

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

LETTERS PATENT APPEAL NO. 22 OF 2013

IN

WRIT PETITION NO. 1338 OF 2011

(M/s Varhadi That, Nagpur Vs. The Assistant Provident Fund Commissioner & another)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S. S. Ghate, Advocate for the appellant.
Dr. R. S. Sundaram, Advocate for the respondents.

**CORAM : B. P. DHARMADHIKARI
AND S. B. SHUKRE, JJ.**

DATED : 21 APRIL, 2015

The Assistant Provident Fund Commissioner, after an enquiry under Section 7A of the Employees Provident Fund Act, found appellant's establishment covered and that finding is maintained by the learned Single Judge. L.P.A. has been filed challenging said adjudication.

Hotel Varhadi That belongs to son while M/s Varhadi That Terrace Garden, which came up on 01/01/2006, was looked after by his father. After inspection dated 31/01/2006 and its report dated 01/02/2006, the establishment of father was closed down in June, 2006 itself. On the basis of material available, functional integrality is held proved.

The matter came up before this Court earlier in a writ petition. Learned Single Judge granted necessary opportunity to the appellant. The appellant, thereafter has

participated in Section 7-A inquiry and conducted cross-examination. The cross-examination conducted by the petitioner is not with a view to bring on record any specific material to show existence of two independent establishments and more particularly two kitchens.

The effort before this Court is only to show the cross-examination as conducted. However, perusal of questions and answers do not show a specific suggestion that new establishment i.e. at terrace had its separate kitchen at a particular floor or at a particular place in the building. Petitioner could have examined his father as witness. It is also the contention that no notice was issued to that establishment.

We find that no establishment is started in January, 2006 was closed down in less than six months.

The facts on record show single kitchen at ground floor and the place for customers at ground floor as also on terrace. In this situation, as we do not see any perversity or jurisdictional error, no case is made out. L.P.A. is rejected.

JUDGE

JUDGE