

10.06.2025
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**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri**

WPA 1156 of 2025

**The Western Conglomerate Limited
Vs.
The Regional Provident Fund
Commissioner-I & Anr.**

Mr. Nabankur Paul,
Mr. Satyaki Basu,
Ms. Sutapa Sen Paul,
Mr. Bodhisatya Ghosh.
...for the Petitioner.

Mr. Bhaskar Roy Mahashaya.
...for the Respondents.

1. The petitioner by way of this present writ petition is challenging the revenue recovery certificate dated 15.4.2025, issued by the respondent No.1 in favour of the respondent No.2 for recovery of assessed dues. This challenge is raised on the ground that the statutory appeal preferred by the writ petitioner is presently pending before the Employees' Provident Fund Appellate Tribunal, which is currently non-functional due to the absence of the Presiding Officer.

2. The case of the petitioner is that the respondent no.1 by order dated 31.1.2025 passed orders under Section 7Q and 14B of the Employees' Provident Fund and Miscellaneous

Provision Act, 1952, imposing penalty and damages on the petitioner for the alleged non-payment of provident fund dues for the period from March, 2010 to September, 2010.

3. Aggrieved thereby, the petitioner preferred the statutory appeal under Section 7I of the Employees' Provident Fund Act before the Employees' Provident Fund Tribunal which has been registered as Appeal No. EPF 05 of 2025. The matter has been listed for admission on 4.7.2025. However, due to non-availability of the Presiding Officer, the tribunal is now non-functional. The petitioner submits that despite pendency of the statutory appeal and the acknowledged non-functionality of the Appellate Tribunal, the respondent No.1 has proceeded to initiate with the recovery proceeding by issuing the impugned recovery certificate. Aggrieved by such action, the petitioner has approached this Court by way of the present writ petition.

4. Learned Counsel for the petitioner has placed reliance on judicial precedents, including the judgment passed by the Hon'ble Madras High Court in Writ Petition No.32279 of 2017, dated 24.7.2018, and the judgment passed by the Hon'ble Telangana High Court in Writ Petition No.37216 of 2024, dated 2.1.2025, to

fortify the proposition that when a statutory appellate forum is non-functional, initiation of coercive recovery proceedings is impermissible. It is contended that proceeding with such recovery in the absence of an operational appellate authority renders the statutory right of appeal illusory and effectively infructuous due to institutional non-availability, thereby defeating the very purpose of statutory remedy.

5. This Court has carefully heard the arguments advanced by the Counsels for the parties and perused the materials placed on record. It is evident that the petitioner has already availed of the appellate remedy in a timely manner and the delay in hearing of the appeal is solely attributable to the non-availability of the Presiding Officer of the functioning forum.

6. In such circumstances, allowing the respondents to proceed with coercive remedy would cause undue hardship and infringe upon the petitioner's right to an effective legal remedy.

7. In view of the above, this Court is of the considered view that the impugned revenue recovery certificate dated 15.4.2025 shall remain stayed until such time the Appellate Tribunal becomes functional and takes up the pending

appeal for admission and passes appropriate orders thereon.

8. With the above direction, the present writ petition stands disposed of.

9. There will be no order as to costs.

10. Photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on usual undertaking.

(Gaurang Kanth, J.)