

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

WRIT PETITION NO. 4942 OF 2017

Central Board of Trustees, New Delhi and anr _ Vs. _ Ahirkar Tea & Dairy Products Pvt Ltd

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

Court's or Judge's orders

Mr. H.N.Verma, Advocate for petitioner
Mr. S.N.Dandekar for Respondent

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

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

2] It is contended by Mr. Verma, learned counsel for the petitioner that the impugned order dated 20.12.2016 (page 13) merely accepted the affidavits of three employees of the Respondent/Establishment on their face value which are to the effect that they had resigned on certain dates, which would reduce the number of employees for the period 7.3.2008 to 31.08.2009 to a figure below 20. He submits that if the affidavits were to be believed, then atleast an opportunity of cross examination ought to have been given, so as to test the veracity of these affidavits. Since this has not been done, the matter is required to be remitted back to the Regional Provident Fund Commissioner, Nagpur, for permitting the parties to lead evidence and decision afresh.

3] Though Mr. Dhandekar, learned counsel for the respondent opposes, however, a perusal of the impugned order clearly indicates that the affidavits of Sanjay Kolhapure, Ms. Nanda Bai and Shri Sanjay Puttewar have been accepted on the face of it without the veracity of the affidavits being permitted to be tested on the touchstone of the cross examination. Since the report by the Enforcement Officer dated 30.9.2009 (page 20) indicates employment of more than 20 people, such an examination was clearly necessary to establish the exact number of employees engaged by the Respondent.

4] In this view of the matter, the impugned order therefore cannot be sustained and is hereby quashed and set aside and the matter is remanded back to the Regional Provident Fund Commissioner for decision afresh according to law.

5] Petition is allowed in above terms. No costs.

JUDGE

Rvjalit