

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 15200 OF 2023

Matheran Municipal Council

MP 153, Matheran HS Municipal,
Mahatma Gandhi Karjat,
District, Raigad – 410 102.

.. Petitioner

Versus

Assistant Provident Fund Commissioner

EPFO, Regional Office, Vashi,
Tower No.6, 5th Floor,
Vashi Railway Station Complex,
Vashi, Navi Mumbai – 400 703.

.. Respondent

WITH

WRIT PETITION NO. 12651 OF 2023

Panvel Municipal Corporation

(Previously Known as a Panvel Municipal
Council Near Devale Talav & Gokhale Hall

.. Petitioner

Versus

Assistant Provident Fund Commissioner

EPFO, Regional Office, Vashi,
Tower No.6, 5th Floor,
Vashi Railway Station Complex,
Vashi, Navi Mumbai – 400 703.

.. Respondent

WITH

WRIT PETITION (ST.) NO. 27778 OF 2023

Panvel Municipal Corporation

(Previously Known as a Panvel Municipal
Council Near Devale Talav & Gokhale Hall

.. Petitioner

Versus

Assistant Provident Fund Commissioner

EPFO, Regional Office, Vashi,
Tower No.6, 5th Floor,
Vashi Railway Station Complex,
Vashi, Navi Mumbai – 400 703.

.. Respondent

WITH

WRIT PETITION (ST.) NO. 28213 OF 2023

Alibaug Municipal Council

Alibaug Nagarpalika Parishad, Alibaug, Raigad-
402201

.. Petitioner

Versus

Assistant Provident Fund Commissioner

EPFO, Regional Office, Vashi,
Tower No.6, 5th Floor,
Vashi Railway Station Complex,
Vashi, Navi Mumbai – 400 703.

.. Respondent

WITH

WRIT PETITION (ST.) NO. 28214 OF 2023

Alibaug Municipal Council

Alibaug Nagarpalika Parishad, Alibaug, Raigad-
402201

.. Petitioner

Versus

Assistant Provident Fund Commissioner

EPFO, Regional Office, Vashi,
Tower No.6, 5th Floor,
Vashi Railway Station Complex,
Vashi, Navi Mumbai – 400 703.

.. Respondent

WITH

WRIT PETITION (ST.) NO. 28777 OF 2023

Pen Municipal Council

Administrative Building, 2nd Floor, Pen, Raigad -
402 107

.. Petitioner

Versus

Assistant Provident Fund Commissioner

EPFO, Regional Office, Vashi,
Tower No.6, 5th Floor,
Vashi Railway Station Complex,
Vashi, Navi Mumbai – 400 703.

.. Respondent

WITH

WRIT PETITION (ST.) NO. 28778 OF 2023

Pen Municipal Council

Administrative Building, 2nd Floor, Pen, Raigad -
402 107

.. Petitioner

Versus

Assistant Provident Fund Commissioner

.. Respondent

EPFO, Regional Office, Vashi,
Tower No.6, 5th Floor,
Vashi Railway Station Complex,
Vashi, Navi Mumbai – 400 703.

WITH
WRIT PETITION (ST.) NO. 29110 OF 2023

Karjat Municipal Council

At Tal- Karjat, District, Raigad - 410210

.. Petitioner

Versus

Assistant Provident Fund Commissioner

EPFO, Regional Office, Vashi,
Tower No.6, 5th Floor,
Vashi Railway Station Complex,
Vashi, Navi Mumbai – 400 703.

.. Respondent

-
- Ms. Samiksha Kanani, Advocate a/w. Ms. Sumandevi Yadav, Prasana Pawar and Mr. Paresh Waghmare, Advocates for Petitioners.
 - Mr. Ravi Rattesar, Advocate for Respondents.
-

CORAM : MILIND N. JADHAV, J.
RESERVED ON : DECEMBER 07, 2023.
PRONOUNCED ON : FEBRUARY 27, 2024.

JUDGMENT:

1. This is a group of 8 Writ Petitions. They are finally decided by this common judgment. Petitioners in all Petitions are Municipal Councils / Corporations, public bodies and an arm of the State Government of Maharashtra. Facts are identical, rather almost identical in all cases, save and except certain consequential actions after passing of the impugned orders which shall be referred to separately with respect to each of the Petitioners.

2. For the sake of brevity, facts in Writ Petition No.15200 of 2023 are considered for the purpose of adjudicating the *lis*. *Lis* is that assessment is determined under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (for short "**the said Act**") on the premise that Petitioner is considered to be principal employer liable for deposit of Provident Fund (for short "**PF**") contribution / statutory contribution in respect of workers employed by the Contractors appointed by Petitioner. For the purpose of undertaking various works, Petitioner appoints Contractors and/or Sub-Contractors. It needs to be clarified at this stage that in respect of Petitioner's employees, Petitioner regularly deposits their statutory PF contribution. In the present cases, Contractors and Sub-Contractors employ and appoint workers to complete and execute various work contracts . It is alleged by Respondent that PF contribution / statutory deposit in respect of these workers are not deposited and therefore Petitioner being principal employer is held to be liable. Similar is the case in all 8 Writ Petitions.

3. Facts in Writ Petition No.15200 of 2023 are delineated for reference as follows:-

3.1. Writ Petition No.15200 of 2023 is filed taking exception to two orders passed by Assistant Provident Fund Commissioner, Vashi in statutory proceedings under the said Act. First order dated

31.03.2023 is passed under Section 7A whereas second order dated 26.09.2023 is passed under Section 8F of the said Act.

3.2. Petitioner is Matheran Municipal Council. Period for which assessment is levied is from 08.01.2011 to 31.03.2017 and final liability of Rs Rs.4,87,50,071/- is assessed as due and payable under Section 7A of the said Act towards payment of outstanding Provident Fund contribution dues.

3.3. Briefly stated, liability imposed on Petitioner – Matheran Municipal Council is for non-payment of outstanding contribution of PF dues of workers employed by Contractors appointed for carrying out various works including purchase of various materials, printing, stationary, water supply, vehicle repairs, hire of vehicles on rent etc.

3.4. Petitioner would contend that details of each Contractor appointed by Petitioner are furnished to Respondent alongwith their separate PF Codes Numbers pursuant to summons for enquiry. Hence, liability, if any, is that of the concerned Contractor and not of Petitioner. This is the defence of the Petitioner.

3.5. It is seen that on 21.01.2020, before the onset of Covid-19 pandemic period, summons for enquiry was issued calling upon Petitioner to furnish information regarding payment of PF contribution for the period 2011 to 2017. Petitioner would contend that during Covid-19 period it was practically impossible to furnish details of

Contractors who were appointed during the aforesaid period and provide all such relevant necessary details for adjudication due to limited staff strength. However despite this, all requisite information as available was furnished to the Enforcement Officer during enquiry.

