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

WRIT PETITION NO.130/2018

M/s. Late Marotisa Saoji Shikshan Prasarak Mandal through its President Shri Chandrakant Marotisa Saoji, Akola
...Versus...
Assistant Provident Fund Commissioner, Employees' Provident Fund Organization, Akola

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

Shri P.U. Kavishwar, Advocate for petitioner
Shri H.N. Verma, Advocate for respondent

CORAM : AVINASH G. GHAROTE, J.
DATE : 22/08/2022

1. Heard Shri Kavishwar, learned counsel for the petitioner.

2. The petition challenges the order dated 15/04/2015, passed by the respondent/Assistant Provident Fund Commissioner, Akola under Section 7-A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (for short, "the E.P.F. Act" hereinafter), holding that the petitioner/Establishment is liable to pay a sum of Rs.7,16,890/- towards the provident fund dues.

3. Shri Kavishwar, learned counsel for the petitioner submits that the petitioner/Institution was not liable to pay the provident fund dues, as it was exempted under the provisions of Section 16 (2) of the E.P.F. Act, in view of the notification dated 14/05/2010 (pg.20), issued by the Central Government, namely S.O. No.1431 in exercise of the powers conferred under Section 16 (2) of the E.P.F. Act, in which an establishment being run by public, religious or charitable trusts and notified by the Central Government under the Income Tax Act, 1961, is mentioned, provided the establishment was providing or imparting knowledge or training without charging any fees.

4. It is not disputed by Shri Kavishwar, learned counsel for the petitioner that the petitioner/Establishment is not registered by the Central Government under the Income Tax Act, 1961, as is required under Clause (b) of S.O. No.1431. That apart, though a claim is made that the petitioner/Institution was providing education free of charges or fees, absolutely nothing has been placed on record before the respondent or even before this Court to substantiate this plea. That being the position, it is clearly apparent that S.O. No.1431 is not applicable to the present petitioner.

5. The next contention, is that there was non-identification of the employees by the respondent. For that

purpose, it is necessary to demonstrate that the petitioner/Trust had placed on record the list of employees, the muster roll and other relevant documents, which would have enabled the respondent, to ascertain this position, which has not been done, in view of which, this plea is also not available. I, therefore, do not find any reason to interfere in the impugned order. The writ petition is therefore without any merit and is dismissed accordingly. No order as to costs.

(AVINASH G. GHAROTE, J.)

Wadkar