

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CONTEMPT PETITION NO.624 OF 2016

IN

WRIT PETITION NO.10848 OF 2015

(Jawaharlal Nehru College of Social Work, Through its Principal Vs.
E.S.Gaikwad)

Mr.G.R.Syed, Advocate for the petitioner.

Mr.K.B.Choudhary, Advocate for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 20/09/2016

PER COURT :

1. I have heard Mr.Syed, learned Advocate for the petitioner and Mr.Choudhary on behalf of the respondent.

2. This Court, by order dated 15/02/2016, had partly allowed WP No.10848/2015 filed by the petitioner by issuing directions under paragraph Nos.4 and 5, which read thus :-

"4. Considering the above, this petition is partly allowed and the impugned orders dated 12/06/2015 and 09/10/2015 are quashed and set aside on the following conditions :-

[a] The petitioner shall deposit the remainder amount of Rs.7,54,995/- in the light of the fact that an amount of Rs.18,68,574/- out of the recoverable amount of Rs.26,23,569/- has already been deposited by respondent No.5 / Bank from the Bank account of the petitioner, with the respondent No.2 / Authority.

- [b] *The abovesaid residual amount shall be deposited by the petitioner with respondent No.2 within 8 (eight) weeks from today and which shall be on or before 07/04/2016.*
- [c] *After the amount is so deposited, the petitioner shall appear before respondent No.2 on 13/04/2016 at 11.00 a.m. and shall abide by further dates of hearing as may be posted by respondent No.2.*
- [d] *The petitioner shall refrain from seeking unnecessary adjournments in the hearing before respondent No.2. The petitioner shall extend co-operation in the hearing before respondent No.2 and shall produce documents as may be required for the purposes of the hearing.*
- [e] *Respondent No.2 shall decide Section 7-Q and 14-B proceedings on their own merits and after the hearing in the matter is complete.*
- [f] *Respondent No.2 shall pass a reasoned order and shall communicate the same to the petitioner.*
- [g] *It is expected that respondent No.2 shall conclude the hearing in the matter and shall deliver its order as expeditiously as possible and preferably on or before 30/07/2016.*
- [h] *Needless to state, the amount of Rs.26,23,569/-, shall be subject to the fresh decision that may be arrived at by respondent No.2 u/s 7-Q and Section 14-B of the 1952 Act.*

5. *Needless to state, if the residual amount as recorded in clause No.1 hereinabove is not deposited by the petitioner within the time frame, there shall be no opportunity of hearing that would be afforded to the petitioner and therefore the impugned orders set aside by this Court today shall stand restored and this order shall, then, stand recalled."*

3. The grievance of the petitioner is that the respondent has not complied with the directions of this Court. Mr.Choudhary fairly points out that this Court had directed respondent No.2 in the

petition to decide the proceedings afresh. Respondent No.2 is the Regional Provident Fund Commissioner, who is at Pune and in fact respondent No.3 in the petition, who is Assistant Provident Fund Commissioner at Aurangabad, is required to decide the said proceedings. After this Court passed the order on 15/02/2016, the respondent herein Mr.E.S.Gaikwad was promoted as R.P.F.C. Aurangabad and then transferred to Pune in June 2016. All proceedings in relation to Section 7-A inclusive of Section 7-Q and Section 14-B of the E.P.F. and M.P.Act, 1952 are normally conducted by A.P.F.C. Because of the said confusion, R.P.F.C-2 was in a dilemma as to whether the A.P.F.C. should conduct the proceedings or the R.P.F.C.

4. Mr.Choudhary fairly submits that in so far as the deposit of amount by the petitioner is concerned, the directions of this Court have been complied with. He further submits that if the petitioner appears before the A.P.F.C. Aurangabad on 03/10/2016 at 11.00 a.m., the A.P.F.C. will commence the hearing in the matter and would conclude the same and deliver its order within 12 weeks.

5. Learned Advocate for the petitioner graciously submits on instructions that the petitioner is interested in addressing the mind

of the A.P.F.C. and it is not its object that some Officer of the P.F. Department should be punished. He, therefore, submits that he is willing to participate in the proceedings and for the delay caused, further damages u/s 14-B or interest under section 7-Q should not imposed upon the petitioner, who is not at fault.

6. In the light of the above, this petition is disposed of by recording the statements of the respective sides as under :-

- [a] The petitioner shall appear before A.P.F.C. Aurangabad at 11.00 a.m. on 03/10/2016 and thereafter shall participate in the proceedings on such dates as may be posted by the A.P.F.C.
- [b] The A.P.F.C. shall conclude the hearing on or before 31/01/2017 and shall deliver its reasoned order on or before 28/02/2017.
- [c] Since the hearing has got delayed at the end of the P.F.Authorities, in the event any order is passed u/s 7-Q and Section 14-B by way of a fresh decision as directed, there shall be no liability imposed on the petitioner u/s 7-Q and Section 14-B for the period July 2015 till the date of the order.

(RAVINDRA V. GHUGE, J.)