3.6. At the outset, Ms. Kanani, learned Advocate for Petitioner has straight away drawn my attention to the names and details of Contractors which find mention in the impugned order dated 31.03.2023 passed under Section 7A of the said Act itself. On a headcount it is seen that Petitioner has furnished details of 89 Contractors who carried out work for Petitioner during the said period and in lieu of work contractual payments were released to them. It is seen that these Contractors have their separate PF Code Numbers and admittedly they employed workers to complete their contractual obligations.

3.7. Next, she has drawn my attention to the computation and calculation done by Respondent in the impugned order itself for the aforesaid period which is on internal page Nos.12 to 20 of the order and it is computed on the basis of payments released to Contractors. Her principal grievance in maintaining challenge to the impugned order as also all consequential steps taken thereafter is that liability assessed is foisted in a summary manner on Petitioner without adhering to the principles of natural justice and without considering

Petitioner's case at all. She would submit that apart from the issues on merits, it needs to be considered as to whether Petitioner *per se* would infact be covered by the provisions of the said Act to make the Act applicable to Petitioner in view of Section 16(1) of the said Act as interpreted by the Supreme Court as also by this Court. It also needs to be ascertained and seen whether adequate opportunity is given to Petitioners in the present case to furnish its say and explanation on the alleged Enforcement Officer's Report and whether calculation and computation of outstanding PF amount in the impugned order is done after considering Petitioner's say on the same and after following the due process of law. All these questions are arising in the present case.

3.8. In that context, she has drawn my attention to 3 dates; first date is of issuance of summons dated 21.01.2020 under Section 7A of the said Act. By this summons, Petitioner is directed to appear before Respondent – Authority. It is argued that in response to this summons all available documents and record is submitted by Petitioner to the Authority after entering appearance. Second date is 29.03.2023 which is the date of submission of deposition and Report of the Enforcement Officer appointed by Respondent to Petitioner and Competent Authority for consideration. It is categorically averred that photocopy of the Enforcement Officer's Report was duly received by Petitioner on 29.03.2023, but without its annexures, hence the

computation remained unexplained. The third most crucial date is the date of passing of impugned order which is on 31.03.2023. On this date, impugned order under Section 7A of the said Act is passed by Respondent concluding that substantial opportunity is given to Petitioner despite which it did not furnish the relevant details and explanation, resultantly leading to passing of impugned order on the basis of available record and assessing liability of Rs.4,87,50,071/-.

3.9. From the above 3 dates, she would submit that it is clearly ascertainable that pursuant to submission of Enforcement Officer's Report dated 29.03.2023, Petitioner was given time for one day only i.e. on 30.03.2023 to furnish its say on the Report. That apart, it is averred that copy of Report was given to Petitioner without its annexures or the basis on which liability was determined by Enforcement Officer. She would submit that principles of natural justice ought to have been followed to the hilt in such facts especially while enforcing statutory liability, notwithstanding the fact that liability alleged by Respondent in the Report pertained to workers who were appointed by the Contractors and not by the Petitioner. In all other 7 cases, the time between submission of Enforcement Officer's Report and impugned order ranges from 4 to 5 weeks.

3.10. What is pertinent to be noted in the present case is that when details are furnished by Petitioner pursuant to issuance of

summons on 21.01.2020, and Competent Authority is provided with all details of Contractors alongwith their separate PF Code Numbers, it is incumbent upon the Competent Authority to carry out an appropriate inquiry and investigation by summoning the concerned Contractors whose details are available on record. Rather, admittedly this inquiry is not done at all. Enforcement Officer has prepared Report which finds mention in the impugned order on internal page Nos.12 to 20 wherein substantial details have been stated with respect to outstanding dues of payment towards PF amounts of the workers of Contractors. It is argued that when all relevant details of Contractors viz, their names, addresses and PF Code Numbers are provided by Petitioner to Respondent and cognizance is taken of such information, there is no reason as to why these Contractors / Sub-Contractors are not summoned and inquiry is conducted, rather their liability is foisted on Petitioner being principal employer on the basis of dues released by Petitioner to these Contractors.

3.11. She has vehemently argued that apart from the above dereliction and non-compliance of principles of natural justice, provisions of Section 15(1) readwith Section 16(1)(c) of the said Act do not apply to Petitioner's establishment since Petitioner has already applied General PF Scheme established by the State of Maharashtra to its employees. It is submitted that provisions of Section 16(1)(c)

place an absolute bar on the applicability of the Act to establishments coming within its purview and therefore the purported enquiry under Section 7A of the Act is without jurisdiction and authority of law.

3.12. It is submitted that undue haste is exhibited by Respondent in passing the impugned order dated 31.03.2023 within 2 days of the Enforcement Officer's Report in this case without giving adequate opportunity to Petitioner and this is a clear infringement of the fundamental right of Petitioner to meet Respondent's case and to be heard thereon and therefore the impugned order deserves to be quashed and set aside and all consequential actions need to be revoked.

4. In support of her submissions, Ms. Kanani has referred to and relied upon the ratio in the following decisions:-

- (i) *Yeshwant Gramin Shikshan Sanstha Vs. Assistant Provident Fund Commissioner and Ors.*¹;
- (ii) *City and Industrial Development Corporation Vs. Union of India and Ors.*²;
- (iii) *Rallis India Ltd. Vs. Assistant Provident Fund Commissioner, Nagpur and Anr.*³;
- (iv) *KCP Vs. ITO*⁴;
- (v) *Swadeshi Cotton Mills Vs. Union of India*⁵;

1 (2017) 5 SCC 579

2 WPST No.6164 of 2023 decided on 17.07.2023

3 2013 SCC Online Bom. 1955

4 146 ITR 284

5 AIR 1981 SC 818

(vi) *Himmatlal Vs. State of Madhya Pradesh*⁶;

(vii) *Kuntesh Gupta Vs. Management of Hindu Kanya Mahavidyalaya*⁷;

(viii) *State of Uttar Pradesh Vs. Md. Nooh*⁸

4.1. She would contend that the annexures to and basis of Enforcement Officer's Report ought to have been furnished and Petitioner ought to have been heard thereon. This having not been done and Report dated 29.03.2023 having being taken on record and accepted without calling for say of Petitioner, impugned order passed is therefore in gross violation of the principles of natural justice.

