

05. 03. 2024

BP
Sl.26
Court No. 23

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 3939 of 2024

Swarna Technology Private Limited
Vs.
The Union of India & Ors.

Mr. Malay Dhar
Mr. Bhaskar Sengupta
..for the petitioner

Mr. Shyamal Kumar Mukherjee
Mr. Tirtha Pati Acharyya
..for the Union of India

Ms. Dejeni Ghosal
..for E.P.F.

Mr. Ayan Kumar Boral
Mr. Archan Dutt
..for the respondent no.5

In this writ petition the petitioner has prayed for recalling and/or cancelling of an order dated 28th December, 2023 and for refund of the amount forthwith. The petitioner has also prayed for expeditious hearing of the appeal being Appeal No. EPF-20 of 2023 within a stipulated period of time.

The order dated 28th December, 2023 was for realization of the defaulted amount by issuance of order under Section 8F of the Employees Provident Funds &

Miscellaneous Provisions Act, 1952. The parent order by which the default was quantified is dated 31st August, 2022. The petitioner had challenged this order before this court by filing a writ petition being WPA 20159 of 2023. The said writ petition was disposed of by granting the petitioner liberty to file an appeal to exhaust the alternative remedy available in form of appeal mechanism under the statute. The petitioner has filed the appeal in terms of such liberty granted by the order dated 20th September, 2023. The writ petitioner says that during the pendency of the appeal the entire amount as directed by order dated 31st August, 2022 has been realised from the bank account of the writ petitioner which was attached. The writ petitioner seeks liberty to operate the bank account by directing the same to be de-freezed. Since the order for recovery is under challenge before the authority concerned in an appeal and the appellate authority is in seisin of the matter, any direction given by this Court as prayed for in exercise of its writ jurisdiction may amount to interference with the jurisdiction of a statutory authority with appellate powers.

The writ petition is, therefore, disposed of permitting the petitioner to pray for expeditious hearing of the appeal bearing Appeal No. EPF 20 of 2023 now pending before the Industrial Tribunal, Kolkata. The

appellate authority, if so approached, shall without granting any unnecessary adjournment dispose of the appeal as expeditiously as possible, preferably by three months from the date of communication of this order.

(Arindam Mukherjee, J.)

