

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL-2, MUMBAI**

**APPEAL NO. CGIT- 2 / EPFA /148 /2024**

M/s. Sinhgad City School.

- Appellant

V/s.

The Regional Provident Fund Commissioner-II,

EPFO, Pune.

- Respondent

**ORDER**

**(Delivered on 11-03-2025)**

M/s. Sinhgad City School/appellant-applicant has challenged the legality of order dated 30.09.2024 passed u/s. 14-B & 7-Q of the EPF & MP Act 1952 (for short-“EPF Act”) and by this application prays for stay to the effect and operation of the order under appeal during pendency of lis.

The applicant's institute is providing education and wrongly covered under EPF Act w.e.f. 01.01.2019 with primary activity as school still complying the provisions of EPF Act. Sinhgad city school was established in the year 1993 and since 2019 all institutions has been allotted individual P.F. registration number and all employees are drawing salary above Rs.15,000/- per month, therefore P.F. contribution are not compulsory for the period from 01/2019 to 11/2021, joint summons was issued u/s. 14-B & 7-Q of the EPF Act however without considering the representation, the amount of damages of Rs.16,85,479/- and interest of Rs.8,34,614/- has been determined. The applicant added that, the order under appeal has been passed without

proper application of mind. The opponent has not considered the circumstances for delay in remitting contribution. The financial condition was not considered and also failed to consider aspect of Covid period as such the order under appeal is illegal, in violation of the principles of natural justice and contrary to law.

The opponent resisted the application by reply. The opponent contended that, the applicant failed to remit statutory dues for the period from 01/4/2020 to 31/5/2024 for wage month of 01/2019 to 11/2021, therefore the enquiry was initiated against the applicant based on summons dated 11.07.2024 and after giving sufficient opportunity order came to be passed. The opponent further contended that, delay in payment is admitted during enquiry. The applicant is willful defaulter and aware that financial problem is not suitable to waive the damages. The opponent has no discretionary power to reduce the quantum of damages. The amount has been assessed after giving opportunity therefore the applicant is not entitled for relief as prayed.

I have heard Mr. Chheda representative for the applicant and Mrs. Sawant advocate for the opponent.

Undisputedly on the basis of summons dated 11.07.2024, the enquiry was initiated against the applicant for the period from 11/2019 to 11/2021 in respect of assessment of damages as well as interest against the applicant and only on the basis of admission by the representative of the applicant, the opponent passed the separate orders and thereby determined Rs.16,85,479/- towards damages and Rs.8,34,614/- towards interest.

Whereas the applicant has come up with the case that, the institution is a educational institution and the same has been

covered under the EPF Act with school of the applicant. All the employees are excluded employees as they are drawing salary of about Rs.15,000/- per month. It is the case of the applicant that, during enquiry on 27.08.2024, their representative requested time for re-examination however the same request was not considered by the opponent and on the next date without giving opportunity closed the enquiry for orders. There was delay in reimbursement of amount from the Government in respect of 25% reserved seats for reserved category students. Similarly, while passing the order under appeal, the opponent has not considered the aspect of Covid during which there was Lockdown in the Country and the schools were closed.

True it is that, the order has been passed only after one date of hearing and the same is also in one page therefore the order under appeal prima-facie seems to be cryptic one. Not only this but, the various points raised on behalf of the applicant certainly required to be considered exhaustively and those can be dealt with while deciding the appeal on merit therefore it can be safely said that, the applicant made out a prima-facie case at the stage and considering the other facts and circumstances of the case, the balance of convenience lies in favour of the applicant and hardship is likely to be caused to the applicant if the stay is not granted to the order under appeal therefore the applicant is entitled for stay to effect and operation of the order under appeal.

It will not be out of place to mention here that, both the orders are passed on the basis of common summons and both are passed on similar dates therefore considering the composite order in respect of interest u/s. 7-Q of the EPF Act is maintainable, however

the applicant is directed to deposit the entire amount of interest assessed in the order u/s. 7-Q of the EPF Act within a period of 06 weeks from the date of this order, if not paid earlier.

In the result, the application is allowed. The opponent is directed to stay to the effect and operation of the order under appeal, only on depositing the amount assessed in the order u/s. 7-Q of the EPF Act towards interest within a period of 6 weeks from the date of this order.

Date: 11-03-2025

Sd/-  
(Shrikant K. Deshpande)  
Presiding Officer  
CGIT -2, Mumbai