4.2. She would contend that bar of alternate remedy of filing Appeal argued by Respondent against the impugned order should not be countenanced in the gross facts of this case wherein Petitioner has not been given any opportunity to meet the Enforcement Officer's Report and the said Report having been accepted by the Competent Authority for assessment of liability in the impugned order.

4.3. She would submit that as a consequence of the impugned order dated 31.03.2023, prohibitory order dated 26.09.2023 is passed under Section 8F of the said Act whereby bank account of Petitioner in the Union Bank of India has been attached on the instructions of Respondent. Hence she would submit that both impugned orders

6 AIR 1954 SC 403

7 AIR 1987 SC 2186

8 AIR 1958 SC 86

dated 31.03.2023 and 26.09.2023 be quashed and set aside. She has advanced similar submissions in the remaining 7 Petitions and sought for setting aside of the impugned orders therein.

5. *PER-CONTRA*, Mr. Rattesar, learned Advocate for Respondent in his response to Ms. Kanani would submit that the Writ Petition be dismissed *in limine* on the ground of availability of alternate remedy under section 7-I of the said Act. He would submit that Petitioner can file statutory Appeal to challenge the impugned order before CGIT. On applicability of Section 16 of the said Act to Petitioner, he would submit that Section 1(3)(b) of the Act empowers the Central Government to apply provisions of the said Act to any establishment or class of establishments, other than the ones mentioned in Schedule I of the said Act. He would submit that Municipal Council and Municipal Corporations are established in all States under respective State legislations and hence Section 16 of the said Act cannot be interpreted as not applicable to Petitioner. He would submit that Gazette Notification No. S.O. 30(E) dated 08/01/2011 has brought all Municipal Councils and Municipal Corporations under purview of the said Act w.e.f. 08.01.2011.

5.1. Next, he would submit that Petitioner cannot be entitled for exemption under clause (b) and (c) of Section 16 of the said Act as it is deemed to provide social security to all its employees viz.

regular, contractual, casual, etc. as the said Act entitles all employees engaged directly or through Contractor of an establishment to be covered for social security. He would submit that it is immaterial for the purpose of exemption under Section 16(1) of the said Act that regular employees are getting benefit of PF and pension under the Municipal Act in accordance with the Scheme and Rules framed by them. That exemption clause under Section 16(1) of the said Act is to be read in a larger perspective bearing in mind the intention of the Parliament. He would submit that the said Act is therefore squarely applicable to the Petitioner.

5.2. He would submit that Circular dated 08.01.1989 provides that casual / contingent staff of an establishment will continue to be covered under the said Act. He has drawn my attention to the instructions issued by the Ministry of Labour and Employment, Government of India to the Central Provident Fund Commissioner by letter bearing No. S-35025/15-88-SS-II dated 08.01.1989 and more particularly clause (iv) thereof being relevant which is reproduced below:-

“

(iv) there may be establishment which employs large number of casual / contingent staff who are not entitled to the benefit of provident fund or pension. The casual / contingent staff of such establishment will continue to be covered under the Act, but their regular employees who are entitled to the benefit of provident fund pension should be excluded from the purview of the Act.”

5.3. He would submit that as per provisions of the said Act, Petitioner is duty bound to inform Respondent all details of dues paid to its Contractors and the workers of Contractors. He would submit that in the present case during the course of hearing on 09.03.2023, authorized representative of Petitioner was directed to submit all such relevant record, list of Contractors, work orders, details of payments made to Contractors, attendance register / muster roll, payment register / pay bills, cash voucher book for the enquiry period before the Enforcement Officer. He would submit that thereafter despite giving adequate opportunities to Petitioner on 19.05.2022, 16.06.2022, 25.08.2022, 22.09.2022, 10.11.2022, 05.01.2023 and 09.03.2023, it did not produce the relevant records, hence on the basis of available record Respondent has rightly proceeded to pass order dated 31.03.2023 and determined the assessment proceedings.

5.4. He would submit that as per provisions of Section 30(3) of the said Act, Petitioner being principal employer is duty bound to not only pay contribution of employees directly employed by it but is also responsible for liability of employees employed by or through Contractors. That it is responsibility of principal employer i.e. Petitioner to maintain all records in respect of all contract employees and pay their statutory dues if the same remain unpaid by Contractors who employ them.

5.5. He would submit that the said Act is a beneficial piece of legislation enacted for benefit and betterment of all employees, therefore it is statutory obligation of principal employer to ensure that employees are not deprived of statutory benefit. He would submit that liability of Rs.4,87,50,071/- is towards outstanding PF dues of the contractual employees and this Court should therefore direct deposit of at least 50% of the said dues with Respondent if Petitioner's case is to be considered on merits.

5.6. In support of his above submissions, he has referred to and relied upon the ratio of the following decisions:-

- (i) *Pawan Hans Limited and Others Vs. Aviation Karamchari Sanghtana and Others.*⁹;
- (ii) *Regional Provident Fund Commissioner Vs. Shibu Metal Workers*¹⁰;
- (iii) *NTP Corporation Ltd. Vs. RPFC*¹¹;
- (iv) *Yashwant Gramin Shikshan Sansthan Vs. Provident Fund Commissioner*¹²;
- (v) *Regional Provident Fund Commissioner Vs. Sanatan Dharam Girls Secondary School and Ors.*¹³;
- (vi) *RPFC Vs. Hooghly Mill Co. Ltd.*¹⁴;

9 (2020) 13 SCC 506
 10 1964-65 (27) FJR 491
 11 1998 (2) CLJ
 12 (2017) 3 SCC 579
 13 (2007) 1 SCC 268
 14 (2012) 2

(vii) ***Kulgaon Badlapur Nagar Parishad Vs. Regional
Provident Fund Commissioner II***¹⁵.

6. I have heard Ms. Kanani, learned Advocate for the Petitioner – Matheran Municipal Council and Mr. Rattesar, learned Advocate for the Respondent and with their able assistance perused the pleadings and record of all cases. Submissions made by the learned Advocates have received due consideration of this Court.

