IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2800 OF 1997

The Director,
State Institute of Educational Technology
and ors. ... Petitioners

vs.

Subhash Anandrao Parkhe and ors. ... Respondents

WITH
WRIT PETITION NO. 2801 OF 1997

The Director,
State Institute of Educational Technology
and ors. ... Petitioners

vs.

Shri Mahesh Chudaman Ghodeswar and anr. ... Respondents

Ms. Meena Doshi, Advocate for the petitioner.
Mr. A. S. Rao, Advocate for respondents No. 2 and 6.
Mr. K. S. Bapat, Advocate for the respondent No.5.

Coram : Smt. R. P. SondurBaldota, J.
Date : 2nd September, 2015.

P.C.

1. The above two petitions filed by the same petitioners contain identical and limited challenge to the orders impugned therein. Hence, they are being disposed off by a common order.

2. Writ Petition No.2800 of 1997 is directed against the order dated 24th December, 1996, by which the Industrial Tribunal decided Complaint (ULP) No.351 of 1991. Writ Petition No.2801 of 1997 is directed against the order of even date in Complaint (ULP) No.625 of 1991. The exception taken by the petitioners is to the

identical direction contained in the two orders, to petitioner No.1 to open General Provident Fund ('G.P.F.' for short) Account in respect of the respondents and to deposit half of the bonus amount lying with petitioner No.1 in the G.P.F. Account within a period of six months from the date of order.

3. Petitioner No.1 was set up in the year-1984 during the 7th "Five Years Plan" under the scheme "Insat for Education" sponsored by the Government of India. The scheme was functioning in some of the States including the State of Maharashtra where educational technology is being used for the primary school students in the age-group of 5 to 11 years. It was functioning as a State Government Institute under overall control of the Director, Maharashtra State Council of Educational Research and Training Centre, Pune and was receiving 100% central assistance. Later on 30th October, 1991 as per the directions and guidelines issued by the Government of Maharashtra, it was converted into an autonomous body. The guidelines of Government of India, however, did not provide for introduction of provident fund or pension scheme for the employees of petitioner No.1.

4. The respondents to the petitions filed Complaint (ULP) No.351 of 1991 and Complaint (ULP) No.625 of 1991 under items 5, 6 and 9 of Schedule IV of the Maharashtra Recognition of Trade

Union and Prevention of Unfair Labour Practices Act, 1971 (MRTU & PULP Act, for short). One of the grievances in the complaints, was about denial of the benefit of the G.P.F. The Industrial Tribunal partly allowed the complaints and gave several directions to petitioner No.1. All the directions except the direction relating to opening G.P.F. Accounts have been complied with by the petitioners.

5. Mrs. Doshi, the learned advocate for the petitioners submits that despite several efforts, it is impossible for the petitioners to comply with the directions relating to G.P.F. and therefore they have challenged the same. She points out that the petitioners have complied with all the directions contained in the impugned orders and had done everything within their control to comply with the direction as regards G.P.F. also. The details are stated in the additional affidavit dated 9th April, 2007 of the Administrative Officer of the petitioner No.1. The affidavit states that by the letter dated 6th March, 1996 office of the Accountant General, G.P.F., informed the petitioners that, the office does not deal with the G.P.F. accounts of autonomous institutions and directed the petitioner to contact the Education Department / General Administrative Department of the State Government. Then the petitioners had approached the State Government. By its letter dated 30th September 1999 the Pension Department of the State

Government, informed petitioner No.1 that the State Cabinet had taken a decision not to extend the G.P.F. benefit to the employees of autonomous bodies and therefore no benefits of G.P.F. could be extended to the employees of the petitioner No.1. In the circumstances petitioner No.1 passed resolutions dated 17th November, 2008 and 20th October, 2001, to extend Group Insurance Scheme and Contributory Provident Fund Scheme to its employees. Mrs. Doshi submits that the fact of impossibility of compliance with the direction is known and even acknowledged by the respondents also since they have withdrawn Writ Petition No.3357 of 2005 filed by them in this Court on the very issue. Therefore, it is clear and obvious that the direction under challenge, cannot be complied with by petitioner No.1.

6. The respondents to the first writ petition have filed affidavit-in-reply contending that until petitioner No.1 became an autonomous body, it's employees were admitted to the G.P.F. Scheme and any restriction for the autonomous body will be applicable only to such employees who have been recruited after petitioner No.1 acquired the status of autonomous body. Therefore, such of the respondents who have been working with petitioner No.1 since prior to October 1991 are entitled to the benefits. There can be no substance in the contention in the facts of the case. Besides, the respondents are obviously seen to be

aware of the fallibility of the contention since they have withdrawn Writ Petition No.3357 of 2005 filed by them in this Court over the same issue.

7. The only question then remains is about the amount of 50% of the bonus payable to the respondents lying with petitioner No.1. Even this aspect has been taken care of by the petitioners. In it's affidavit dated 23rd June, 1997 petitioner No.1 states that on 17th March, 1997 the petitioners have paid in cash, the bonus amount in terms of the direction in question to the respondents because the petitioners were unable to open the G.P.F. accounts for the respondents.

8. In the circumstances, both the petitions are allowed in terms of prayer clause (a). No order as to costs.

[Smt. R. P. SondurBaldota, J.]