

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.988 OF 2021**

Kulgaon Badlapur Nagar Parishad .. Petitioner

Versus

The Regional Provident Fund
Commissioner II, Compliance III,
Regional Office, Thane .. Respondent

WITH

WRIT PETITION NO.989 OF 2021

Bhiwandi Nizampur Municipal
Corporation .. Petitioner

Versus

The Regional Provident Fund
Commissioner II, Compliance III,
Regional Office, Thane .. Respondent

WITH

WRIT PETITION NO.984 OF 2021

Ambarnath Municipal Council .. Petitioner

Versus

The Regional Provident Fund
Commissioner II, Compliance III,
Regional Office, Thane .. Respondent

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Mr. Shailesh Naidu i/b Aumkar V. Joshi for the petitioner.
Mr.Suresh Kumar with Krunal Satra for respondent.

CORAM: RAVINDRA V. GHUGE, J.

DATED : 22nd FEBRUARY, 2022

P.C:-

1 In all these matters, the petitioners are aggrieved by the order passed by the respondent below Section 7B vide which,

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the application filed under Section 7B of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, seeking a review of the order passed u/s.7A, have been disposed off without even issuing notice to the applicant, much less, granting a hearing to the applicant.

2 The petitioners rely upon the judgment delivered by the Hon'ble Apex Court as well as by this Court which lay down the law that even in an application for review, the review applicant should at least be heard, and for which a notice can be issued by such authorities/Tribunals. {see (i) Sandeep Dwellers Pvt.Ltd, Nagpur Vs. Union of India, through Secretary, Ministry of Labour, New Delhi & Orsm 2006 III CLR 748 (ii) M/s.Deogiri Nagari Sahakari Patsanstha Ltd, thru its Authorized Officer Krishna Karbhari Agre Vs. The Assistant Provident Fund Commissioner and Anr (Writ Petition No.4685/2021)}

3 The learned Advocate representing the respondent Provident Fund Authorities supports the order and submits that these petitions be dismissed.

4 It is an elementary principle of law that an order is to be passed by adhering to the principles of natural justice. When it comes to hearing of an application, the applicant should be granted an opportunity to address the mind of the authority. Section 7B is a provision under the Provident Funds Act which

permits the aggrieved party establishment to file a Review Application for reconsideration of the order passed u/s.7A. Section 7B being a statutory provision, the right of hearing of the applicant cannot be taken away.

5 In view of the above, all these Petitions are partly allowed. The impugned orders passed below applications filed under Section 7B dated 28/1/2021 are quashed and set aside with the following directions :-

- (a) All applications under Section 7B filed by these petitioners shall be restored to the files of the respondent.
- (b) The petitioners shall appear before the respondent on 15/3/2022 at 12 noon.
- (c) The petitioners are at liberty to address the mind of the authority dealing with the said applications and also tender their written notes of submissions.
- (d) In the event the authority finds that the grounds deserve consideration, it would issue notice to the opponent authority below and after a hearing in the matter, pass a reasoned order.
- (e) The objection of the petitioners that since it is covered by the GPF, the provisions of the PF Act would not be applicable, would also be considered on its own merits.

RAVINDRA V. GHUGE, J