7. In the present case it is admittedly seen that substantive impugned order dated 31.03.2023 is passed under Section 7A of the said Act within two days of submission of Enforcement Officer's Report dated 29.03.2023. Assessment of Rs. 4.87 crore stands determined on the basis of computation and calculation prepared by Enforcement Officer in his Report on the basis of available record which finds place in the impugned order. It is argued by Petitioner that copy of EO's Report was duly served on Petitioner on 29.03.2023 without its annexures or the material and basis on which the said Report was prepared by him. Opportunity to meet EO's Report is admittedly not given to Petitioner as within 2 days, order of assessment is passed. Perusal of impugned order reveals one startling thing. It notes that adequate opportunity is given to Petitioner and lists certain dates on which such adequate opportunity was given. These dates are 13.12.2021, 03.01.2022, 22.02.2022, 03.03.2022, 31.03.2022 and

¹⁵ WP No. 4973 of 2021

27.04.2022 (six dates). *Prima facie*, it is seen that all these dates of opportunity having been given to Petitioner are prior to EO's Report dated 29.03.2023. This however goes against the basic tenets of the principles of natural justice. It has been time and again reiterated by the Supreme Court that statutory Authorities are required to furnish material on the basis of which assessment orders are passed so as to enable the assessee to meet the case of the Department before assessment orders are passed. This is one such case where Report of Enforcement Officer dated 29.03.2023 is considered in its entirety by the Competent Authority in the impugned order for assessment of outstanding PF contribution of Rs.4.87 crore against Petitioner, but Petitioner is denied the opportunity to contest the same.

8. Petitioner is a Municipal Council. As noted above, Petitioner appoints Contractors to undertake its various works on short term or long term basis. In the present case, it needs to be considered that almost all Contractors appointed by Petitioner are having their separate PF Code Numbers which clearly imply that workers employed by these Contractors are appointed by them on their roll and are not direct employees of Petitioner. This is so because if Contractors have their individual Provident Fund Code Numbers, then they are directly responsible for payment of PF contribution of their workers to the Department and liability in such a case cannot be foisted on Petitioner

as principal employer. Hence Competent Authority ought to have undertaken an enquiry by issuing notice or summons to the concerned Contractors whose entire details are furnished by Petitioner during inquiry. Further after computation it would be incumbent upon the Department to furnish the data and basis on which EO's Report is prepared and finalized as it stands accepted fully. The table appended on internal page Nos.12 to 20 of the impugned order gives a detailed summary of liability computed and calculated by Enforcement Officer in this case which is accepted. The basis on which such calculation and computation is arrived at is admittedly not furnished to Petitioner. This having not been done and the impugned order having been passed within a period of two days from the date of Enforcement Officer's Report, the same cannot be sustained and deserves to be therefore interfered with. However, as referred to and alluded to above, a more fundamental question needs to be answered, and that is the method of inquiry undertaken by the Authority under Section 7A in such cases. This is so felt because a large number of government / semi-government bodies and principal employers are likely to be affected in similar facts and hence the exercise is undertaken by this Court to lay down certain principles for inquiry and regulations as considered fit in the interest of all parties.

9. The aforesaid facts constitute the *lis* which has arisen and are required to be considered. Directions are required to be given in view of the fact that similar cases may in the future cover various other Municipal Councils / Corporations who may find themselves in a similar situation. Hence to put to rest all questions that may arise for the purpose of statutory adjudication and determination of such assessment, it is considered necessary to lay down guidelines and principles in respect of such assessment and enquiry under Section 7A of the said Act.

10. In this regard, a decision of the Delhi High Court in the case of *Central Board of Trustees (EPFO) Vs. Era Infra Engineering Ltd.*¹⁶ is extremely helpful. The facts in that case are infact absolutely identical to the facts in the present cases. In that case, Respondent – Company was an establishment covered under the provisions of the said Act and was allotted PF Code Number. It received a letter seeking inspection from the office of EPFO regarding evasion of dues in compliance with the provisions of the said Act by the Contractors of the Respondent - Establishment. It was reported that PF benefits were not extended by Respondent - Establishment to all eligible employees who were working on different projects / sites of the Establishment and just as in the present cases, notice under Section 7A of the said Act was issued to furnish details for the period between April 2008 to

16 2022 SCC Online Del 1643

March, 2012. In the Reply filed by Respondent - Establishment, it was stated that it had engaged a large number of Contractors for its different projects all over India, of which, only 8% to 10% were independently covered under the said Act, whereas the remaining were not covered and no PF Code Number was provided by the Respondent - Establishment. In so far as the present cases are concerned, there is a slight difference as almost all Contractors engaged by the Petitioners herein have been provided with their own separate PF Code Number. This necessarily means that the concerned Contractor would therefore be wholly liable for payment of PF dues on the wage / labour component paid by the Establishment to the Contractor. Thus in the present group of cases, if such information was placed before the Department then all that was required to be done was to conduct an inquiry by summoning the Contractors. In the case before the Delhi High Court, Adjudicating Authority under Section 7A held that the Establishment was liable to pay the PF and allied dues in respect of the employees, whether they were employed directly or indirectly through the Contractors. The Establishment in that case filed a Statutory Appeal provided under Section 7-I of the said Act before the Tribunal. Tribunal gave time to the Department to file their reply but since the reply was not forthcoming, it proceeded in passing the impugned order by setting aside the adjudication and assessment order passed by the Department. In the High Court

Department argued on the basis of applicability of the provisions of paragraph 30(3) of the Employees Provident Fund Scheme, 1952 (for short “**EPF Scheme**”) which lays down that it shall be responsibility of the principal employer to pay both, the contribution payable by himself in respect of the employees directly employed by him and also in respect of the employees employed by or through the Contractor. The Department further argued that paragraph 36B of the EPF Scheme required that every Contractor shall, within 7 days of the close of every month, submit to the principal employer a statement showing recovery of the contribution in respect of employees employed by or through him and therefore it was the duty of the principal employer to report to the Department if there was any dereliction on the part of the Contractor. Other submissions were also advanced and decisions of various High Courts were relied upon by the Department to challenge the order of the Tribunal. The principal submission was rebutted by the Respondent - Establishment on the ground that once the Contractors were identified by the Establishment, then an inquiry was mandated for adjudication as to whether the Contractors had paid the contribution in respect of workers employed by them directly.

11. The question that was therefore required to be answered was whether adjudication by the Authority was proper or otherwise, since this was a clear case where the work had been admittedly

outsourced to Contractors against payment of lumpsum amount and whether such outsourced work carried out by Contractors / Sub-Contractors would be calculable in the account of the Respondent – Establishment. Another question raised was that once it was found as a matter of fact that Respondent - Establishment was only making a lumpsum payment to the Contractors as per its contractual obligation, then whether the said Contractors / Sub-Contractors could be said to be covered under the said Act, since they were provided with separate PF Code Numbers and in that case whether the Establishment can be held liable for such liability. It was argued by the Establishment before the Delhi High Court that provisions of paragraphs 30(3) and 36B of the EPF Scheme would apply only if a finding is returned that the Establishment is the principal employer and Contractors are mere agents and the principal employer has paid workers' salary directly for fastening of liability on the principal employer. Hence once names, details and PF Code Numbers of all Contractors are disclosed, then it is the duty of the Adjudicating Authority to summon the Contractors and seek their attendance for the purpose of inquiry. This was not done. Only a presumptive assessment was made on the basis of labour charges paid to Contractors as lumpsum and this defied all rationale considering that the Contractors had outsourced workers under their contractual obligation and these workers were their direct employees and had no nexus with the principal employer.

