

Shabnoor

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

WRIT PETITION NO.343 OF 2026

**SHABNOOR
AYUB
PATHAN**

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Autocop Indian Pvt. Ltd. Through Amit Poddar	... Petitioner
V/s.	
Assistant Provident Fund Commissioner Nashik	... Respondent

Mr. Samiksha Kanani a/w Gayatri Naik, for the Petitioner.

Ms. Smita Thakur a/w Mr. Ateeba Hasan, for the Respondent.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 12, 2026

P.C.:

1. The present writ petition challenges an order passed by the authorities under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 under Sections 14B and 7Q. Section 14B empowers the authority to levy damages for delayed payment of provident fund dues. Section 7Q provides for interest on such delayed payments. Both provisions have serious financial consequences. An order under these sections fastens civil liability. It may involve substantial amounts.

2. Ordinarily, the Act provides a statutory appeal against such orders. The scheme of the Act is clear. First, the authority determines liability. Thereafter, an aggrieved party may approach the Appellate Authority. The petitioner submits that though such a remedy exists in law, it is not available in practice. The reason

stated is that no Presiding Officer has been appointed to the Appellate Authority. As a result, the appellate forum is not functional. According to the petitioner, a remedy which exists only on paper but cannot be exercised is no remedy at all. On this basis, this Court has been approached under writ jurisdiction.

3. The learned Advocate for the respondent–Authority does not dispute that the post of Presiding Officer is presently vacant. However, it is submitted that the process of appointment is at an advanced stage. It is stated that the concerned Committee has already been constituted and necessary steps are being taken. An assurance is given that an earnest endeavour shall be made to complete the appointment within six months.

4. I have considered the rival submissions. Orders under Sections 14B and 7Q impose monetary burdens which may affect the financial stability of an establishment. The Act itself recognises this by providing an appellate forum. The right of appeal is an important safeguard against arbitrary or excessive levy of damages and interest.

5. When the appellate authority is not functional due to non-appointment of a Presiding Officer, the statutory scheme suffers. An appeal cannot be filed. Even if filed, it cannot be heard. Applications for interim protection cannot be considered. This situation places an affected party in a difficult position. It compels the party either to comply with the order, irrespective of its correctness, or to approach this Court. Such a situation cannot continue indefinitely.

6. It is submitted on behalf of the respondent that amalgamation of enactments and the constitution of a new Committee have delayed the appointment. Administrative difficulties may explain delay. They cannot justify prolonged inaction. The statute contemplates a working appellate forum. The absence of a Presiding Officer renders the remedy illusory. Therefore, it becomes necessary to issue appropriate directions so that the statutory mechanism is restored at the earliest.

7. In these circumstances, the Secretary, Ministry of Labour and Employment, Government of India, shall personally examine the status of the appointment process. The authority competent to appoint the Presiding Officer shall ensure that the process is completed with due expedition. The appointment shall be made as early as possible and, in any case, within six months from today.

8. As regards the present petitioner, it is stated that the In-charge Authority has already heard the petitioner on Tuesday and Wednesday. This indicates that the proceedings at the original stage have reached an advanced stage and that the petitioner has been granted an opportunity of hearing.

9. In view of the above directions, and considering that the petitioner has already been heard by the In-charge Authority, no further substantive relief survives in this petition.

10. Accordingly, the writ petition stands disposed of in the aforesaid terms.

11. There shall be no order as to costs.

(AMIT BORKAR, J.)