

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3296 OF 2000

1. Mahatma Gandhi Mission Trust
Through its Vice Chairman,
Ankush Nanasaheb Kadam,
Age-40 years,
 2. Mahatma Gandhi Mission's
Medical College and Hospital
Aurangabad,
Through its Dean
- PETITIONERS

VERSUS

1. The Assistant Provident Fund
Commissioner,
Sub Regional Provident Fund Office,
Aurangabad,
 2. Union of India
- RESPONDENTS

WITH CIVIL APPLICATION NO.1578 OF 2006
WITH CIVIL APPLICATION NO.12902 OF 2014

Ms.S.V.Salunke h/f Mr.V.D.Salunke, Advocate for the petitioners.
Mr.K.B.Choudhari, Advocate for the respondents.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 03/03/2018

ORAL JUDGMENT :

1. Learned Advocate for the petitioners submit that this Court has taken a view in identical set of facts in the matter of Institute of Management, Training and Research Vs. The Officer Incharge and

another, by delivering a judgment dated 15/09/2016 in WP No.4640/1994. It is, therefore, stated that, for identical reasons, the directions issued by this Court in paragraph No.6 can also be issued in this matter. The impugned order can be kept in abeyance and the matter can be remitted to the office of the respondent No.1 at Aurangabad.

2. Learned Advocate for respondent No.1 has strenuously opposed the above stated request and submits that though this Court may have granted interim relief conditionally to the petitioner, this petition can be dismissed and the alternate statutory remedy of preferring an appeal before the Appellate PF Tribunal at Nagpur would be availed of.

3. I find that by order dated 08/08/2000, this Court admitted the petition and granted interim relief on the condition that 50% of Rs.95,420/- will have to be deposited by the petitioners in this Court. Consequentially, an amount of Rs.47,710/- has been deposited in this Court by the petitioner. There are no circumstances by which this Court could take a different view than the one taken in the judgment dated 15/09/2016.

4. As such, this petition is partly allowed. The impugned order dated 04/11/1999 shall be kept in abeyance subject to the following directions :-

- [a] The petitioners consent to appear before respondent No.1 at Aurangabad on 06/04/2018 at 11.00 a.m.
- [b] The contentions of the petitioners recorded in this order shall be considered by respondent No.1 after conducting a hearing on the issue as to whether the Employees Provident Funds and Misc. Provisions Act, 1952 would be applicable to the petitioner or not.
- [c] After the conclusion of the hearing, respondent No.1 shall pass a reasoned order and shall serve the same on the petitioner.
- [d] Needless to state, if respondent No.1 arrives at a conclusion that the Act of 1952 is not applicable to the petitioner, the impugned order dated 04/11/1999 shall stand withdrawn.
- [e] In the event it concludes that the Act is applicable, the petitioners shall be at liberty to participate in the further proceedings pursuant to the order dated 04/11/1999 by producing relevant documents as it may deem fit and proper.
- [f] In the event, the petitioners are aggrieved by the said order, it shall be at liberty to seek redressal of its grievance in the manner as may be provided under Law.

5. The amount deposited by the petitioners in this Court shall be withdrawn by the respondent No.1 / PF Authorities alongwith accrued interest through a duly authorized Officer on their behalf

and the said amount shall be adjusted against any outstanding PF dues towards the petitioners, subject to the assessment order that would be passed after considering the case of the petitioners.

6. Rule is made partly absolute in the above terms.

7. Pending Civil Application Nos.1578/2006 and 12902/2014 stand disposed of.

(RAVINDRA V. GHUGE, J.)