

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

WRIT PETITION NO.2876 OF 2025

Central Board of Trustees, EPF V/S Bajaj Allianz Life Insurance Co. Ltd.	Petitioner Respondent
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**WITH
WRIT PETITION NO.2869 OF 2025**

Central Board of Trustees, EPF V/S M/s. Vishal Enterprises	Petitioner Respondent
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**WITH
WRIT PETITION NO.2865 OF 2025**

Central Board of Trustees, EPF V/S M/s. Man Management Services	Petitioner Respondent
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**WITH
WRIT PETITION NO.2868 OF 2025**

Central Board of Trustees, EPF V/S M/s. S.G. Enterprises	Petitioner Respondent
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**WITH
WRIT PETITION NO.2866 OF 2025**

Central Board of Trustees, EPF V/S M/s. Optival Health Solutions Pvt. Ltd.	Petitioner Respondent
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**WITH
WRIT PETITION NO.1474 OF 2025**

Central Board of Trustees, EPF V/S Pune District Central Co-operative Bank Ltd.	Petitioner Respondent
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**WITH
WRIT PETITION NO.3009 OF 2025**

Central Board of Trustees, EPF V/S Astronova Biotech Private Limited	Petitioner Respondent
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**WITH
WRIT PETITION NO.3010 OF 2025**

Central Board of Trustees, EPF V/S M/s. Rajpath Infracon Pvt. Ltd.	Petitioner Respondent
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**WITH
WRIT PETITION NO.3011 OF 2025**

Central Board of Trustees, EPF V/S M/s. Genba Sopanrao Moze Trust	Petitioner Respondent
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**WITH
WRIT PETITION NO.3012 OF 2025**

Central Board of Trustees, EPF V/S M/s. Sinhgad Institute of Pharmacy	Petitioner Respondent
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**WITH
WRIT PETITION NO.3013 OF 2025**

Central Board of Trustees, EPF V/S Hotel Ambassador	Petitioner Respondent
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**WITH
WRIT PETITION NO.3014 OF 2025**

Central Board of Trustees, EPF V/S M/s. Sinhgad Law College	Petitioner Respondent
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**WITH
WRIT PETITION NO.3015 OF 2025**

Central Board of Trustees, EPF
V/S
IBG Fincon Solutions Private Limited

....Petitioner
....Respondent

**WITH
WRIT PETITION NO.4225 OF 2025**

Employees' Provident Fund Organization
V/S
Checkmate Industrial Services Pvt. Ltd.

....Petitioner
....Respondent

**WITH
WRIT PETITION NO.3411 OF 2025**

Employees' Provident Fund Organization
V/S
Bajaj Allianz General Insurance Co. Ltd.

....Petitioner
....Respondent

Mr. M.P. Rao, Senior Advocate with Ms. Divya Tyagi, Ms. Shanvi Punamiya i/b Ms. Divya Tyagi for Petitioner-EPF in WP Nos. 2876 of 2025, 2869 of 2025, 2865 of 2025, 2868 of 2025 & 2866 of 2025.

Mr. M.P. Rao, Senior Advocate with Mr. Ravi Rattesar, for Petitioner-EPF in WP No.1474 of 2025.

Mr. M.P. Rao, Senior Advocate with Ms. Divya Tyagi, Mr. Akshay Arora & Ms. Shanvi Punamiya i/b Ms. Divya Tyagi for Petitioner-EPF in WP Nos.4225 of 2025 & 3411 of 2025.

