
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6777 OF 2025

Armed Forces Medical College Pune

...Petitioner

Versus

Employees Provident Fund Organization & Anr

...Respondents

Mr. Rui Rodrigues, a/w Smita V. Thakur, for the Petitioner.

Mr. Arsh Misra, a/w Rahul Tervankar, for Respondent No.1.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : MAY 30, 2025

(VACATION COURT)

PC :

1. This Petition questions the jurisdiction of the Respondent, which is the Employees Provident Fund Organization to bring within its ambit, the casual / contract employees engaged in the student hostel mess of the Armed Force Medical College, Pune-Petitioner.

2. Learned Counsel for the Petitioner would submit that on the face of it, the entire activity of the Petitioner, regardless on the nature of the activity in which the respective employees are engaged, would be exempted from the coverage of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 ("***the Act***"). Toward this end, he

would rely upon a decision by a three-judge Bench of the Supreme Court in *Yeshwant Gramin Shikshan Sanstha vs. The Assistant Provident Fund Commissioner and Ors.*¹ (“***Yeshwant Gramin Shikshan Sanstha***”) to state that the moment an organisation falls within the ambit of Section 16(1)(b), nothing in the Act would apply in respect of any employee of such institution regardless of capacity of such employee.

3. In sharp contrast, Learned Counsel on behalf of the Respondent would submit that in a recent judgment (seven years later) of the Supreme Court in the case of *Pawan Hans Limited And Others vs. Aviation Karmachari Sanghatana And Others*² (“***Pawan Hans***”) has taken note of a specific instructions received by the Regional Provident Fund Commissioner from the Ministry of Labour, to review cases of departmental undertakings and statutory bodies, which fall within the scope of Section 16(1)(b), to carefully examine whether casual or contingent staff employed by them are being denied entitlements under the provident fund law. Towards this end, he would submit, the Supreme Court in ***Pawan Hans*** has explicitly ruled that a mere coverage under Section 16(1)(b) could not take an organization out of the ambit of the jurisdiction under the Act.

¹ *Civil Appeal No.721 of 2013*

² *(2020) 13 Supreme Court Cases 506*

4. In response, Learned Counsel for the Petitioner would submit that the decision in ***Pawan Hans*** does not seem to have noticed the decision in ***Yeshwant Gramin Shikshan Sanstha***, and that it may be regard as *per incurium*. That apart, he would submit that ***Yeshwant Gramin Shikshan Sanstha*** is a decision rendered by three judges while ***Pawan Hans*** is a judgment rendered by two judges.

5. In these circumstances, *prima facie* it would be appropriate to note that the very jurisdictional coverage of the Petitioner under the Act itself is an issue that may have to be dealt at the threshold. Learned Counsel for the Respondent submits that since the obligation to deposit 75% of the amount involved, is a condition for an appeal the same condition should be imposed even for consideration of the Writ Petition.

6. At this stage, I do not think it appropriate as a Vacation Court to deal with a condition of imposition of a deposit for hearing the Petition. However, it would be appropriate to stand over the matter for consideration by the Regular Bench to deal with the jurisdictional issue up-front or to impose a deposit requirement even while considering the Petition.

7. Consequently, this issue is left open for consideration by the Regular Bench. Towards this end, stand over to ***June 18, 2025***. Solely until that date, no specific steps towards recovery may be made until that date. It shall be open to the Respondent to apply to the Regular Bench upon reopening, to seek a variation or modification of even this protective arrangement.

8. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]