

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.6345 OF 2024
WITH
INTERIM APPLICATION NO. 261 OF 2022
IN
WRIT PETITION NO. 8069 OF 2021

Ashapura Minechem Limited

...Applicant/Petitioner

Versus

State of Maharashtra and Ors.

...Respondents

Mr. Pradip Sancheti, Senior Advocate a/w. Devesh Juvekar, Ashish Parwani, Kavita Brid-Chavan, Honey Chandnani, i/b. Rajani Associates and Devendra Orak, and Khushboo Bhatt, for Petitioner .
Ms. Pooja Joshi-Deshpande, for Respondent No.1.
Mr. Ravi Rattesar, for Respondent No.2.

**CORAM: NITIN JAMDAR &
M.M. SATHAYE, JJ.**

DATE : 28 MARCH 2024

P.C.:

. This petition is filed by the Petitioner- Establishment challenging the order passed by the Respondent- Regional Provident Fund Commissionerate and the Enforcement Officer fixing monetary liability and taking steps in pursuance to the same. In this writ petition order was passed on 14 December 2021 as under.

1. We have heard Mr Sancheti, learned Senior Advocate for the Petitioners. The 1st Respondent waives service. Issue notices to

Respondents Nos. 2 and 3. In addition to service through Court, private service is permitted.

2. The Petition challenges orders dated 25th October 2021 and 24th November 2021 passed by the 2nd Respondent, the Regional Provident Fund Commissioner in respect of a mine at Dapoli.

3. The 2nd Respondent ordered a closure. This was passed on the basis that the Petitioner had not submitted a final reply. The 2nd Respondent determined the Petitioner's liability for the enquiry period at Rs.10,10,73,923/-.

4. There may be some material to be considered at a later stage once the Affidavits in Reply are filed about the correctness of the computation itself and about the procedure adopted by the 2nd Respondent. Until then, it would be sufficient to require the Petitioner to furnish an unconditional bank guarantee of a nationalised bank in favour of the Registrar General in the amount of Rs. 5 crores. This is to be accompanied by an affirmed Affidavit-cum-Undertaking by the duly authorised representative of the Petitioner company, by which the company will undertake to pay such amount up to the extent of full demand if so required by the Court and within such time as the Court may deem fit.

*5. In the meantime, no coercive steps are to be taken against the company for recovery of these dues. The bank guarantee is to be furnished by **12th January 2022**. If the bank guarantee is not furnished by that date, the interim protection will end without further reference to the Court.*

6. Upon furnishing of the bank guarantee

and undertaking, the interim protection will continue until further orders of the Court.

7. The Affidavit in Reply is to be filed and served on or before 17th January 2022. A Rejoinder is permitted by 31st January 2022.

8. We list the matter on 7th February 2022.

9. Parties are put to notice that an effort will be made to dispose of the Petition finally at the stage of admission.

10. The 2nd and 3rd Respondents are required to keep available in Court their official records and files pertaining to the enquiry.

11. All concerned will act on production of a digitally signed copy of this order.”

2. Thereafter, it appears that the Petitioner did not comply with what was observed and directed by this Court in the order dated 14 December 2021. Further coercive action on the part of the Respondent- Provident Fund Commissioner follows.

3. Interim application is taken out bearing Interim application No. 6345 of 2024 wherein on 15 March 2024, the following order came to be passed.

. Without prejudice the Petitioner has given a proposal to Respondent No.2- Office of the Regional Provident Fund Commissioner to which the learned Counsel for Respondent No.2 seeks time to examine whether the proposal is acceptable.

*2. Stand over to **19 March 2024.**”*

Thereafter, on 19 March 2024, the following order came to be passed:

“ By way of an interim application, the Petitioner has given certain proposals to the Respondent/Department. On 15 March 2024, we adjourned the application till today at the request of learned Counsel for the Respondent/ Provident Fund Commissioner to examine whether the proposal is acceptable.

*2. The proposal is already submitted by the Petitioner/Applicant with the Commissionerate. The Commissionerate will convey its written response to the Petitioner whether the Commissionerate is agreeable or not. Depending thereupon, the matter can be taken forward. Stand over to **26 March 2024.**”*

4. The matter was adjourned at the request of learned counsel representing the Provident Fund Commissionerate to take instructions. Learned counsel for the Petitioner and learned counsel for the Respondent- Provident Fund Commissionerate state that pending the writ petition, the parties have arrived at certain arrangement as regards giving facility of installments to the Petitioner. Learned counsel for the parties have tendered consent terms signed by the Advocates. Learned counsel for the Respondent- Provident Fund Commissionerate states that these consent terms are as per the approval granted by the concerned Authority of the Commissionerate and upon his instructions he signed the consent

terms.

5. In view of the statement made, which we accept, the consent terms are taken on record and marked 'X'. The consent terms record that it is without prejudice to rights and contentions of the parties. We have gone through the consent terms. It appears that the Commissionerate has given time to the Petitioner to make the payment of dues by way of installments while not lifting the attachment on the land.

6. Interim Application No. 6345 of 2024 is disposed of in terms of the consent terms which have been placed on record. All undertakings are accepted.

7. Interim Application No. 261 of 2022 does not survive in view of the consent terms and the same is also accordingly disposed of.

8. Hearing of Writ Petition 8069 of 2021 is accordingly deferred to **9 April 2024** .

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)