

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 12360 OF 2015

M/S DR ZAKIR HUSAIN JUNOR COLLEGE OF EDUCATION THROUGH
ITS PRINCIPAL SHAIKH HASEE

VERSUS

THE REGIONAL PROVIDENT FUND COMMISSIONER II AURANGABAD

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Advocate for Petitioner : Shri Shinde Manoj D.

Advocate for Respondents : Shri K.B.Chaudhari.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 22nd December, 2015

Per Court:

1 The Petitioner is aggrieved by the order dated 07.12.2015 passed under Section 14B of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 by which an amount of Rs.1,79,935/- has been sought to be recovered from the Petitioner. The show cause notice dated 05.10.2015 was also issued to the Petitioner.

2 Shri Chaudhari, learned Advocate appearing on Advocate's notice for the Respondent Authorities, submits that the order under Section 14B is appealable under Section 7I of the 1952 Act. The said appeal has to be lodged before the Employees' Provident Fund Appellate

Tribunal, New Delhi. Hence, this Court has no jurisdiction to entertain this petition when an appellate forum is provided by way of a statutory remedy.

3 He, however, submits that if the entire amount set out in the impugned order is deposited with the Respondent within a stipulated period then alone would the Respondent Authority give another opportunity of hearing to the Petitioner. On this count, the petition can then be disposed of, subject to the condition of 100% deposit.

4 Shri Shinde submits on instructions that 100% amount would be deposited with the Respondent on or before 30.01.2016. This petition can, therefore, be disposed of by considering the consent of the parties and the Respondent may hear the Petitioner afresh.

5 In the light of the above and on account of the consent of the litigating sides, this petition is partly allowed. The impugned order is hence set aside.

6 The Petitioner shall deposit the entire amount of Rs.1,80,000/- before the Respondent Authority on or before 30.01.2016. On the condition of deposit, the impugned order is set aside. The

Petitioner shall appear before the Respondent Authority on 30.01.2016 and shall abide by the dates of hearing as may be listed by the Respondent Authority.

7 Needless to state, if the amount as directed is deposited, the Respondent shall give an opportunity of hearing to the Petitioner and after the hearing is concluded, shall proceed to pass a reasoned order.

8 If the amount as directed is not deposited, this order shall stand recalled and the impugned order dated 07.12.2015 shall then be restored and the Respondent would be at liberty to recover the said amount as per the provisions under the 1952 Act.

9 Needless to state, all the contentions of the Petitioner are kept open.

(RAVINDRA V. GHUGE, J.)