IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8415 OF 2015

Tech Mahindra Ltd.,
Sharda Centre, Erandwane, Pune-411 004. … Petitioner

v/s

The Employees Provident Fund Organization,
Head Office at Bhavishya Nidhi Bhavan,
14, Bhikaji Cama Palace,
New Delhi – 110 066; and others. … Respondents

Mr.Sudhir Talsania, senior advocate along with Raj Panchmaria, Peshwan Jehangir, Augus Agarwala i/by Khaitan & Co. for the petitioner.

Mr.Suresh Kumar for Resp. Nos.1 to 3.

Ms.Ritu Pathak i/by Hiren Mehta for Resp. No.4.

CORAM: N.M. JAMDAR, J.

DATED : 17 NOVEMBER 2015

ORAL ORDER:

Rule. Rule made returnable forthwith. Taken up for final disposal by consent of the parties. Learned counsel for the Respondents waive service.

2. The petition challenges the orders/communications issued by

the Assistant Provident Fund Commissioner, Pune, dated 12 August 2015 addressed to the Branch Manager, H.S.B.C. Bank, and to the Petitioner.

3. By the impugned order, the Commissioner has directed that the bank account of the Petitioner maintained in H.S.B.C. Bank be attached. Learned senior counsel appearing for the Petitioner made a serious grievance that such drastic action of attachment of bank account was not warranted at all. He submitted that the Petitioner is a reputed business house and contributes substantially towards the provident fund. He submitted that the communications addressed to the H.S.B.C. Bank and the Petitioner, though of the same reference number, are completely different and something more is added in the communication to the Bank. He submitted that the action by the Provident Fund authorities is not only excessive but also malafide. Learned senior counsel for the Petitioner has also submitted that the Commissioner has no power to proceed in the manner in which he has done.

4. When the petition came up on board on 21 August 2015, following order was passed :

> *'The learned senior Advocate appearing for the Petitioner submits that the Petitioner is desirous of co-operating with the Provident Fund authorities, however due to the needless and harsh step taken by Provident Fund authorities of attaching bank account, day to-day functioning of the Petitioner has been seriously affected. The learned counsel appearing for the Provident Fund Commissioner, states that they are only interested in production of relevant documents*

by the Petitioner.

2. Stand over to 1 September 2015 to be placed under the caption ' for directions'. The learned counsel for the parties agree that the representative of the Petitioner will visit the office of the Regional Provident Fund Commissioner on 24 August 2015, at 3.00 p.m. wherein the documents necessary to be produced will be decided.

3. Considering the facts and circumstances, in the meanwhile, there will be ad-interim relief in terms of prayer clause (d). It is clarified that the grant of interim relief as aforesaid would mean that the attachment levied by the impugned order on the bank accounts of the Petitioner stands lifted. The Respondent No.4-Bank is party to the petition and the learned counsel for the Respondent-bank is present. He states that he will communicate the order of this Court immediately to the Bank without waiting for the copy of this order.'

5. Thereafter, the matter was adjourned from time to time to ensure that all the records are produced before the Provident Fund authorities. Learned counsel for the Petitioner submitted that all the records are produced before the authorities and the authorities are free to proceed on the basis of the records so produced. Learned counsel for the Provident Fund authorities had made a statement on 21 August 2015 that the authorities are not interested in production of relevant documents and the coercive action had been taken only because records were not being produced.

6. It appears that the Provident Fund authorities have straightway proceeded to attach the bank account. It was open for

the Provident Fund authorities to proceed on the basis of material available before it and to pass such order as would be necessary. In Writ Petition No.6866 of 2014, while dealing with the identical order passed by the very same authority, it was observed by this Court as under :

> '*7. It however needs to be noted that such stringent action by the Commissioner was not warranted in this case. Attaching all bank accounts of an educational institute was a drastic steps to be taken. By attaching the bank accounts, the salary of the very employees whose cause was being espoused, could not be paid. Even provident fund dues could not be paid. The entire functioning of the Institute came to a standstill. It is expected that the Provident Fund Commissioner in future will be circumspect before issuing such drastic orders provided he has power to do so, which aspect is not examined in this petition.*'

Inspite of these observations, the authorities have repeated their action. Such drastic steps ought not to be taken so casually as it affects the business of the concern and subsequently the employees themselves whose cause is being espoused.

7. Furthermore, as the Petitioner has already undertaken to cooperate with the authorities and has also made a statement that all the records have been produced, it is not necessary to resort to any coercive action. In the circumstances, there is no warrant for any attachment of the bank account of the Petitioner. As regard the contention regarding power of the Commissioner, since the Petitioner has already produced the record as directed, the issue is

kept open.

8. The writ petition challenging these communications, therefore, will have to be allowed and accordingly, Rule is made absolute in terms of prayer clause (a). No order as to costs.

(N. M. JAMDAR, J.)