

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH

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WRIT PETITION No.31868 of 2015

BETWEEN

M/s. Progressive Engineering College.

... PETITIONER

AND

Assistant Provident Fund Commissioner (Compliance), Regional Office, Barkatpura,
Hyderabad and another.

...RESPONDENTS

DATE OF JUDGMENT PRONOUNCED: 30.09.2015

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

1. Whether Reporters of Local newspapers may be No
allowed to see the Judgments?
2. Whether the copies of judgment may be marked No
to Law Reporters/Journals?
3. Whether Their Ladyship/Lordship wish to see the No
fair copy of the Judgment?

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ORDER:

Heard learned counsel for the petitioner and learned standing counsel for respondents.

2. Since the issued involved in the writ petition is limited, both the learned counsel have argued the writ petition and with their consent the writ petition is disposed of at the stage of admission.

3. Petitioner suffered an order under Section 7A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (for short 'the Act') passed by the Assistant Provident Fund Commissioner (Compliance-II) dated 17.11.2014 and signed on 24.11.2014 whereby a sum of Rs.5,05,519/- was determined as arrears of contribution liable to be paid by the petitioner for the period specified therein. Petitioner availed the remedy under Section 7B of the Act by filing a review application on 19.01.2015 seeking review of the said order.

The said application, under Section 7B of the Act, was rejected under the impugned order dated Nil.06.2015, which is questioned in this writ petition.

4. Learned counsel for the petitioner states that after filing of the review petition, no date for hearing was fixed and straightway the impugned order was passed and communicated to the petitioner.

5. On the other hand, learned standing counsel, supports the impugned order on the basis of the text of Section 7 of the Act and submits that the said provision by itself does not contemplate any opportunity of hearing is required to be given to the petitioner.

6. I find it difficult to accept the said contention on behalf of the learned standing counsel inasmuch as Section 7B of the Act is a substantive remedy available to the petitioner against the order under Section 7A of the Act and even if hearing is not contemplated in the said provision, the requirement of hearing of the petitioner has to be read in the said provision as adjudication without hearing seriously affects the interest of the petitioner. I am, therefore, of the view that the impugned order, admittedly, passed without notice to the petitioner cannot be sustained, as it is apparently contrary to the principles of natural justice and fair adjudication required to be made.

7. In view of that, therefore, I am constrained to set aside the impugned order and as per consensus of both the learned counsel,
the date for hearing the petitioner is fixed on 14.10.2015 at 11.00 AM before the first respondent, who shall hear the application of the petitioner under Section 7B of the Act afresh and after considering the contentions of the petitioner, pass a fresh order.

The writ petition is allowed accordingly. As a sequel,
the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

September 30, 2015

DSK