

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

LETTERS PATENT APPEAL NO.15/2011 IN
WRIT PETITION NO. 5390/2010(D)
WITH
WRIT PETITION NO.299/2017

LETTERS PATENT APPEAL NO.15/2011

Anuradha Sugar Mills Limited,
 through its Office Superintendent,
 Shri Vijay Rudrappa Hundiwale,
 Mungsaji Mahajan Nagar, Warud (Dhad),
 Tahsil and District Buldhana.

..... **APPELLANT**

...V E R S U S...

- 1] Regional Provident Fund Commissioner,
Akola Region, Akola.
- 2] The Employees Provident Fund Appellate Tribunal
through its Presiding Officer, Scope Minor Core 2,
4th floor, Laxminagar,
District Centre, New Delhi.

..... **RESPONDENTS**

 Shri Anand Parchure, Advocate with Shri Ram Heda, Advocate for appellant.
 Shri H.N.Verma, Advocate for respondent no.1.

WRIT PETITION NO.299/2017

- 1] Vithoba s/o Trambak Bundhe,
Aged about 35 years, Occupation : Agriculturist,
R/o. At Tandulwadi, Post Daregaon, Tah. Sindkhedraja,
District Buldhana.
- 2] Shivram s/o Sakharam Narwade,
Aged about 58 years, Occupation : Agriculturist,
R/o At Post Masrul, Tah. And District Buldhana.

- 3] Somnath s/o Kathinath Sudke,
Aged about 44 years, Occupation : Agriculturist,
R/o At Post Kalmeshwar, Tah. Mehkar, District Buldhana.
- 4] Raju s/o Pandurang Bhagat,
Aged about 37 years, Occupation : Agriculturist,
R/o. At Post Masrul, Tah. And District Buldhana.
- 5] Vijay Rudrappa Hundiwale,
Aged about 40 years, Occupation : Agriculturist,
R/o. At Post Gumani, Tah & District Buldhana.
- 6] Anil s/o Jagnath Kothale,
Aged about 46 years, Occupation : Agriculturist,
R/o.at Post Masrul, Tah & District Buldhana.
- 7] Ravindra Bhimrao Raut,
Aged about 37 years, Occupation : Agriculturist,
R/o. At Post Dahit (bd.), Tah. And District Buldhana.
- 8] Sukhlal s/o Raghunath Phuse,
Aged about 45 years, Occupation : Agriculturist,
R/o. At Post Walsangu, Tah. Bhokardan, Dist. Jalana.
- 9] Anant s/o Trayambak Bawane,
Aged about 52 years, Occupation : Service,
R/o. Indranil Niwas, Ekatanagar, Risod,
Tah. Risod, District Washim.
- 10] Balu s/o Govinda Tayade,
Aged about 36 years, Occupation : Service,
R/o. At Soygaon, Post Warude (Dhad),
Tah. & District Buldhana.
- 11] Ganesh s/o Namdeo Kalushe,
Aged 47 years, Occupation : Agriculturist,
R/o. At Post Mendgaon, Tah. Dewalgaonraja,
District Buldhana.
- 12] Arun s/o Dattraya Bhalerao,
Aged about 43 years, Occupation : Agriculturist,
R/o. Near Z.P.High School, Dewulgaonraja,
District Buldhana.
- 13] Nandkishor s/o Sahebrao Kandaje,
Aged about 38 years, Occupation : Agriculturist,
R/o Kulamkhed, Post Satagaon, District Buldhana.

14]Sunil Pundlik Kothalkar,
Anil s/o Jagnath Kothale,
Aged about 32 years, Occupation : Agriculturist,
R/o. At post Masrul, Tah. And District Buldhana.

15]Jayant s/o Janardhan Bhumbar,
Aged about 37 years, Occupation : Agriculturist,
R/o at Post at Domrul Post Dhamangaon,
District Buldhana.

..PETITIONERS

Versus

1] The Regional Provident Fund Commissioner,
Akola Region,
15 B, Raghuraj Arcade, Civil Line,
Akola-444 001.

