



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

WRIT PETITION NO.3997/2023

A.P.M.C., Arjuni Morgaon .vs. Asstt. Provident Fund Commissioner, R.O. Nagpur.

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

Court's or Judge's orders

Mr. O. A. Ghare, Advocate for petitioner.

Mr. R. K. Maheshwari, Advocate for respondent.

CORAM : ANIL L. PANSARE, J.

DATE : NOVEMBER 21, 2024

Counsel for the respondent submits that alternate remedy is available to petitioner under Section 7-I of the Employees Provident Funds and Miscellaneous Provisions Act, 1952, before the Central Government Industrial Tribunal, Nagpur, which is now functional. He has relied upon Coordinate Bench judgment of this Court in **Nagpal Projects and Construction Pvt. Ltd. Vs. Regional Provident Fund Commissioner, 2022 (3) Mh.L.J. 480.**

Despite aforesaid status, counsel for the petitioner submits that on the ground of principles of natural justice, the writ petition is maintainable.

Counsel for petitioner to take instructions.

The matter is kept back.

(Anil L. Pansare, J.)

Kahale

Later On:

Learned counsel for the petitioner, on instructions, seeks permission to withdraw the petition with permission to approach the Appellate Authority.

Learned counsel for the petitioner submits that the Appellate Authority is not empowered to condone the delay of 120 days. Accordingly, he makes a request to direct Appellate Authority to entertain the appeal, if filed within two weeks from today. He further submits that the Appellate Authority was not functional at the relevant time viz. when the writ petition was filed. The post of Presiding Officer has been filled up recently i.e. on 27.09.2024.

In view of the above facts, the request made by petitioner is allowed. The writ petition is disposed of as withdrawn with liberty as prayed for, with a rider that if the appeal is filed within two weeks from today, the same shall be entertained by the Appellate Authority in terms of Section 7-I of the Employees Provident Funds and Miscellaneous Provisions Act, 1952.

(Anil L. Pansare, J.)

Kahale