**IN THE HIGH COURT OF JUDICATURE OF BOMBAY BENCH AT AURANGABAD**

904 **WRIT PETITION NO.13219 OF 2023**

MS TRIMURTI PAWAN PRATISHTHANS TRIMURTI PUBLIC SCHOOLKHADKE THROUGH ITS SECRETARY
VERSUS
ASSISTANT PROVIDENT FUNDS COMMISSIONER COMPLIACNE

AND

906 **WRIT PETITION NO.13244 OF 2023**

MS TRIMURTI PAWAN PRATISHTHANS TRIMURTI PUBLIC SCHOOLKHADKE THROUGH ITS SECRETARY
VERSUS
ASSISTANT PROVIDENT FUNDS COMMISSIONER COMPLIANCE

AND

907 **WRIT PETITION NO.13245 OF 2023**

MS TRIMURTI PAWAN PRATISHTHANS TRIMURTI PUBLIC SCHOOLKHADKE THROUGH ITS SECRETARY
VERSUS
ASSISTANT PROVIDENT FUNDS COMMISSIONER COMPLIANCE

....

Mr. V. N. Upadhye, Advocate for Petitioner
Mr. N. K. Chaudhari, Advocate for Respondent No.1
Mr. A. G. Talhar, DSGI for Union of India

....

**CORAM : RAVINDRA V. GHUGE AND Y. G. KHOBRAGADE, JJ.**

**DATE : 20.10.2023.**

**PER COURT** :-

1. We have considered the submissions of the learned Advocates for the respective sides.

2. The issue before this Court is that the Petitioners have preferred their Appeals under Section 7-I of the Employees' Provident Fund and Miscellaneous Provisions (EPF and MP) Act, 1952, before the Central Government Industrial Tribunal (CGIT). Since the Presiding Officer is not available for almost a year, the Appeals are pending. The applications seeking interim orders are also pending.

3. The Petitioners' grievance is that around 16 bank accounts have been frozen by the Provident Fund (PF) authorities. The Appeals were filed within the appeal period. Due to fortuitous circumstances, the interim orders could not be passed in the appeals.

4. The learned Advocate for the PF department submits that the Petitioners have around 1000 employees and 35000 students admitted in almost 18 schools and 25 colleges. The PF department is receiving complaints from large number of employees that the employees' shares (contributions) have been deducted from their salaries and the same have not been deposited with the PF department in the PF account code of the institution. The learned Advocate for the Petitioner submits that huge amounts are indicated in orders passed in Section 7A inquiries, pertaining to an earlier

period. Off late, the petitioners are regularly depositing the PF contributions (employees share plus the employers share).

5. We find that, pursuant to the Section 7A inquiries, the recovery of amounts has been initiated by the PF department. The amounts that are to be recovered, are in several lakhs. The Petitioner is an orginazation which appears to have a huge workforce as well as a phenomenal strength of students, in about 37 institutions. The Petitioner institutions are duty bound to comply with the provisions of the EPF and MP Act, 1952. A social security legislation is at issue. Leniency cannot be shown towards the Petitioners when it comes to payment of the EPF contributions.

6. Under Section 7-O of the EPF and MP Act, the Appellant has to deposit 75% of the amount. Since the appeal is not being heard in the absence of a Presiding Officer, these Petitions are being entertained by us.

7. The learned Advocate for the Petitioner submits that instead of 75% of the deposit, this Court may exercise discretion and direct depositing of lesser amounts. The bank accounts which have been frozen, contain funds and the PF amounts may be debited to the

said accounts. The learned advocate for the PF department submits that the Petitioners have shrewdly maintained paltry amounts in their those accounts which have been disclosed to the PF department. Apparently the intention is obvious as to why such accounts have been disclosed to the department. So also, the Petitioners have deducted the employees' shares from their salaries and have retained the said amounts with the management without depositing them. This is a fraud.

8. In view of the above, we deem it appropriate to direct the Petitioner to deposit 50% of the amounts as directed under the Section 7A orders which have been challenged before the CGIT. The PF authorities are at liberty to approach each of these banks for lifting the freezing order and apportion the said amount to the extent of 50% of Section 7A assessment in each of these cases towards the PF contribution. After these amounts are adjusted and credited to the account of the Respondent PF department, the Petitioner would be at liberty to utilize the said bank accounts.

9. If the above direction is complied with, the Petitioners would stand protected from further precipitative/coercive action and

the remainder 50% amount would not be recovered until the appeals are decided, subject to the condition that the Petitioner establishments will have to regularly deposit the monthly PF contribution as is prescribed in law without any default.

10. In the event, the frozen accounts do not have sufficient funds to satisfy this order, it shall be the duty of these Petitioners to deposit the amounts as directed in the impugned orders, upto 50%, with the PF department, on or before 10.11.2023, failing which the PF department is at liberty to initiate coercive actions as are permissible under the provisions of the EPF and MP Act. There shall be no extension of time for depositing the amounts, keeping in view that the Petitioners have been evading the payment of PF contributions for a long time and that too by deducting the employees' shares and not depositing them.

11. We direct the concerned CGIT, to decide the appeals finally within 12 months from today. Since we have granted conditional protection to the Petitioner, the pending interim applications seeking stay before the CGIT, stand dismissed.

12. With the above directions, these **Petitions are disposed off**.

13. Before we part with these matters, we requested the learned DSGI to assist us in the light of the fact that three CGI Tribunals in Maharashtra are without Presiding Officers. The learned DSGI informs us that the Hon'ble Apex Court is looking into this matter and 04.09.2023 was the cut off date to appoint the Presiding Officers on various Tribunals. He submits that he would appraise this Court about efforts taken for appointment of Presiding Officers on the Central Government Industrial Tribunals.

14. As such, we would appreciate if the learned DSGI appears before us on 15.12.2023 and apprises us about the further developments on the CGITs.

**[ Y. G. KHOBRAGADE, J. ]** **[ RAVINDRA V. GHUGE, J. ]**

SMS