11.1. The Delhi High Court set aside both orders, of the Tribunal as well as Adjudicating Authority and remanded the matter back to the Adjudicating Authority for fresh inquiry by directing impleadment and summoning the Contractors for producing necessary records and documents and thereafter proceed in accordance with law for determining the assessment and dues, after analysing the following decisions passed by the Supreme Court:-

- (i) *Bharat Sanchar Nigam Ltd. Vs. Union of India*¹⁷;
- (ii) *Himachal Pradesh State Forest Corporation Vs. Regional Provident Fund Commissioner*¹⁸;
- (iii) *Food Corporation of India Vs. Provident Fund Commissioner*¹⁹; and
- (iv) *ESIC Vs. Harrison Malayalam Pvt. Ltd.*²⁰

12. I would like to go through the gist of the aforesaid 4 decisions so as to determine a clear procedure about adjudication of the *lis* in such type of cases as are the present cases.

12.1. In the case of *Bharat Sanchar Nigam Ltd.* (17th supra) it was observed by the Court that the Establishment therein had failed to provide the record seeking compliance from the Contractors, but it held that the Commissioner under Section 7A of the said Act was mandated to conduct a proper enquiry as per the statutory powers

17 2015 SCC Online Pat 248

18 (2008) 3 SCC 247

19 (1990) 1 SCC 68

20 (1993) 4 SCC 361

given in the relevant section, in which he failed. It was contended that the Adjudicating Authority has powers akin to that of a Civil Court under the Code of Civil Procedure, 1908, to collect relevant information, enforce attendance of a person, to examine on oath, for discovery and production of documents, but had failed to exercise such power and had passed an order based on the balance sheet without even ascertaining the beneficiaries for whom the demand was made. That apart, it was argued that the Supreme Court in the case of *Himachal Pradesh State Forest Corporation* (18th supra) has clearly held that amounts due from the Corporation will be determined only with respect to those employees who are identifiable and whose entitlement can be proved on the basis of evidence. That in the absence of proper ascertainment of employees who are allegedly entitled to the dues, the Commissioner cannot unjustly enrich himself at the cost of the Establishment.

12.2. In the case of *Food Corporation of India* (19th supra) it was held that the question before the Court was not whether one has failed to produce evidence. The question was whether the Commissioner who is the statutory Authority has exercised powers vested in him to collect the relevant evidence before determining the amount payable under the said Act. That it is of importance to remember that the Commissioner while conducting inquiry under

Section 7A has the same powers as are vested in a Court under the Code of Civil Procedure, 1908 for trying a Suit.

12.3. In the case of *ESIC Vs. Harrison Malayalam Pvt. Ltd.* (20th *supra*) Supreme Court considered a similar situation i.e., whether employees of the Contractor engaged by Respondent Company to execute certain contract works were covered by the said Act and whether contribution was payable although contract was completed much prior to the demand for contribution made by the Corporation. In that case as well, both the Authorities i.e., the Insurance Court and the High Court held against the Corporation on the ground that workers in respect of whom contribution was demanded were casual employees of the Contractor and since contract was over long ago, they were not identifiable. The Supreme Court rejected the plea by stating that it was the duty of the Respondent Company to get necessary details of workmen employed by the Contractor on the commencement of the Contract since the primary responsibility of payment of the contribution is on the principal employer. On the admitted fact that the Respondent Company had engaged the Contractor to execute the work, it was also the duty of the Respondent Company to get the temporary identity certificates issued to the workmen as per the provisions of Regulations 12, 14 and 15 of the Employees' State Insurance (General) Regulations, 1950 and to pay

the contribution as required by Section 40 of the ESI Act. Since the Respondent Company failed in its obligation, it could not be heard to say that the workers were unidentifiable. It was within the exclusive knowledge of the Respondent Company as to how many workers were employed by its Contractor. If the Respondent Company failed to get the details of the workers employed by the Contractor, it had only itself to thank for its default. Since the workmen in fact were engaged by the Contractor to execute the work in question and the Respondent Company had failed to pay the contribution, the Corporation was entitled to demand the contribution, although both the contribution period and the corresponding benefit period had expired. Supreme Court also held that the Scheme under the said Act for insuring the workmen for conferring on them benefits in case of accident, disablement, sickness, maternity etc is distinct from the contract of insurance in general which is more akin to group insurance. It held that the contribution paid entitles the workman / insured to benefit under the Act. However, he does not get any part of the contribution back if during the benefit period, he does not qualify for any of the benefits. The contribution made by him and by his employer is credited to the insurance fund created under the said Act and it becomes available for others or for himself, during other benefit period, if he continues in employment.

12.4. That there is no relation between contribution made and the benefit availed of. The contribution is uniform for all workmen and is a percentage of the wages earned by them. It has no relation to the risks against which the workmen stood statutorily insured. It is for this reason that the said Act envisages automatic obligation to pay the contribution once the factory or the establishment is covered by the Act, and the obligation to pay the contribution commences from the date of the application of the Act to such factory or establishment. The obligation ceases only when the Act ceased to apply to the factory / establishment. The obligation to make contribution does not depend upon whether the particular employee or employees ceases to be employed after the contribution period and the benefit period expire.

12.5. In that case, the facts which arose for consideration were that Food Corporation of India, having depots located at various places in Rajasthan for handling, storing and transporting foodgrains and other articles, appointed Contractors for execution of various works and the Contractors in turn engaged some workers. In respect of such workers, the Provident Fund Commissioner called upon the Corporation to deposit contribution payable under the said Act and the Scheme framed thereunder. When there was non-compliance, the Commissioner made an order under Section 7A of the said Act determining the amount payable by the Corporation. Being aggrieved

by the determination, Corporation approached the High Court. The High Court dismissed the Petition. The grievance of the Corporation before the Supreme Court was that it was denied reasonable opportunity to produce material in proof of identification of the workers in respect of whom the contribution was payable. It was urged that the contractors are in possession of the relevant lists and the Commissioner neither gave notice to Contractors nor made them parties to the proceedings despite repeated requests made by the Corporation. The case set up by the workmen was that under the provisions of the Contract Labour (Regulation and Abolition) Act, 1970, the Corporation being the principal employer had to maintain list of workers; that it failed to produce such list and, therefore it could not shift the burden on the Contractors to prove the case. Supreme Court was of the view that the total amount ordered to be payable came to about Rs.22,48,000/- in respect of the employees of depots namely in Udaipur, Jaipur, Ajmer, Barmer and Sawai Madhopur. The Court held that it is indeed a large amount, for the determination of which the Commissioner has only depended upon the lists furnished by the workers' union. It held that it is no doubt true that the employer and Contractors are both liable to maintain registers in respect of the workers employed. But the Corporation seems to have some problems in collating the lists of all workers engaged in depots scattered at different places. It had requested the Commissioner to summon the

