

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

**WRIT PETITION NO. 16530 OF 2023**

M/S Royal Education Trust Nashik Cambridge School ...Petitioner

**Versus**

Assistant Provident Fund Commissioner Epfo

...Respondent

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*Ms. Samiksha Kanani, for the Petitioner.*

*Ms. Sonali Humane, for the Respondent No. 1*  
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**CORAM : SHARMILA U. DESHMUKH, J.**

**DATE : April 20, 2026**

**P. C. :**

1. By this petition, the challenge is to the order dated 28<sup>th</sup> September, 2023 passed under Section 14B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 ( for short "**The Provident Fund Act**") levying damages for the period from September 2019 to March 2022.

2. Learned counsel for the Petitioner submits that as per the EPFO's own circular dated 15<sup>th</sup> May, 2020, the delay in deposit of contribution during the period of lockdown cannot be attributed to any culpable state of mind of the employer and will therefore not attract the provisions of Section 14B of the EPF Act. She submits that the Respondent failed to apply its own circular for the period of lockdown

which commenced from 31<sup>st</sup> March, 2020, and therefore, the damages could not have been levied for the said period.

3. She would further submit that by the impugned order, the Petitioner was directed to forthwith make the payment of the damages failing which, action would be taken under Section 8 of the Provident Fund Act to recover the amount without further notice, which according to her, falls foul of the decision of this Court in the case of ***Kulgaon Badlapur Nagar Parishad vs The Regional Provident Fund Commissioner -II***<sup>1</sup> as the Appeal period is 60 days.

4. Per contra, learned counsel for the Respondent would support the impugned order and would submit that as per the impugned order, the provident fund contributions were payable for the remittance made during the period for the wage months April 2017 to August 2021, and therefore, the circular does not apply. She would further submit that the provident fund office had not initiated any proceedings for execution of the impugned order during the Appeal period, and therefore, the decision in the case of ***Kulgaon Badlapur Nagar Parishad vs The Regional Provident Fund Commissioner -II (supra)*** does not apply.

5. I have considered the submissions and perused the record.

6. By the impugned order dated 28<sup>th</sup> September, 2023, it was noted

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1 WP No. 4973 of 2021 decided on 22<sup>nd</sup> February, 2022 by Bombay High Court.

that the Petitioner establishment has failed to pay the provident fund and allied dues in time for the period from 1<sup>st</sup> September, 2019 to 31<sup>st</sup> March, 2022. Though, the contributions were payable in respect of the remittances made during the wage months of April, 2017 to August, 2021, the impugned order records that the contributions were due for the period of 1<sup>st</sup> September, 2019 to 31<sup>st</sup> March, 2022 which would attract the circular of 15<sup>th</sup> May, 2020 passed by the Employees' Provident Fund Organization (EPFO). The circular specifically provides that the delay in deposit of contributions during the period of lockdown announced in terms of Disaster Management Act, 2005 cannot be attributed to any culpable state of mind of the employer, and would therefore not attract the provisions of Section 14B of the EPF Act. The impugned order fails to take into consideration its own circular and has levied damages under Section 14B of the EPF Act even during the period of lockdown.

**7.** It is not demonstrated from the record, whether the circular of 15<sup>th</sup> May, 2020 was brought to the notice of Respondent Authority. It would therefore be appropriate to remand the matter for fresh consideration to the extent of levy of damages during lockdown period. The impugned order to the extent that it imposes damages without taking into consideration its own circular of 15<sup>th</sup> May, 2020 for the period of lockdown is required to be reconsidered by the

Respondent-Provident Fund Organization. In so far as the period from September 2019 to 31<sup>st</sup> March, 2020 is concerned, there cannot be any dispute as regards the levy of damages for the six months period which is required to be deposited by the Petitioner with the Employees Provident Fund Commissioner. The contributions which are payable for this period from September, 2019 till March 2020 to be deposited with the Provident Fund Commissioner within period of three weeks after the dues are quantified and informed to the Petitioner.

8. The matter is remanded to the Respondent for fresh consideration, by taking into account its circular of 15<sup>th</sup> May, 2020 and to ascertain the damages, if any, which are payable during the period of lockdown. To that extent the impugned order of 28<sup>th</sup> September, 2023 is quashed and set aside.

9. Though, a contention has been raised by learned counsel for the Petitioner that the impugned order is also vitiated by the reason that it calls upon the Petitioner to forthwith deposit the amount ascertained under the impugned order, the provisions of Section 14B of the Provident Fund Act does not place any embargo on such directions. The contention that the period of limitation for the purpose of filing of Appeal is 60 days cannot be construed as laying fetters on the power of the authority to direct the deposit and the only embargo which is placed by the decision of this Court in the case of ***Kulgaon Badlapur***

***Nagar Parishad vs The Regional Provident Fund Commissioner -II***

***(supra)*** is that before the expiry of the period of limitation for filing of the Appeal, the order could not have been executed.

**10.** In light of the above, the Petition is partly allowed. The impugned order dated 28<sup>th</sup> September, 2023 to the extent of levying of damages under Section 14B of the Provident Fund Act for the period from April 2020 to March 2022 is hereby quashed and set aside, subject to deposit of the provident fund contribution for the period September 2019 to 31<sup>st</sup> March, 2020 within a period of 3 weeks with the office of Provident Fund Organization. The amount of contribution for the period September 2019 to March 2020 to be communicated to the Petitioner within a period of 1 week from today. The period of 3 weeks would commence after communication of the provident fund contributions by the Respondent-Organization.

**11.** The Respondent EPFO to consider the matter afresh, as regards the levy of damages for the period during the period of lockdown by taking into consideration the circular dated 15<sup>th</sup> May, 2020, and after hearing the parties and to determine the issue afresh. Petition is allowed in above terms.

**12.** Petition is disposed of in above terms.

**[SHARMILA U. DESHMUKH, J.]**