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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 3203 OF 2016**

Rajesh Manohar Bhorunde & 5 Ors. ... Petitioners

vs.

Regional PF Commissioner (I) ... Respondents
RO, Mumbai – (I) and 6 Ors.

Mr. Limaye Sadashiv Sharu for the Petitioner.

Mr. Suresh Kumar for Respondent no.1.

Mr. Mohan Rao i/b. Parab & Associates for Respondent nos. 2 to 5.

Mr. P. H. Gaikwad, APP for the State.

CORAM : A. K. MENON, J.

DATE : 18th JULY, 2017

P.C.:

1. Heard Counsel for the petitioners and respondent nos. 1 and 2 to 5, both of whom undertake to file Vakalatnama within one week from today. By this Writ Petition the petitioners claiming to be casual labourers on daily wages in the employment of respondent no. 2 – Company are aggrieved by the order dated 9th August, 2016 under Section 7A of The Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (the Act). The section provides for determination of money due from employees and requires the Provident Fund Commissioner to pass appropriate orders in case of a dispute arises as to the applicability of the provisions as well as the determination of the amount of contribution of the employer. In the present case the impugned order provides for 57 employees who are named in the said order including the six petitioners whose names are listed at Serial nos. 5, 9, 17, 19, 20 and 22.

2. Learned Counsel for the petitioner points out that the impugned order is bad in law since they have not been heard in the matter prior to passing of the order and that the respondent did not take up their cause as a result of which they have been deprived of their rightful dues. It is also contended that the impugned orders should have been challenged by the Company and not having done so it has resulted in injustice to the petitioners. The Petitioners seek to rely upon copies of the computation of wages of each of the petitioners and the contribution due from the company by these petitioners. They have relied upon statements at Exhibits D to I. According to the petitioners Counsel, petitioners also seek to challenge the right of the Union of India to hold shares of the respondent no. 2 – company. The respondent's Counsel has opposed the Petition.

3. Having heard the Counsel for the parties, I find the issues raised involve disputes on question of fact and not capable of determination in the Writ Jurisdiction of this Court. In the circumstances, I pass the following order :

- (i) Writ petition is rejected.
- (ii) Petitioner are at liberty to adopt such proceedings in law as they may be advised.

(A. K. MENON, J.)