Contractors to produce the respective lists of workers engaged by them. Commissioner did not summon the Contractors to ascertain the lists maintained by them. Supreme Court was of the view that the question was not whether one failed to produce evidence, but whether the Commissioner who is the statutory Authority had exercised powers vested in him to collect the relevant evidence before determining the amount payable under the said Act. The Supreme Court referred to Section 7A of the said Act and was clearly of the view that the Commissioner is authorized to enforce attendance in person and also to examine any person on oath. He has the power requiring discovery and production of documents. The said power is given to the Commissioner to decide not abstract questions of law, but only to determine actual concrete differences in payment of contribution and other dues by identifying the workmen. The Commissioner should exercise all his powers to collect all evidence and collate all material before coming to a proper conclusion. Supreme Court was of the view that it is the legal duty of the Commissioner and non-adherence of which would be a failure to exercise the jurisdiction, particularly when a party to the proceedings requests for summoning evidence from a particular person. A similar request has also been made by the Writ Petitioners for summoning the Contractors which has not been done by the Department in the present bunch of cases.

13. Though there are various other grounds agitated by Ms. Kanani on the issue of maintainability as also on the basis of details of contractors which are furnished by Petitioner to Respondent, I am not inclined to adjudicate on those issues as I leave it for the concerned Competent Authority to decide the same, leaving all contentions of parties i.e. Petitioner – Matheran Municipal Council and Respondent expressly open for adjudication after ascertaining all details on summoning the Contractors.

14. Coming to the facts of the present case, perusal of impugned order rather reveals startling facts and they are required to be delineated herein under:-

14.1. The order is dated 31.03.2023. It states that summons under Section 7A was issued to Petitioner on 20.02.2020 to determine quantum of dues i.e. PF, employees' pension fund, insurance fund in accordance with the provisions of the said Act read with the EPF Scheme, the Employees' Pension Scheme, 1995 and the Employees' Deposit Linked Insurance Scheme, 1976. Petitioner was called upon to appear before Authorized Officer on 27.02.2020 along with supporting documents and records. On that date, Enforcement Officer was deputed to file his deposition as per powers vested under Section 13 read with Section 7A of the said Act after examining all relevant records and details. This is important and crucial. This necessarily

entailed that after issuance of summons, Petitioner was required to furnish requisite relevant details and an inquiry ought to have been undertaken to determine the liability.

14.2. First hearing was held on 27.02.2020. From the impugned order, it is seen that between 27.02.2020 and 31.03.2023, 41 hearings are held, most of them online due to the onslaught of Covid 19 pandemic during that time. Be that as it may, it is delineated in the impugned order that on most occasions hearings had to be adjourned due to some reason or the other. It is seen that at least on six occasions, Authorized Officer called upon Petitioner to furnish details as required by Enforcement Officer during hearings and these relevant details were not given by Petitioner is the allegation. However it is seen and also an admitted position that Petitioner has given substantial details namely details of Contractors, amounts paid to them, their individual PF Code Numbers etc. but it is contention of Respondent that Petitioner ought to have submitted further details of salary and attendance sheet, bills and invoices, balance sheet, ledgers etc. of the Contractors who had employed the workers. It is the case of Respondent that Petitioner failed to submit complete details and records. It needs to be understood that assessment pertains to the workers employed by Contractors and not Petitioner. If that be the case, then the salary and attendance sheets for these workers

employed by Contractor could only be furnished by Contractors. This is precisely what the Petitioner sought from the Respondent during inquiry. Once Petitioner submitted all details regarding the Contractors and PF Code Numbers, works, amounts paid, etc. to the Respondent, all that the Respondent was required to do was to undertake the inquiry by summoning the Contractors and seek precise details. As observed above, 41 hearings were held over a period of little over 3 years by Respondent and it is concluded that there is no other alternative except to calculate the PF amount on the basis of available records submitted by Petitioner and assessment is finalized. This is precisely what is objected to by Petitioner. Further, it is seen that Report of Enforcement Officer dated 29.03.2023 computing assessment of liability is tabled before Respondent for the first time only on 29.03.2023 i.e. during the 40th hearing and within two days thereafter, the impugned order of assessment is passed. In that view of the matter, if the Enforcement Officer, had prepared the Report on the basis of available documents submitted by Petitioner, copy of the same along with its basis ought to have been furnished to Petitioner and a reasonable time should have been given to Petitioner to consider the same. This also having not been done, the impugned order cannot be sustained at all. The repercussions of non-compliance of the impugned order by the Assessee are extremely harsh and severe, hence it is incumbent that procedure under Section 7A of the said Act

and principles of natural justice are followed to the hilt. The impugned order proceeds on the basis of foisting liability on the principal employer i.e. Petitioner. In the impugned order, all details of the Contractors as also all other account details have been mentioned. The impugned order proceeds on the basis that Respondent has applied his mind to all relevant facts and holds that Petitioner was given sufficient time and opportunity. However, it is clearly seen that if it was Petitioner's case and requisition that the liability pertained to workers of Contractors, Respondent should have taken steps to ascertain and conduct appropriate inquiry in that direction by summoning the Contractors. This having not been done and applying the ratio of the decisions of the Supreme Court discussed by me herein above, the impugned order deserves to be quashed and set aside with consequential directions.

15. In view of the above observations and findings, the impugned order dated 31.03.2023 stands quashed and set aside.

16. It is directed that proceedings initiated under Section 7A of the said Act shall be heard afresh by the Competent Authority i.e. Respondent and the same shall only be done after undertaking an appropriate inquiry and investigation by summoning the Contractors to ascertain the details of payments of PF contribution paid by them through their PF Code Numbers and seeking all requisite details from

them and only thereafter Report of the Enforcement Officer be called for and Petitioner be furnished with the Report and annexures and computation of determination of liability by the Enforcement Officer and after giving an opportunity to Petitioner to rebut the same and hearing the Petitioner on the EO's Report and only then a speaking order be passed.

