

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

WRIT PETITION NO. 12386 OF 2019

Shri Dutt India Private Limited And Anr ...Petitioners
Versus

The Government Of India Through
Ministry Of Labour And Employment And Ors ...Respondents

Mr. Shekhar Jagtap a/w. Adv Sairuchita Choudhary for the Petitioners.
Mr. Karan Ratti Kapoor a/w Ms Ragini Singh, Mr. Tanish Bhandari i/b.
Mr. Jog Singh for the Respondent Nos. 2 and 3

**CORAM : NITIN JAMDAR &
M. M. SATHAYE, JJ.**

DATED : 22 APRIL 2024

P.C.:

1. By order dated 3 December 2019, the Division Bench of this Court had recorded the submissions of the Respondent-Employees Provident Fund Organization that the Employees Provident Fund Organization has proposed to either file a Review Petition before the National Company Law Tribunal (for short "NCLT") or challenge the order dated 11 November 2019 before the Appellate Tribunal. This order was passed on 3 December 2019. Thereafter, the Appeal was filed before the National Company Law Appellate Tribunal (for short "NCLAT"), which was dismissed on 4 January 2022 on the ground of delay.

2. In spite of this position, learned Counsel for the Respondent –

Employees Provident Fund Organization argues that the Appeal may have been dismissed on delay, the merits of the challenge should be considered. This is entirely incorrect. Once the challenge was foreclosed on the ground of delay, the order of the NCLT as regards the Respondent – Employees Provident Fund Organization becomes binding.

3. Learned Counsel for the Respondent – Employees Provident Fund Organization then sought to contend that the cause of the workmen be kept in mind. If that is the stand of the Employees Provident Fund Organization, it has not explained before us as to why the order of the NCLAT was not challenged by the Employees Provident Fund Organization, as we are not informed that it was so challenged.

4. If the Employees Provident Fund Organization is genuinely concerned about espousing cause of the workmen, they ought to have taken necessary steps. Since this is the reason put forth before us, we direct the concerned in-charge of the Respondent No. 2-Employees Provident Fund Organization to explain before us what steps the Employees Provident Fund Organization has taken in respect of the order passed by the NCLAT dated 4 January 2022. Let the affidavit be filed by a responsible officer of the Respondent-Employees Provident Fund Organization by the next date.

5. Stand over to **8 May 2024**.

(M. M. SATHAYE, J.)

(NITIN JAMDAR, J.)