**In the High Court of Punjab and Haryana at Chandigarh**

**Civil Writ Petition No. 9245 of 1994**
**Date of Decision: 10.2.2016.**

Guru Nanak Girls College ........Petitioner

Versus

Regional Provident Fund Commissioner, Haryana and another .......Respondents

**CORAM: HON'BLE MRS. JUSTICE SABINA**

Present: Mr. S.K.Bawa, Advocate for the petitioner.

Mr. Rajesh Hooda, Advocate for the respondents.

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**SABINA, J.**

Petitioner has filed this petition under Article 226 of the Constitution of India seeking a writ in the nature of certiorari challenging the order dated 1.7.1994 (Annexure P-1).

Learned counsel for the parties have submitted that this petition is liable to be decided in terms of the decision given by this Court in CWP No. 13075 of 1993 decided along with other connected cases including CWP No. 9247 of 2014 vide order dated 5.3.2009 (Annexure A-1).

The operative part of the judgment passed by this Court dated 5.3.2009 (Annexure A-1) reads as under:-

> *"After hearing learned counsel for the parties at some length and on perusal of the records including impugned notification, I am of the considered view that its imperative upon the respondents to consider each petitioner's claim*

*for exemption in terms of notification dated 21.08.1984. Similarly, the petitioners are also under obligation to produce the material/ evidence to prove that they fulfill the pre-requisite conditions laid down in Clause 2 and 3 of the above-stated notification. In other words, an adjudicatory process is required to be undertaken by the statutorily Prescribed Authority who alone shall, on consideration of the material on record, be in a position to determine as to whether or not a particular educational institute or a society is entitled to the exemption granted vide notification dated 21.08.1984 as extended from time to time till 19.03.1996.*

*Consequently, these writ petitions are disposed of with the following directions :*

*1(i) x x x x*

*(ii) In those cases where the assessment orders under Section 7-A of the 1952 Act have been passed, the petitioners, shall be entitled to file a statutory appeal under Section 7-I of the 1952 Act within two months from the date of receipt of certified copy of this order along with the material/documents in support of their claim for exemption in terms of notification dated 21.08.1984 and the Appellate Authority shall be obligated to consider and dispose of their claim regarding exemption in the same manner as the Assessing Authority is required to do as per direction (i) above;*

*(iii) Till the petitioners' claim is decided by the Assessing*

*Authority or the Appellate Authority, as the case may be, no recovery shall be effected from them till then. In case the Authorities hold that the petitioners are entitled to the exemption granted vide notification dated 21.08.1984 as extended from time to time, the impugned notices shall be rendered infructuous. However, if the Assessing Authority or the Appellate Authority declines the exemption, the petitioners shall be granted three months period to deposit the arrears under the 1952 Act which, shall, however, not preclude them to impugn those orders before the Appellate Forum or otherwise if permissible in law. Wherever the petitioners have taken a plea that they have already deposited the contributory provident fund including the employees' share with the State Government, it would be desirable for the Assessing Authority or the Appellate Authority to issue a notice to the State Government and adjust such payments so that the petitioners are not burdened with additional liability.*

*In C.W.P No.1563 of 1993, the petitioner is stated to have been refunded the arrears of provident fund earlier deposited by it along with interest. The writ petition, in a way, has been rendered infructuous. However, in case the Assessing Authority is of the view that the claim of the said institution is also required to be adjudicated, it shall be at liberty to initiate fresh proceedings to be adjudicated in the manner directed above.*

*As regards, CWP Nos. 9247 of 1994 (Mukand Lal*

*National College vs. Regional Provident Fund Commissioner and another) and CWP No. 10966 of 1994 (Vidyawati Mukand Lal Bal Niketan Model Town vs. Regional Provident Fund Commissioner and another), learned counsel for the petitioners submit that the arrears of provident fund as assessed under Section 47-A of the 1952 Act, have already been deposited by them along with interest, even when there is an interim stay in their favour against the said deposit. He submits that as soon as the petitioners deposited the said amount, the Authorities have slapped them with notices under Section 14-B of the 1952 Act for recovery of damages. As the petitioners themselves have volunteered to deposit the entire arrears of Provident Fund even when they were not required to deposit the same in view of the interim stay granted by this Court, no delay can be attributed to them, warranting initiation of the proceedings under Section 14-B of the 1952 Act. The show cause notices demanding damages are accordingly quashed.*

*No costs."*

Accordingly, this petition is disposed of in terms of the directions as mentioned in para 1(ii) and (iii) and with regard to CWP No. 9247 of 1994, of the order reproduced above.

**(SABINA)**
**JUDGE**

**February 10, 2016**
**Gurpreet**