



3242-2024

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 3242 OF 2024

(Municipal Council, Khamgaon Vs. Assistant Provident Fund Commissioner, Akola & Ors.)

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

Court's or Judge's orders.

Shri M.S. Sharma, Counsel for the petitioner.

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CORAM : URMILA JOSHI-PHALKE, J.
MAY 24, 2024

By this petition, the petitioner has challenged the communication dated 7/5/2024 by which the petitioner is asked to deposit an amount of Rs.5,92,31,456/-.

2] Issue notice to the respondents returnable after vacation.

3] Circular No. RRC.II/28(31)07/53677 to 53777, issued by the Employees' Provident Fund Organisation, contemplates that if the number of employees exceeds 250 in an establishment, then the Regional Provident Fund Commissioner would have jurisdiction to initiate proceedings under Section 7A/14B of the Employees' Provident Funds And Miscellaneous Provisions Act, 1952 (for short "the said Act").

4] The petitioner – Municipal Council, by virtue of Notification No. S.O. 30(E) dated 8/1/2011 published by the Ministry of Labour and Employment, got covered under the provisions of the said Act.

5] The office of the Regional Provident Fund Commissioner, Sub-Regional Office, Akola, issued a coverage letter in respect of applicability of the said Act to the petitioner, to which the petitioner stated that establishment has employed 604 persons as on 8/1/2011. The Assistant Provident Fund Commissioner, Akola, passed an order dated 9/5/2016 under Section 7A of the said Act, thereby assessing an amount of Rs.39,62,681/- to be due against the petitioner for the period from January-2011 to March-2013.

6] The Employees' Provident Fund Organisation issued a Circular, whereby it was directed that as the establishments were facing difficulties in timely deposit of contribution of Provident Funds during the period of COVID-19 lockdown due to operational and economic reasons, no damages can be claimed for the lockdown period.

7] Respondent no.1 – Assistant Provident Fund Commissioner, issued notice to the petitioner for hearing. The petitioner, through its representative, appeared and made its submissions. Respondent no.1 passed the impugned order, whereby the petitioner was made liable to pay damages.

8] The learned Counsel for the petitioner submitted that considering the economical situation of the petitioner, it is difficult to deposit the entire amount.

9] Accordingly, the petitioner shall deposit 25% of the aforesaid amount on or before 7/6/2024. On depositing the said amount, respondent no.1 – Assistant

Provident Fund Commissioner, shall not take any coercive steps till their appearance against the petitioner.

10] Stand over after vacation.

(URMILA JOSHI-PHALKE, J.)

Sumit