17. It is directed that in the fresh hearing to be undertaken, it shall be open to Petitioner to make appropriate Application to the Respondent for issuance of summons to the concerned Contractors who have been provided with their separate PF Code Numbers or otherwise for inquiry to determine liability or payment of PF contribution that has remained outstanding in respect of their workers. If any such Application is made by Petitioner the same shall be dealt with by Respondent strictly in accordance with law. Needless to state that in the present case, the EO's Report dated 29.03.2023 is also quashed and set aside.

18. In view of the above directions and setting aside of the impugned order dated 31.03.2023 and Enforcement Officer's Report dated 29.03.2023, consequential order dated 26.09.2023 passed under Section 8F of the said Act is also quashed and set aside. Any other prohibitory / coercive order issued by Respondent as a consequence of the impugned order dated 31.03.2023 stands quashed

and set aside. Though Bank account of Petitioner is attached, no amounts have been recovered. Hence attachment on the Bank account of the Petitioner is lifted. Though Union Bank of India is not a party to the Petition, it is directed to release the Bank account of Petitioner which it has attached on communication received from Respondent. Union Bank of India shall take immediate cognizance of this judgment and order and comply with the directions contained herein and release the said account of the Petitioner.

19. Writ Petition No. 15200 of 2023 is allowed and disposed.

20. The above judgment in Writ Petition No. 15200 of 2023 covers the following cases fully. Some additional facts are noted in those cases and directions for a fresh inquiry under Section 7A of the said Act shall apply in all these cases also.

WRIT PETITION NO. 12651 OF 2023

21. Here, Petitioner is Panvel Municipal Corporation. Period for which assessment is finalized is from 08.01.2011 to 31.03.2016 and final liability assessed is Rs.37,48,79,919/- as due and payable by Petitioner under Section 7A of the said Act towards payment of outstanding PF dues. In this case, notice under Section 7A of the said Act dated 01.01.2020 was issued to the Petitioner and 33 hearings were held before the Authorized Officer. On 27.04.2023, Enforcement Officer submitted his Report. Thereafter on 31.05.2023 impugned

order was passed on the basis of that report. The order was challenged in Review proceedings under Section 7B of the said Act before the Respondent but by order dated 26.09.2023 the Review was rejected. As a consequence of the above twin impugned orders, two prohibitory orders both dated 09.10.2023 under Section 8F of the said Act are issued whereby two bank accounts held by Petitioner in Bank of India, Panvel Branch have been attached on instructions of the Respondent. However no recovery has been done. Hence in view of the above judgment in Writ Petition No. 15200 of 2023 covering the field, the EO's Report dated 28.04.2023 and impugned orders dated 31.05.2023 and 26.09.2023 are clearly not sustainable and are quashed and set aside. Prohibitory orders both dated 09.10.2023 are quashed and set aside. The procedure of fresh inquiry under Section 7A of the said Act shall be followed in this case as determined above and Respondent shall pass a fresh order after following the due process of law.

21.1. Writ Petition No. 12651 of 2023 is allowed and disposed.

WRIT PETITION (ST) NO. 27778 OF 2023

22. Here once again Petitioner is Panvel Municipal Corporation. Period for which assessment has been effected is from 01.04.2016 to 30.11.2019 and final liability assessed is Rs.63,73,48,647/- as due and payable by Petitioner under Section 7A

of the said Act towards payment of outstanding PF dues. In this case, notice under Section 7A of the said Act dated 01.01.2020 was issued to the Petitioner and 34 hearings were held before the Authorized Officer. On 27.04.2023, Enforcement Officer filed his Report. Thereafter on 31.05.2023 impugned order was passed on the basis of that Report. The said order was challenged in Review proceedings under Section 7B of the said Act before the Respondent but by order dated 26.09.2023 the said Review Application was rejected. No recovery has been made. The EO's Report dated 27.04.2023 and impugned orders dated 31.05.2023 and 26.09.2023 are clearly not sustainable and are quashed and set aside. The procedure of fresh inquiry under Section 7A of the said Act shall be followed in this case as determined above and Respondent shall pass a fresh order.

23. Writ Petition (St) No. 27778 of 2023 is allowed and disposed.

WRIT PETITION (ST) NO. 28213 OF 2023

24. Here, Petitioner is Alibag Municipal Council. Period for which assessment is finalized is from 01.05.2016 to 30.11.2019 and final liability assessed is Rs.3,08,67,541/- as due and payable by Petitioner under Section 7A of the said Act towards payment of outstanding PF dues. In this case, notice under Section 7A of the said Act dated 02.01.2020 was issued to the Petitioner and 32 hearings

were held before the Authorized Officer. On 30.03.2023, Enforcement Officer filed his Report. Thereafter on 28.04.2023 impugned order was passed on the basis of that Report. Petitioner in this case has filed statutory Appeal before the Central Government Industrial Tribunal, Mumbai and the same is pending adjudication owing to non-availability of the Presiding Officer. As a consequence of the above impugned order, prohibitory order dated 09.10.2023 under Section 8F is issued whereby bank account of Petitioner in Bank of India, Alibag Branch has been attached on the instructions of Respondent. No recovery has been made. The EO's Report dated 30.03.2023 and orders dated 28.04.2023 and 09.10.2023 are clearly not sustainable and are quashed and set aside. The procedure of fresh inquiry under Section 7A of the said Act shall be followed in this case as determined above and Respondent shall pass a fresh order. In view of the above, the Appeal before CGIT is directed to be withdrawn as being infructuous.

24.1. Writ Petition (St) No. 28213 of 2023 is allowed and disposed.

WRIT PETITION (ST) NO. 28214 OF 2023

25. Here, once again Petitioner is Alibag Municipal Council. Period for which assessment has been effected is from 08.01.2011 to 30.04.2016 and final liability assessed is Rs.2,79,93,450/- as due and

payable by Petitioner under Section 7A of the said Act towards payment of outstanding PF dues. In this case, notice under Section 7A of the said Act dated 02.01.2020 was issued to the Petitioner and 29 hearings were held before the Authorized Officer. On 30.03.2023, Enforcement Officer filed his Report. Thereafter on 28.04.2023 impugned order was passed on the basis of that Report. Petitioner in this case has filed statutory Appeal before the Central Government Industrial Tribunal, Mumbai and the same is pending adjudication owing to non-availability of the Presiding Officer. As a consequence of the above impugned order, prohibitory order dated 09.10.2023 under Section 8F is issued whereby bank account of Petitioner in the Bank of India, Alibag Branch has been attached on the instructions of Respondent. No recovery has been made. The EO's Report dated 30.03.2023 and orders dated 28.04.2023 and 09.10.2023 are clearly not sustainable and are quashed and set aside. The procedure of fresh inquiry under Section 7A of the said Act shall be followed in this case as determined above and Respondent shall pass a fresh order. In view of the above, the Appeal before CGIT is directed to be withdrawn as being infructuous.

