 21.01.2013 at Nagpur). In this judgment delivered by the learned Single Judge reliance is placed on the judgment of the Division Bench of this Court at Nagpur passed in L.P.A. No.320 of 2012 on 28.09.2012 in the matter of **Taj Tibbiya College and Rasheeda Hospital, Nalasaheb Road, Nagpur Vs. Regional Provident Fund Commissioner, Nagpur**). The Division Bench, while dealing with Letters Patent Appeal, rejected the argument that the writ petition, at the instance of Assistant Provident Fund Commissioner, being a quasi judicial authority, is not maintainable. It is recorded by the Division Bench in the judgment that though the Assistant Provident Fund Commissioner performs duties of a quasi judicial authority, he is enjoined upon certain enforcement duties under the Provident Fund Act, in order to protect the interest of the employees and as such, petition, at his instance, is maintainable.

4 In view of the judgment of the Division Bench in the matter of **Taj Tibbiya College**, instant Letters Patent Appeal needs to be allowed and same is accordingly allowed. The order passed

by the learned Single Judge on 30.11.2011 in Writ Petition No.8307 of 2010, dismissing the writ petition presented by the appellant herein, is quashed and set aside and the writ petition is restored to its original number. The learned Single Judge may take up the writ petition for consideration and decide the same expeditiously.

5 Appeal is allowed in above terms. There shall be no order as to costs.

P.R.BORA
JUDGE

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R.M.BORDE
JUDGE