2] The Chairman,
M/s.Anuradha Sugar Mills Ltd.
Mungasaji Maharaj Nagar,
Warud (Dhad), Tah.&District Buldhana.

..RESPONDENTS

Shri S.N.Gaikwad, Advocate for petitioners.

Shri H.N.Verma, Advocate for respondent no.1.

Shri Anand Parchure, Advocate with Shri Ram Heda, Advocate for respondent no.2.

CORAM : A.S.CHANDURKAR and G.A.SANAP, JJ.

DATED : 11th October, 2021

ORAL JUDGMENT (Per A.S.Chandurkar, J.)

In Letters Patent Appeal No.15/2011 Anuradha Sugar Mills Limited-the establishment has challenged the order dated 2nd December, 2010 passed by the learned Single Judge in Writ Petition No.5390/2010. By the said order this Court dismissed the writ petition that was filed by the establishment for challenging the order dated 31.08.2010 that was passed by the Employees' Provident Fund Appellate

Tribunal, New Delhi.

2. The facts indicate that on 02.09.2005 the Assistant Provident Fund Commissioner in Proceedings under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 determined amount of Rs.33,33,621/- towards provident fund dues for the period from March 2003 to October 2004 and thereafter from November 2004 to March 2005. The establishment challenged this order by filing an appeal before the Tribunal which dismissed the appeal on merits. The learned Single Judge while maintaining those orders held that there was no jurisdictional error or perversity in the adjudication by the Tribunal.

3. Shri Anand Parchure, learned counsel for the appellant submits that during pendency of the Letters Patent Appeal the establishment has gone in liquidation. A notice dated 15.09.2021 to that effect was issued by the learned counsel to the establishment by Registered Post with Acknowledgment. The same has duly served on the establishment but there was no response from the establishment.

4. Writ Petition No.299/2017 has been preferred by 15 employees of the establishment praying that the amount of 16,63,709/- that was lying with the Regional Provident Fund Commissioner towards provident fund dues of the employees be released in their favour. The employees have relied upon the communication dated 12.04.2016 issued by the Office of the respondent no.1 in which it has been stated that an amount of Rs.16,63,709/- has been recovered from

the establishment and the balance amount outstanding towards dues is Rs.16,69,913/-. The said communication indicates that in view of the interim orders passed in the Letters Patent Appeal, the said amount could not be disbursed. The learned counsel for the petitioners submits that the fact that the petitioners were engaged with the establishment is clear from various documents placed on record. The same bear the stamp of the establishment. It is therefore submitted that the amounts recovered be directed to be disbursed to the employees.

5. The learned counsel for the respondent no.1 submits that as per communication dated 12.04.2016 the amount recovered is lying with the respondent no.1 and the balance amount is still to be recovered from the establishment. According to him subject to complying with the requirements of the respondent no.1 such as submitting the annual returns in Forms 3A, 6A and 12A, the amount recovered would be proportionately made over to the concerned employees.

6. Since we find that the establishment has been duly intimated by the learned counsel for the appellant by registered post letter in September 2021 which letter has been duly served on the establishment and there is no response to the same, Letters Patent Appeal No.15/2011 is dismissed for want of prosecution. Consequent upon such dismissal and as it is found that the petitioners in Writ Petition No.299/2017 have placed on record substantial documents to indicate their engagement with the establishment, there is no reason not to permit the respondent no.1 to disburse the amounts already recovered as per the communication dated 12.04.2016. Accordingly the amount of Rs.16,63,709/- recovered by the respondent no.1 from the respondent no.2 be paid to the concerned employees subject to

furnishing/complying with necessary requirements in accordance with law. The learned counsel for the petitioners submits that within a period of six weeks from today, the petitioners would attempt to comply with all the requirements of the respondent no.1. The amount be disbursed to the concerned employees expeditiously thereafter in accordance with law.

Rule in Writ Petition No.299/2017 is made absolute in aforesaid terms.

There shall be no orders as to costs.

JUDGE

JUDGE

Andurkar..