

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1024 OF 2014

Anthony John Rananawre

.... Petitioner

vs

Employees Provident Fund
Organisation, through Ministry
of Labour and ors.

.... Respondents

Mr. Abhijeet A. Desai with Ms. Vrushali Maindad for the petitioner.
Mr. Suresh Kumar with Ms. Sangita Yadav for respondent No.1.
Ms. S.V. Bharucha for respondent No.5.

**CORAM: ANOOP V. MOHTA AND
RAVINDRA V. GHUGE, JJ.**

DATE : April 18, 2017

FINAL ORDER:

1 The Petitioner is aggrieved by the notice to show cause why a warrant of arrest should not be issued, dated 16.08.2012 which has been issued by the Assistant Provident Fund Commissioner, Pune.

2 We have heard the strenuous submissions of the learned Advocates for the respective sides. Despite the contentions of the learned counsel for the Petitioner, we are not entertaining this Petition for the reason that, prima facie, the document maintained in Form

No. 5-A under the EPF and MP Act, 1952 dated 24.01.2012 indicates that the Petitioner herein is shown as the Chair person of the School at issue. Details under Clause 8 pertaining to the particulars of owners evidences this aspect. It is for the reasons set out in the show cause notice dated 16.08.2012 that the Petitioner is called upon to explain as to why the PF amount has not been deposited by the establishment at issue.

3 We are informed by the learned counsel for the EPF Department that the order of recovery is dated 29.04.1996 passed under Section 7-A of the Act and subsequently, on account of non-payment/deposit of the PF arrears, a recovery notice dated 18.06.2009 for an amount of Rs.22,02,624/- was issued by the Department. Prima facie, we find that the establishment at issue has evaded the payment of PF contributions, which have been assessed under Section 7-A, for the last 22 years. It is admitted by the Petitioner that the order assessing outstanding PF dues under Section 7-A in 1996 has not been challenged under Section 7-I before the EPF Appellate Tribunal at New Delhi or before this Court. The said assessment has therefore attained finality.

4 The learned counsel for the Petitioner submits that if this Court is not inclined to entertain this Petition, he would appear before Respondent No.1-APFC/Recovery Officer pursuant to impugned show cause notice dated 16.08.2012, at 11 am on 2nd May, 2017.

5 The learned counsel for Respondent No.1-APFC submits that a reasonable opportunity of hearing would be afforded to the Petitioner after he appears on 02.05.2017 alongwith the necessary records.

6 In the light of the above, this Petition is disposed of without causing interference in the impugned show cause notice by recording that the Petitioner would appear before Respondent No.1 and show cause on the impugned notice on 02.05.2017 at 11 am. Needless to state that all contentions and grounds raised by the Petitioner are kept open to be canvassed before Respondent No.1the APFC/Recovery Officer. Ad-interim relief granted earlier stands vacated.

7 As such, while disposing of this petition and vacating the ad interim relief, it is made clear that Respondent No.1-APFC authorities would proceed to pass a reasoned order in accordance with the EPF Act and the Scheme thereunder after hearing the Petitioner.

(RAVINDRA V. GHUGE J.)

(ANOOP V. MOHTA, J.)