

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

WRIT PETITION NO. 5336 OF 2021

Kiran Dilipkumar Baheti and anr _ Vs. _ Regional Provident Fund Commissioner

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

Court's or Judge's orders

Mr. A.R.Deshpande, Advocate for petitioner
Mr. H.N.Verma, Advocate for Respondent

CORAM : AVINASH G. GHAROTE, J.
DATE : 04/01/2023

1] Heard Mr. Deshpande, learned counsel for the petitioner and Mr. Verma, learned counsel for the respondent.

2] The only ground raised is that the petitioner no.1 is the proprietor of the establishment M/s Anand Paper Udyog and the petitioner no.2 had nothing to do with it. It is contended that the petitioner no.1 was never served with the notice of the proceedings under Section 7A of the Employees Provident Fund Act and therefore, the impugned order dated 14.11.2019 (pg.35) stands vitiated.

3] Mr. Verma, learned counsel for the respondent submits that petitioner no.2 was throughout representing the petitioner no.1, however, he fairly admits that there is no authority on record in that regard. He further states that there is also nothing on record to indicate that petitioner no.1 was personally served, as she was the proprietor of the establishment.

3] That being the position, the impugned order dated 14.11.2019, cannot be sustained, and the same is hereby quashed and set aside. The matter is remitted back to the Respondent/Regional Provident Fund Commissioner for decision afresh.

4] The petitioner no.1 who is the proprietor of M/s Anand Paper Udyog shall appear before the Respondent on 16.1.2023 at 11 a.m at the address mentioned in the order dated 14.11.2019, along with all the relevant documents and her reply, which shall be placed on record on 16.1.2023 itself. The copy of the report of the Enforcement Officer shall be handed over to Mr. Deshpande, learned counsel for the petitioner, by tomorrow.

5] It is made clear that in case the petitioner no.1 does not appear before the Respondent on the aforesaid date and time, the Respondent authority shall be entitled to proceed ahead in her absence and no plea regarding non service on behalf of petitioner no.1 shall be entertained.

6] The Respondent/Regional Provident Fund Commissioner shall decide the proceedings within a period of two weeks thereafter.

JUDGE