Mr. M.P. Rao, Senior Advocate with Mr. Rakesh Sawant & Ms. Shamiyana H. Nidhi C, *for Petitioner-EPF in WP Nos.3009 of 2025, 3010 of 2025, 3011 of 2025, 3012 of 2025, 3013 of 2025, 3014 of 2025, 3015 of 2025.*

Mr. Sudhir Talsania, Senior Advocate, with Ms. Samiksha Kanani, Mr. Gaurav Kumar, Mr. Hanish D. Pithadia, Mr. Paresh S. Waghmare & Mr. Shekhar S. Sasankar, *for Respondent in WP/2876 of 2025 and WP/3411 of 2025.*

Mr. Kiran Bapat, Senior Advocate with Ms. Mitali Dhoble i/b M/s. Management Services *for Respondent in WP Nos.2865 of 2025 & 3010 of 2025.*

Mr. S.C. Naidu with Mr. Hanish D. Pithadia, Mr. Abhishek Ingle, Mr. Pradeep Kumar, Mr. Paresh S. Waghmare and Mr. Shekhar S. Sasankar, *for Respondent in WP No. 2868 of 2025.*

Mr. Paresh S. Waghmare with Mr. Hanish D. Pithadia & Mr. Shekhar S. Sasankar, *for Respondent in WP Nos.2869 of 2025, 2866 of 2025 and 3009 of 2025*

Ms. Samiksha Kanani with Mr. Hanish D. Pithadia, Mr. Paresh S. Waghmare, & Mr. Shekhar S. Sasankar, *for Respondent in WP Nos.4225 of 2025.*

Mr. Aumkar Joshi with Mr. Hanish D. Pithadia & Mr. Shekhar S. Sasankar *for Respondent in WP Nos.3011 of 2025 & 3015 of 2025.*

Mr. Suresh Kumar with Ms. Smita Thakur, Mr. Hanish D. Pithadia, Mr. Paresh S. Waghmare, & Mr. Shekhar S. Sasankar, *for Respondent in WP No.3013 of 2025.*

Mr. Nitin Dhumal *for Respondent in WP Nos.3012 of 2025 and 3014 of 2025.*

Mr. Joel Carlos *for Respondent in WP No.1474 of 2025.*

CORAM: SANDEEP V. MARNE, J.
DATE : 1 APRIL 2025.

P.C.:

1. These Petitions are filed by the Employees Provident Fund Organization (**EPFO**) challenging various written as well as oral orders passed by the learned Presiding Officer, Central Government Industrial Tribunal-2, Mumbai (**CGIT-2**), under provisions of Section 7-O of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, (**the Act**). The Petitions are filed with a broad grievance perceived by the Petitioner-EPFO where the Tribunal has consistently passed either *ex-parte* interim orders or issued oral directions directing EPFO not to take any coercive steps towards recovery of amounts due from Respondents. That while the applications filed under Section 7-O of the Act are kept pending, the *ad-interim* written/oral directions are continued indefinitely.

2. I have heard Mr. Rao, the learned Senior Advocate appearing for the Petitioner-EPFO. The broad grievances highlighted by Mr. Rao are as under:

i) That the Tribunal has, from time to time, passed mere oral directions in several Appeals filed by the establishments directing Petitioner-EPFO not to take coercive action. That in several appeals, advocates for establishment have written letters/emails to EPFO conveying such oral directions issued by the learned Presiding Officer for not taking coercive action against the establishment. That therefore *ad interim* protection cannot be granted in an indirect manner without passing reasoned orders after hearing the EPFO.

ii) That in many cases, a person who is not even a practicing Advocate and is not an enrolled member of the Bar Council is permitted to appear on behalf of the establishments before the learned CGIT-2 and on the basis of appearance made by such person, written/oral directions are issued virtually staying the action for recovery of dues against establishments.

iii) While Section 7-O of the Act provides for mandatory pre-deposit of 75% of assessed amount, in several cases *ad-interim* stay is granted either on deposit of meager amount of 10% or without any deposit at all.

iv) That while passing such orders for stay, opportunity of hearing is not granted to the Advocate appearing on behalf of Petitioner-EPFO and in many cases *ad-interim* orders are passed *ex-parte*.

v) The *ad-interim* directions, which are sometimes oral and sometimes in writing directing EPFO not to take coercive action, are even misinterpreted to mean as if even any criminal action initiated by the EPFO is stayed without appreciating the position that such initiation of criminal action does not always emanate out of the non-payment of ascertained liability under provisions of Sections 7-A, 7-Q or 14-B of the Act.

vi) That Appeals are lodged at the last moment just before expiry of period of limitation and when EPFO starts taking steps for recovery of the ascertained amount, false urgency is created before the CGIT-2 for the purpose of seeking *ex-parte* orders without even issuing notice to EPFO.

vii) Though Section 7-L of the Act mandates grant of opportunity of hearing to all the parties, *ex-parte ad-interim* orders are passed without hearing the EPFO.