25.1. Writ Petition (St) No. 28214 of 2023 is allowed and disposed.

WRIT PETITION (ST) NO. 28777 OF 2023

26. Here Petitioner is Pen Municipal Council. Period for which assessment is from 08.01.2011 to 30.09.2015 and final liability assessed is Rs.55,89,084/- as due and payable by Petitioner under Section 7A of the said Act towards payment of outstanding PF dues. During the period of inquiry, an amount of Rs.1,05,270/- is voluntarily deposited by Petitioner. It shall be held and adjusted subject to the final order passed afresh. In this case, notice under Section 7A of the said Act dated 01.01.2020 was issued to the Petitioner and 30 hearings were held before the Authorized Officer. On 29.03.2023, Enforcement Officer filed his Report. Thereafter on 28.04.2023 impugned order was passed on the basis of that Report. As a consequence of the above impugned order, prohibitory order dated 26.09.2023 under Section 8F of the said Act was issued whereby bank account of Petitioner in Bank of India, Pen Branch has been attached on the instructions of Respondent and recovery of Rs. 63,83,814/- is already effected from the Bank account in this Writ Petition and Writ Petition (L) No. 28778 of 2023. Being aggrieved by the above, Petitioner has filed statutory Appeal before the Central Government Industrial Tribunal, Mumbai and the same is pending adjudication owing to non-availability of the Presiding Officer. In view of the judgment passed in Writ Petition No. 15200 of 2023, the amount of

Rs. 63,83,814/- that is recovered forcibly by Respondent shall be returned back to Petitioner by Respondent within two weeks from today. The EO's Report dated 29.03.2023 and orders dated 28.04.2023 and 26.09.2023 are clearly not sustainable and are quashed and set aside. The procedure of fresh inquiry under Section 7A of the said Act shall be followed in this case as determined above and Respondent shall pass a fresh order. In view of the above, the Appeal before CGIT is directed to be withdrawn as being infructuous.

26.1. Writ Petition (St) No. 28777 of 2023 is allowed and disposed.

WRIT PETITION (ST) NO. 28778 OF 2023

27. Here, once again Petitioner is Pen Municipal Council. Period for which assessment has been effected is from 01.10.2015 to 30.11.2019 and final liability assessed is Rs.1,31,42,160/- as due and payable by Petitioner under Section 7A of the said Act towards payment of outstanding PF dues. It is seen that during the period of inquiry, an amount of Rs.58,52,164/- was deposited by the Petitioner voluntarily. In this case, notice under Section 7A of the said Act dated 01.01.2020 was issued to Petitioner and 30 hearings were held before the Authorized Officer. On 29.03.2023, Enforcement Officer filed his Report. Thereafter on 28.04.2023 impugned order was passed. As a consequence of the above impugned order, prohibitory order dated

26.09.2023 under Section 8F is issued whereby bank account of the Petitioner in Bank of India, Pen Branch has been attached on the instructions of Respondent. Being aggrieved by the above, Petitioner challenged the impugned order before the Central Government Industrial Tribunal, Mumbai and the same is pending adjudication owing to non-availability of the Presiding Officer. In view of the judgment passed in Writ Petition No. 15200 of 2023, the amount of Rs. 58,52,164/- which was deposited by the Petitioner shall be adjusted and / or refunded subject to the fresh order that will be passed by the Respondent. The EO's Report dated 28.03.2023 and orders dated 28.04.2023 and 26.09.2023 are clearly not sustainable and are quashed and set aside. The procedure of fresh inquiry under Section 7A of the said Act shall be followed in this case as determined above and Respondent shall pass a fresh order. In view of the above, the Appeal before CGIT is directed to be withdrawn as being infructuous.

27.1. Writ Petition (St) No. 28778 of 2023 is allowed and disposed.

WRIT PETITION (ST) NO. 29110 OF 2023

28. Here, Petitioner is Karjat Municipal Council. Period for which assessment is finalized is from 08.01.2011 to 31.03.2017 and liability assessed is Rs.1,64,52,159/- as due and payable by Petitioner under Section 7A of the said Act towards payment of outstanding PF

dues. In this case, notice under Section 7A of the said Act dated 21.01.2020 was issued to the Petitioner and 45 hearings were held before the Authorized Officer. On 28.03.2023, Enforcement Officer filed his Report. Thereafter on 31.03.2023 impugned order was passed. As a consequence of the above impugned order, two prohibitory orders dated 26.09.2023 and 09.10.2023 under Section 8F of the said Act were issued whereby bank account of the Petitioner in Union Bank of India, Karjat Branch has been attached on the instructions of Respondent. As a consequence of the aforesaid, two amounts of Rs.78,33,212/- from the Employees Salary Reserve Fund and an amount of Rs.85,65,887/- from the account of 14th Finance Commission have been recovered forcibly. In view of the judgment passed in Writ Petition No. 15200 of 2023, since the amount of Rs. 1,64,52,159/- is recovered forcibly by Respondent, it shall be returned back to the Petitioner within two weeks from today. The EO's Report dated 28.03.2023 and orders dated 31.03.2023, 26.09.2023 and 09.10.2023 are clearly not sustainable and are quashed and set aside. The procedure of fresh inquiry under Section 7A of the said Act shall be followed in this case as determined above and Respondent shall pass a fresh order.

28.1. Writ Petition (St) No. 29110 of 2023 is allowed and disposed.

29. In view of reasoned judgment passed in Writ Petition No.

15200 of 2023 herein above and the same covering the other seven Writ Petitions also, it is seen that in some of the cases on the direction of Respondent, the Bank Accounts of Petitioners are attached or frozen and recovery has also been effected forcibly in some cases. Necessary directions in that regard are already given for lifting of attachment of the Bank Accounts of Petitioners and return of the amounts which have been recovered forcibly. Banks are not parties to the present Writ Petitions. Hence all those Banks who have acted on instructions received from Respondents or due to prohibitory orders which have all been set aside by this judgment are directed to take cognizance of this judgment and accordingly lift the attachment from the Bank Accounts of Petitioners. All Banks are directed to act on an authenticated copy of this judgment with immediate effect since Petitioners are public bodies.

30. With the above directions, observations and findings, all above captioned Writ Petitions are allowed and disposed.

[MILIND N. JADHAV, J.]

Ajay

RAVINDRA
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Digitally signed
by RAVINDRA
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