

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 6573 OF 2015

Vihang Facility Services

... Petitioner

v/s

Asstt. PF Commissioner (Compliance)
Employees Provident Fund Organization
Regional Office, Thane.

2. The Asstt. PF Commissioner
(Recovery Section), Thane.

... Respondents

Mr.A.P. Wachasundar for the petitioner.

Ms.Sangeeta Yadav i/by Suresh Kumar for the respondents.

CORAM: N.M. JAMDAR, J.

DATED : 15 SEPTEMBER 2015

ORAL ORDER:

By this petition, the Petitioner challenges the order passed on 14 August 2014 under Section 7A of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, by the Provident Fund authorities rejecting the review application against the order dated 9 July 2014.

2 The Petitioner has challenged the order passed on the ground that principles of natural justice were violated. The entire petition is replete with various passages from the decisions of the Apex

Court on the need to extend principles of natural justice. There can be no dispute about this position. However, what is to be noted is that the matter before the Provident Fund authorities was adjourned on as much as 31 times during the span of 3 years 6 months and even prosecution case was launched before the Judicial Magistrate, First Class, Thane. It is the contention of the Petitioner that he had changed his address. But that will not stop the Petitioner from performing its duty under the Act and of keeping in touch with the authorities for payment of the liability. Merely because it changed its address, the Petitioner cannot escape its liability. The Petitioner, therefore, cannot be heard to say that principles of natural justice were violated. The amount concerned is under the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, which is a beneficial legislation meant to provide financial aid to workmen.

3 Even assuming an indulgence is to be granted to the Petitioner to be given a hearing, considering the fact that the Petitioner has invoked equitable jurisdiction of this Court and considering the nature of the amount involved, it was put to the learned for the Petitioner as to whether Petitioner is ready to deposit some amount, without prejudice to its rights and contentions. The matter thereafter was adjourned twice to take instructions. When the matter is called out today, learned counsel for the Petitioner submitted that the ground of deposit can be left to the authorities to decide and if they insist on deposit then it

would be a different matter, but at this stage the Petitioner should not be directed to deposit any amount. Such submission is stated to be rejected. It is the equitable jurisdiction of this Court that the Petitioner is invoking. In spite of the service of Police summons on the Petitioner, if the Petitioner does not remain present and thereafter seeks indulgence of this Court, the least that is expected to offer to deposit some amount, if not the full amount, to show its bonafide. In spite of repeatedly putting a query to the learned counsel for the Petitioner, the learned counsel flatly refused to make any commitment to deposit even single naya-paisa. In the circumstances, it is clear that the conduct of the Petitioner is not bonafide and the only object is to avoid paying the liability under the Act.

4 The writ petition is accordingly rejected.

(N. M. JAMDAR, J.)

CERTIFICATE

Certified to be true and correct copy of the original signed order.