3. The Petitions are opposed by Mr. Talsania, the learned Senior Advocate appearing for Respondent in Writ Petition No.2876 of 2025, Mr. Bapat, the learned Senior Advocate appearing for Respondent in Writ Petition Nos.2865 of 2025 and 3010 of 2025, Mr. Waghmare, the learned counsel appearing for Respondent in WP Nos.2869 of 2025, 2866 of 2025 and 3009 of 2025, Mr. S.C. Naidu, the learned counsel appearing for Respondent in Writ Petition No.2868 of 2025, Ms. Kanani, the learned counsel appearing for Respondent in Writ Petition Nos.3411 of 2025 and 4225 of 2025, Mr. Joshi, the learned counsel appearing for Respondent in Writ Petition Nos.3011 of 2025 and 3015 of 2015, Mr. Suresh Kumar, the learned counsel appearing for Respondent in Writ Petition No.3013 of 2025, Mr. Nitin Dhumal,

the learned counsel for Respondent in Writ Petition Nos.3012 of 2025 and 3014 of 2025 and Mr. Joel Carlos, the learned counsel appearing for Respondent in Writ Petition No.1474 of 2025. The learned counsel for Respondents have raised following broad pleas:

i) They would question very maintainability of the present Petitions challenging mere *ad-interim* orders passed by the Tribunal during pendency of the decision in main applications filed for waiver under Section 7-O of the Act.

ii) That the Tribunal is left with no alternative to pass *ad-interim* order in Applications under Section 7-O of the Act on account of EPFO repeatedly seeking time for filing of Affidavit-in-Reply. That in many cases, time is sought to file Reply on three or four occasions and in such cases, the CGIT-2 cannot be said to be without jurisdiction to entertain the application for grant of *ad-interim* order.

iii) The *ad interim* orders are necessitated on account of delay in decision of applications filed under the provisions of Section 7-O of the Act, due to acts which are clearly attributable to the Petitioner-EPFO.

iv) That under Rule 21 of the Tribunal (Procedure) Rules, 1997, the Tribunal is empowered to make such orders or give such direction as are considered necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice.

v) That the Tribunal is also empowered with the power under Section 7J of the Act to regulate its own procedure while

hearing of the Appeals and the Tribunal cannot be directed to regulate its procedure in a particular manner even by this Court.

vi) Passing of any order in the present Petitions would demoralise the Tribunal who is otherwise overburdened due to pendency of large number of cases, where the post of the Presiding Officer was vacant for a considerable period of time.

vii) That the Tribunal has been passing final orders in Applications under Section 7-O of the Act after grant of full opportunity of hearing to both the sides. To illustrate, the case of Writ Petition No.2865 of 2025 (*Central Board of Trustees, EPF vs. M/s. Man Management Services*) is highlighted, where the Petition is filed challenging *ad-interim* order passed by the Tribunal on 7 January 2025 when in fact application under Section 7-O of the Act came to be decided by the Tribunal during pendency of the Petition by passing a detailed order on 18 March 2025. Likewise, the applications under Section 7-O of the Act have been listed for hearing as well as for passing of orders by preparing a calendar by the Tribunal as provided under Rule 14 of the Tribunal (Procedure) Rules.

viii) It is contended that filing of these Petitions is unnecessary and gross abuse of process of law and the only object behind filing the Petitions is to pressurize the learned Presiding Officer of the Tribunal. In this regard Writ Petition (Stamp) No.3012 of 2025 (*Central Board of Trustees, EPF vs. M/s. Sinhgad Institute of Pharmacy*) is highlighted where the entire ascertained amounts under provisions of Section 7-A of the Act are already recovered and excess recovered amount is

directed to be adjusted towards the penalty under Section 7-Q of the Act, though order under 7-Q of the Act has not yet been passed. It is submitted that in case of establishment-Sinhgad Institute of Pharmacy, the EPFO has unnecessarily petitioned this Court where there was absolutely no cause for filing of the Petition.

ix) Petitions are filed by Officers who are not even authorized to file the present Petitions. Reliance is placed on the Resolution adopted by EPFO in the meeting held on 4 April 1989 under which only the Officers named in the said Resolution are authorized to file or defend legal proceedings by or against EPFO.

