

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 3041/2016

(SHRI HANUMAN VYAYAM PRASARAK MANDAL & ANOTHER **VERSUS** THE ASSISTANT
 COMMISSIONER, SUB-DIVISIONAL PROVIDENT FUND OFFICE & OTHERS)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri R. Deshpande, counsel for petitioners.
 Shri H.N. Verma, counsel for R-1.
 Shri A.V. Palshikar, counsel for R-2 & 3.

CORAM : A.S. CHANDURKAR, J.

DATE : JUNE 26, 2019.

By this writ petition, the petitioners have challenged order dated 16.06.2015 passed by the respondent no.1 imposing damages and payment of interest on the petitioners by exercising powers under Section 14B of the Employees Provident Fund and Miscellaneous Provisions Act, 1952. These orders pertain to the period March-2010 to February-2012.

While issuing notice on 31.01.2017, this Court had granted ad-interim stay of the impugned order.

It is not disputed by the learned counsel for the parties that the controversy in the present case is covered by the judgment and order dated 11.09.2018 passed by this Court in Writ Petition No.3424 of 2017. By the said judgment and order, despite availability of an alternate remedy in the form of an appeal before the Tribunal, the writ petition was entertained and the impugned orders therein were set aside and the proceedings were remitted to the respondent no.1 for a fresh decision in accordance with the law. It is pointed out by the learned counsel for the respondent no.1 that in that case the petitioner had deposited entire amount towards interest.

In the present case, the petitioners are contesting imposition of damages. It is submitted on behalf of the petitioners that without prejudice to the contentions raised on behalf of the petitioners, they are ready to deposit Rs.7,57,000/- within a period of four weeks towards the liability.

In the light of the above, this writ petition is disposed of in the following manner:-

- I. The impugned order dated 16.06.2015 imposing damages on the petitioners is quashed and set aside.
- II. The proceedings are remitted to the respondent no.1 for fresh decision. The respondent no.1 shall give opportunity of hearing to the petitioners before passing fresh order.
- III. The petitioners are directed to deposit an amount of Rs.7,57,000/- within a period of four weeks from today before respondent no.1 and it is upon deposit of such amount within the said period, that the respondent no.1 will take up the proceedings for fresh hearing.

It is made clear that this order is passed in the peculiar facts and circumstances of the present case and further that this Court is not expressing any opinion on the merits of the matter.

Petition is disposed of.

JUDGE