Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10211 OF 2025

G.K. Gujar Memorial Charitable Trust's
Dr. Ashok Gujar Technical Institute's
Dr. Daulatrao Aher College of Engineering .. Petitioner

Versus

Regional Provident Fund Commissioner .. Respondent

....

- Mr. Amogh Singh a/w Mr. Aditya Upadhyay i/by Jeenal Upadhyay, Advocate for Petitioner
- Mr. Santosh Sapre, Advocate for Respondent

....

CORAM : MILIND N. JADHAV, J.

DATE : JULY 24, 2025

P. C.:

1. Heard Mr. Singh, learned Advocate for Petitioner and Mr. Sapre, learned Advocate for Respondent.

2. On 01.11.2023 when the Petition was on stamp number, this Court passed the following order after hearing learned Advocate for Petitioner:-

> *"1. Not on board. Mentioned. Taken on board.*
>
> *2. Heard Ms. Upadhyay, learned Advocate for Petitioner.*
>
> *3. Perused the praecipe dated 01.11.2023 and Writ Petition.*
>
> *4. Writ Petition (L) No. 30115 of 2023 takes exception to the order dated 02.02.2023 passed by the Regional Provident Fund Commissioner under Section 7A of the Employees Provision Fund and Miscellaneous Provision Act, 1952 (for short the "said Act").*
>
> *5. The impugned order indicts the Petitioner for non - payment of contribution of Provident Fund to the visiting / guest faculty / lecturer in the Petitioners' Institutes. The statutory Appeal against the impugned order has been filed before the CGIT cum Industrial Court, Mumbai (C.G.I.T). I have taken*

cognizance of the fact that both CGIT-I and CGIT-II are vacant or rather have been vacant for some time and the charge is held by CGIT, Kolkata.

6. Learned Advocate appearing for Petitioner would inform the Court that the liability stipulated in the impugned order is approximately Rs. 47 lakhs. She has informed the Court that Respondent has approached the Bankers of the Petitioner and pursuant to that action, the savings bank account / current account held by the Petitioner in the banks have been frozen. She would submit that in all probability, coercive steps shall be taken tomorrow onwards and the same is mentioned in the praecipe dated 01.11.2023 filed today. She has therefore requested the Court to grant urgent ad-interim relief.

7. It is seen that in the event if the purported action of the Respondent is fructified, undoubtedly the Petitioner's operations of its various Education Institutes will suffer. Learned Advocate has brought to my notice the fact that on 13.10.2023 one cheque issued by the Principal of Dr. Daulatrao Aher College of Engineering for withdrawal of Rs. 7 lakhs was not honoured due to the aforesaid freezing of account at the behest of Respondent. She would submit that the said cheque was in respect of payment of salary to the staff of the college.

8. Considering the submissions made by the learned Advocate, an arguable case has been made out for grant of ad-interim relief. Prima facie, it is seen that the Petitioners are running several educational institutions / colleges in Satara District.

9. In that view of the matter, it is directed that no coercive steps shall be taken in respect of the action initiated in pursuance of the impugned order dated 02.02.2023. In effect the Respondent is directed to withdraw its communication of placing any embargo on the Bank accounts of the Petitioner held in State Bank of India and Bank of Baroda in Karad and is directed not to recover any amounts until the present Petition is heard for admission.

10. Hence, issue notice to Respondent. Humdast is permitted.

11. In addition to service of notice through Court, Petitioner shall serve a copy of the Petition and this order on Respondent and inform them about the next date of hearing by any permissible mode of service and file affidavit of service with tangible proof thereof before the returnable date.

12. Respondent is directed to file his Affidavit-in-Reply, if any, within a period of four weeks from today. Rejoinder, if any, to be filed within two weeks thereafter and a copy of the same be served on Respondent by the Advocate for the Petitioner. On the next adjourned date, this Court shall consider passing appropriate order after hearing Respondent and also the Petitioner regarding the Petitioner's liability.

13. Liberty to apply.

14. Stand over to ***13th December, 2023.****"*

3. Petition was moved by Mr. Sapre, learned Advocate for Respondent for urgent listing day before yesterday. As seen from the above order, Petitioner challenges the order passed under Section 7A of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (for short **"the Act"**) indicting liability of Rs. 47.23 Lakhs (approx.) for difference in PF remittance by the Petitioner College *qua* its employees. According to Petitioner all remittances were done within the prescribed time. It is seen that the basis for the impugned order is the Enforcement Officer's Report dated 29.03.2019 and one of the grounds argued by Mr. Singh is that the said Report is completely bereft of details of the employees and the tenure / amount of contribution deposited by Petitioner with the Respondent EPFO. That apart he would draw my attention to several factual discrepancies, *inter alia*, which are stated in paragraph Nos. 3.6 to 3.10 of the Petition *qua* the status of employees of the Petitioner to argue that the assessed liability of Rs. 47.23 Lakh towards differential PF remittance, and interest is not based upon computation or calculation on the basis of the data before the Enforcement Officer. He would draw Court's attention to the fact that Statutory Appeal has already been filed under Section 7-I of the Act in the year 2023 along with Application for condonation of delay against the impugned order and CGIT-2, Mumbai is seized of the same. He would also submit that Interim Application seeking dispensation with deposit under proviso to Section 7-O of the said Act has also been filed.

4. On perusal of the impugned order, it is *prima facie* seen that one of the principal ground considered by Respondent is with respect to short payment of remittances which is not in consonance with the established ledger and the application software of the EPFO Office. According to Petitioner all details of employees are submitted and therefore substantial challenge is maintained in the Appeal proceedings apart from other issues which are also agitated therein.

5. In the above background it is seen that the Petition has remained pending for more than two years in this Court. Rather it would have been appropriate for the Appellate Authority to have decided the Statutory Appeal in a time bound manner but it is still pending. Considering that the Petitioner is an established educational institution and the grounds of challenge in the Petition, without giving any imprimatur on merits of the case or any opinion so as to influence the hearing of Statutory Appeal before the CGIT-2, it would be appropriate if the present Petition is disposed off by giving appropriate directions to the Appellate Authority to dispose of the pending Statutory Appeal in accordance with law.

6. In view of the above observations and findings, present Writ Petition is disposed of with following directions:-

(i) Pending CGIT Appeal appended at page Nos. 49-104, Exh. "E" of Petition and Interim Applications filed therein are directed to be decided as expeditiously as possible and in any event within a period of six months from today;

(ii) All contentions of Petitioner and Respondent are expressly kept open and learned CGIT shall determine the said Appeal without being influenced by any of the observations or findings in this order;

(iii) No coercive steps shall be taken against the Petitioner in furtherance of the impugned order which is the subject matter of challenge in the Statutory Appeal including any steps for freezing of the bank accounts of the Petitioner;

7. Writ Petition is disposed.

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[MILIND N. JADHAV, J.]