5. I have given my anxious consideration to the above submissions canvassed by the learned counsel appearing for the rival parties. In all these Petitions, the Respondents-Establishments are facing orders passed against them under provisions of Section 7-A of the Act. In some of the cases, composite orders under Section 7-A of the Act are passed thereby ascertaining the provident fund dues as well as interest payable thereon and damages. Appeals have been filed by the establishments under provisions of Section 7-I of the Act before the Tribunal and in such Appeals, applications seeking stay on execution of the orders passed by the jurisdictional RPFC are also filed. Under provisions of Section 7-O of the Act, no appeal filed by the employer can be entertained by the Tribunal unless a deposit of 75% of the amount due under Section 7-A of the Act is made. Section 7-O of the Act provides thus:

7-O. Deposit of amount due, on filing appeal.- No appeal by the employer shall be entertained by a Tribunal unless he has deposited with it seventy-five per cent of the amount due from him as determined by an officer referred to in Section 7-A:

Provided that the Tribunal may, for reasons to be recorded in writing, waive or reduce the amount to be deposited under this section.”

6. That there is a mandatory provision of deposit of 75% of the ascertained amount under Section 7A of the Act as condition precedent for the entertainment of the Appeal. The Tribunal is however invested with jurisdiction to either fully waive or reduce the amount of deposit under Proviso to Section 7O of the Act. It therefore cannot be contended that the Tribunal does not have the necessary discretion to either waive or reduce the amount of such deposit. The only condition under provisions of Section 7-O of the Act is recording of reasons in writing while directing waiver or reduction of deposited amount. While Mr. Rao does not seriously dispute that the Tribunal is empowered to waive or reduce the amount of deposit under Section 7O of the Act, his real grievance is about passing of *ad-interim* orders by the learned Tribunal staying the recovery proceedings by directing deposit of any amount or directing deposit of minuscule amount. He has particularly invited my attention to some of the orders where the learned Tribunal has directed the EPFO not to take any coercive steps against the establishment during pendency of the applications under Section 7O of the Act. Such direction in some cases are in writing, whereas in some of the cases such directions are borne out merely through letters/emails of Advocates. This course of action adopted by the Tribunal is sought to be objected to.

7. On the other hand, the learned counsel appearing for the Respondents would seek to blame EPFO for delaying decision of applications under Section 7-O of the Act on account of non-filing of reply opposing the same within a reasonable time. It is contended that repeated adjournments are often sought by the EPFO for filing of

reply, thereby preventing the learned Tribunal for taking any final decision on the waiver applications. It is therefore submitted that the Tribunal is left with no other alternative but to pass interim measure during pendency of such application. It is also sought to be suggested by the learned counsel appearing for the Respondent that some of the jurisdictional RPFCs having been adopting the *modus operandi* of initiation of criminal proceedings and seeking arrest of the employer immediately on expiring of period of limitation for filing the Appeal and in such case the establishment cannot be left without any remedy till EPFO files replies to stay and waiver applications.

8. This Court has noted the concerns expressed by the rival parties.

9. In my view, the learned Tribunal is vested with necessary discretion and power to regulate to its own procedure in all matters arising out of exercise powers while deciding the Appeals filed under Section 7I of the Act. Section 7J of the Act provides thus -

“7J. Procedure of Tribunals:- (1) A Tribunal shall have power to regulate its own procedure in all matters arising out of the exercise of its powers or of the discharge of its functions including the places at which the Tribunal shall have its sittings.

