

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

WRIT PETITION NO.6844 OF 2018

M/s Manoharbhai Patel Institute, Engineering and Technology, through its Principal
.Vs. The Assistant Provident Fund Commissioner, Nagpur and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri S.S. Ghate, Advocate for the petitioner.

Shri H.N. Verma, Advocate for the respondent No.1

Shri Y.P. Bage, Adv. h/f Shri A.C. Jaltare, Adv. for the respondent No.2.

CORAM : ANIL S. KILOR, J.

DATED : 27/03/2023

1. Heard.

2. The order dated 14.09.2020 passed by the Central Government Industrial Tribunal, Nagpur allowing the application preferred by the petitioner for grant of stay to the order dated 15.05.2018 passed by the Assistant P.F. Commissioner, Regional Office, Nagpur under Section 7A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (hereinafter referred to as "the Act of 1952") holding the establishment and principal employer i.e. the petitioner jointly and severally liable to pay outstanding amount of Rs.13,29,386/- towards E.P.F., the same was stayed subject to payment of 75% amount is under challenge in this writ petition.

3. It is the case of the petitioner that the employees were appointed by the contractor and since they are not the employees of the petitioner, no liability can be fastened over the petitioner to pay the E.P.F. amount.

4. On the other hand, the learned counsel for the respondent No.1-Commissioner submits that there is a power to direct the establishment and principal employer to pay jointly and severally. It is submitted that the basic liability is on the principal employer and who can recover it from the establishment. He, therefore, submits that no error has been committed by the respondent No.1 directing the establishment and the principal employer to pay the amount of E.P.F. jointly and severally.

5. The learned counsel for the contractor supports the case of the petitioner.

6. In the above referred backdrop, I have perused the record and it is evident from the record that the respondent No.1 passed an order under Section 7A of the Act of 1952 on 15.05.2018 as regards payment of E.P.F. amount by the establishment and the principal employer jointly and severally. The same was challenged before the Central Government Industrial Tribunal, Nagpur and the learned Tribunal vide impugned order dated 14.09.2018 stayed the order passed by the respondent No.1 on a condition of deposit of amount to the extent of 75%. This order passed

by the Tribunal was stayed by this Court in the present petition vide order dated 12.10.2018.

7. Thus, it is clear that, the stay is in operation since last more than four and half years.

8. In the circumstances, I am of the opinion that the present writ petition can be disposed of without observing anything on the merit and by directing the learned Tribunal to decide the appeal filed by the petitioner under the provisions of the Act of 1952 within a stipulated period of six months.

9. Accordingly, the writ petition is **disposed of** with direction to the Central Government Industrial Tribunal, Nagpur to decide the appeal EPFA No.14 of 2018 within a period of six months from the date of appearance of parties, on its own merit. Till then, the *interim relief* granted by this Court vide order dated 12.10.2018 shall be continued.

10. Both the parties are directed to appear before the CGIT, Nagpur on 17.04.2023.

11. Both the parties have undertaken to cooperate the learned Tribunal to decide the appeal within stipulated period.