

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 4842 OF 2022

Sharad Pawar Public School & Anr. ...Petitioners
Versus
The Regional Provident Fund Commissioner-II ...Respondent

Mr. Prashant D. Patil for the Petitioners

Ms. Mohinee Chougule i/b Mr. Suresh Kumar for the Respondent

**CORAM : REVATI MOHITE DERE &
MADHAV J. JAMDAR, JJ.
FRIDAY, 22nd APRIL 2022**

P.C. :

1 Heard learned counsel for the petitioner.

2 By this petition preferred under Article 226 of the Constitution of India, the petitioners have challenged the prohibitory order bearing No.MH/PF/52393/RO/NSK/Damages/1671 dated 23/03/2022 passed pursuant to order bearing No. MH/52393/PF/RO/NSK/Damages/1050 dated 22/11/2021 (17/11/2021) under Section 14(B) and order bearing No.

MH/52393/PF/RO/NSK/Interest/1051 dated 22/11/2021 (17/11/2021) passed under Section 7(Q) by the respondent No. 1 under the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

3 Learned counsel for the petitioners submits that the petitioners had paid the principal amount to the respondent No. 1 i.e. Rs. 65,00,865/- in the year 2012. He submits that the impugned communication/order was passed in 2021 i.e. almost after 7 years. He submits that by the impugned orders (subject 2 orders) dated 22/11/2021 (17/11/2021), the respondent No. 1 had directed the petitioners to pay Rs. 48,20,279/- towards damages and an amount of Rs. 28,10,117/- towards interest for the period of 1/12/2004 to 25/10/2018. He further submits that the respondent No. 1 has also passed prohibitory order dated 23/11/2022 and seized the bank accounts of the petitioners, resulting in complete stoppage of the functioning of the petitioner No.1-School. Learned counsel for the petitioners submits that because of the prohibitory order dated 23/03/2022, the entire functioning of the school has come to a standstill and that it has become very difficult for the petitioner No.1-School to manage the expenses of the School and impart education. He submits that at present,

there are 1100 students studying in the petitioner No.1-institution and out of the said 1100 students, 600 students are residential students.

4 Learned counsel for the petitioners further submits that being aggrieved by the aforesaid orders, the petitioners have filed an appeal before the Employees Provident Fund Appellate Tribunal, Mumbai, however, the said Tribunal is not functioning, for want of appointment of a Presiding Officer.

5 Without going into the merits, having regard to the fact, that the petitioners have preferred an appeal before the Tribunal and that the Tribunal is presently non-functional, the prohibitory order dated 23/11/2022 is stayed till the stay application/appeal filed by the petitioners is decided by the Tribunal. Accordingly, the petitioners are permitted to operate the said bank accounts i.e. A/c. Nos. 444 and 614 with the Kalwan Branch of Nashik District Zilla Sahakari Bank Ltd. and the Savings Account No. 30341918076 of the petitioners in the Kalwan Branch of State Bank of India, till such time, the stay application or appeal filed by the petitioners is decided by the Tribunal.

6 We make it clear that we have not gone into the merits of the petition and as such all contentions of all parties are kept open.

7 Needless to state that the aforesaid order is passed in the peculiar circumstances, having regard to the fact that the Appellate Authority i.e. the Tribunal is not functioning, for want of a Presiding Officer.

8 Petition is allowed and disposed of on the aforesaid terms and conditions.

9 All concerned to act on the authenticated copy of this order.

MADHAV J. JAMDAR, J.

REVATI MOHITE DERE, J.