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

WRIT PETITION NO.5074 OF 2017

M/s.Bhagyodaya Nagri Sahakari
Patsanstha, Maryadit, Shriram Nagar,
Sahakar Marg, Warud, District Amravati,
through Manager. **Petitioner.**

:: VERSUS ::

Assistant Provident Fund Commissioner,
Office of Assistant Provident Commissioner,
Sub Regional Office, Akola. **Respondent.**

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Shri N.R.Saboo, Counsel for the petitioner.
Shri H.N.Verma, Counsel for the respondent.

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CORAM : VM.DESHPANDE, J.
DATE : FEBRUARY 23, 2021

ORAL JUDGMENT

1. On 3.8.2017, notice was issued in this writ petition.
The respondent is duly served. This writ petition is filed seeking
quashment of order dated 16.6.2017 passed under Section 7B and
order dated 29.4.2016 passed under Section 7A of the Employees'

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Provident Funds and Miscellaneous Provisions Act, 1952 (for short, “the Act of 1952”) by the Assistant Provident Fund Commissioner, Sub Regional Office, Akola.

2. After hearing learned counsel Shri N.R.Saboo for the petitioner and learned counsel Shri H.N.Verma for the respondent, I am of view that this writ petition can be disposed of at admission stage itself. **Rule.** Rule is made returnable forthwith. Heard finally by consent of learned counsel for parties.

3. The petitioner is a registered society registered under the provisions of the Maharashtra Cooperative Societies Act. Undisputedly, the petitioner is authorized to function as banking society. The petitioner is carrying activities of credit cooperative society. According to the petitioner, the society is having six employees on its pay roll and the society is also taking assistance of 15 persons who were appointed as pigmy agents. According to the petitioner, function of these pigmy agents is to collect daily saving of persons who are having accounts with the petitioner

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society and to deposit daily collection with the petitioner. According to the petitioner, pigmy agents are not employees of petitioner society but they are compensated by making payments as commission.

4. The question, the petitioner is raising, is that whether these pigmy agents can be treated as employees of the society and whether provisions of the Act of 1952 can be made applicable or not.

5. Learned counsel for parties invited my attention to judgment delivered by this Court (Coram : Manish Pitale, J.) on 25.4.2019 in a bunch of writ petitions (Writ Petition No.5154/2016 and other connected petitions) and more particularly to paragraph Nos.21 and 28 of the said judgment. Perusal of paragraph No.28 shows that this Court (Coram : Manish Pitale, J.) in view of Division Bench judgment in the case of Pachora Peoples' Cooperative Bank Ltd. vs. Employees Provident fund Organization, reported at 2014(4) Mh.L.J. 436 remanded

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matter back for proper enquiry. It would be useful to reproduce paragraph No.28 of the said judgment in Writ Petition No.5154/2016 as under:

“In the light of the above, this Court is of the opinion that the writ petitions in the present case deserve to be partly allowed and all the cases deserve to be remanded to the Provident Fund Commissioner for undertaking enquiry under Section 7-A of the Act of 1952, on the parameters laid down by the Division Bench of this court in the case of Pachora People’s Co-op. Bank Ltd. vs. Employees Provident Fund Organization (supra) quoted above, including on the question of the applicability of the Act of 1952 to the banks/employers in the present case as mandated under section 7-A(1)(a) of the Act of 1952.”

6. In this view of the matter, I pass following order:

ORDER

(1) Orders dated 16.6.2017 and 29.4.2016 passed under Section 7B and 7A respectively is hereby quashed and set aside.

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(2) The dispute is remanded back to the Assistant Provident Fund Commissioner, Akola to undertake enquiry under 7A of the 1952 Act in the light of parameters laid down by the Division Bench of this Court in review in the case of Pachora Peoples' Cooperative Bank Ltd. vs. Employees Provident fund Organization cited *supra*.

Rule is made absolute in above terms. No costs.

JUDGE

!! BRW !!

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