(2) A Tribunal shall, for the purposes of discharging its functions, have all the powers which are vested in the officers referred to in section 7-A and any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code, 1860 (45 of 1860) and the Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).”

10. Furthermore, under Rule 21 of the Tribunal (Procedure) Rules, the Tribunal is empowered to make such orders or directions as may be necessary considering the facts and circumstances of each individual case. Rule 21 of the Tribunal (Procedure) Rules provides thus:

21. Orders and directions in certain cases: The Tribunal may make such orders or give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice.

11. It would be inappropriate for this Court, in exercise of jurisdiction under Article 227 of the Constitution of India, to regulate the procedure to be followed by the learned Tribunal while hearing of the Appeals filed under Section 7-I or during course of decision of waiver applications filed under Section 7O of the Act. Presiding Officer of the Tribunal is a Judicial Officer not below the rank of District Judge, empowered to regulate the procedure of the Tribunal under Section 7-J of the Act read with Rule 21 of the Tribunal (Procedure) Rules. This Court also cannot lose sight of the fact that the post of the Presiding Officer in CGIT-2 was vacant for long period of time. This Court was flooded with several Petitions on account of non-availability of Presiding Officer in CGIT-2. It appears that the learned Presiding Officer has taken over charge of CGIT-2 in June 2024 and must be tackling huge pendency of the cases. It would be unfair for this Court to expect the learned Presiding Officer to pass final orders on Application under Section 7O of the Act in each and every case within a particular time frame. It would all depend on facts and circumstances of each case where the pleadings in Application under Section 7-O of the Act may or may not be completed in an expected timeframe. Therefore, while the concern highlighted by Mr. Rao is noted, it would not be possible for this Court to issue any directions to the learned Tribunal to decide the proceedings pending before it in a particular manner.

12. It appears that though the Tribunal has made *ad-interim* arrangements during pendency of the hearing of the Applications file

under Section 70 of the Act (which are subject matter of challenge in these petitions), it has started passing final orders deciding such Applications. I am informed that several Applications are already closed for passing of orders after detailed hearing. In one of the appeals, for which Writ Petition No.2865 of 2025 is filed, final order has already been passed on 18 March 2025 directing the establishment therein to deposit 50% of the assessed amount as pre-condition for entertainment of the Appeal. This Court hopes and trusts that the learned Tribunal would decide the applications under Section 70 of the Act in an expeditious manner especially where *ad-interim* arrangements have been made unconditionally restraining the Petitioner-EPFO from making recovery from the concerned establishments. In a given case, where the Petitioner-EPFO is in a position to file urgent Affidavit-in-Reply, the Tribunal can consider passing of *ad-interim* order after hearing the Advocate appearing for the Petitioner-EPFO. But the Tribunal, at the same time, would not be without jurisdiction to make necessary interim measures where the EPFO delays filing of replies or where the circumstances warrant making of urgent *ad-interim* arrangements. However, it would depend on facts and circumstances of each case and no blanket directions in this regard can be issued.

13. In view of the observations made above, it would not be prudent for this Court to interfere in the impugned *ad-interim* orders, which are subject matter of challenge in the present Petitions. In most of the Petitions, the Applications filed under Section 70 of the Act are yet to be finally decided. As and when they are decided and if the Petitioner-EPFO is aggrieved by the same, it would be at liberty to challenge the same. So far as grievance made by Mr. Rao that blanket orders preventing Petitioner-EPFO from taking coercive action against

establishment jeopardizing criminal action is concerned, the Petitioner-EPFO would be at liberty to file appropriate Application before the Tribunal for necessary clarification, if it believes that the criminal prosecution in a given case does not depend entirely on stay of the orders passed in under Sections 7A or 7Q or 14B of the Act.

14. With the above observations, all the Petitions are **disposed of**. All contentions of parties on merits are expressly kept open.

(SANDEEP V. MARNE, J.)

SUDARSHAN
RAJALINGAM
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by SUDARSHAN
RAJALINGAM
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Date:
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