

+IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2745 OF 2015

M/s K.K. Constructions,
(Through its Partner)
81, Tilaknagar, Aurangabad

PETITIONER

VERSUS

Regional Provident Fund Commissioner (II),
Sub Regional Office, Aurangabad,
“Bhavishya Nidhi Bhawan”,
Town Centre, Commercial Area,
Cidco, New Aurangabad 431003

RESPONDENT

Mr.B.R.Kaware, Advocate for the petitioner.
Mr.K.B.Chaudhary, Advocate for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 25/01/2016

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2 The petitioner is aggrieved by the issuance of notice dated 30/03/2006 u/s 7-A of the E.P.F. and M.P. Act, 1952 thereby seeking an enquiry with regard to unpaid P.F. contributions.

3. The petitioner points out that the respondent P.F. Authority had earlier passed an order dated 04/10/2003 by which the 7-A

enquiry as well as enquiry u/s 7Q was completed and recovery of Rs.1,18,543/- was ordered. Said amount has been duly paid by the petitioner. It is, therefore, alleged that the same duration, which is November 1996 to March 2003, is subject matter of Section 7-A enquiry under notice dated 30/03/2006.

4. Mr.Kaware, learned Advocate for the petitioner, therefore submits that an application was moved on 17/11/2014 raising a dispute about the notice dated 30/03/2006. By order dated 17/11/2014, impugned in this petition, the respondent has concluded that as the enquiry has been initiated practically 11 years ago, the same has to be taken to its logical end. Mr.Kaware submits that such enquiry cannot be permitted and as such the summons u/s 7-A dated 30/03/2006 deserves to be quashed and set aside.

5. Mr.Chaudhary, learned Advocate for the respondent / P.F. Department relies upon the affidavit in reply filed and indicates from paragraph no.4 that the earlier enquiry u/s 7-A for the period November 1996 to March 2003 was in relation to the regular employees of the petitioner. The impugned notice dated 30/03/2006 is with regard to the contract labourers or such other employees engaged by the agents or contractors of the petitioner and who are

not the regular employees of the petitioner. He, therefore, submits that the present enquiry is with regard to such employees who have not been directly engaged by the petitioner and have been deployed through contractors / sub contractors etc.

6. I have considered the submissions of the learned Advocates as recorded above.

7. The grievance of the petitioner stands redressed by the affidavit in reply filed by the respondent/Department. It is trite law that the P.F.Department can initiate Section 7-A enquiry regarding contract labourers or separately against the principal employer or jointly against them. In the event the contractor has failed to pay the P.F. Contribution of the contract labourers, the principal employer is under an obligation to pay the same with the legal right to recover the said amount from the contractor by any mode, as may be legally permissible. The Contract Labour (Regulation and Abolition) Act, 1970 also prescribes the same.

8. In the light of the above, this petition can be disposed of without causing any interference in the impugned notice dated 30/03/2006 and the impugned order dated 17/11/2014. Suffice it to

say, the petitioner is at liberty to produce such record as may be required by the respondent / P.F.authority with regard to the ongoing 7-A enquiry in the light of the provisions of the C.L.R.A. Act, 1970 which mandates the principal employer to preserve the record of the contract labourers.

9. This petition is, therefore, disposed of. Rule is discharged.

(RAVINDRA V. GHUGE, J.)