
(2019) 12 OHC CK 0002
In the Orissa High Court
Case No : Writ petition (C) No. 4353 Of 2005

Almech Industries

APPELLANT

Vs

R.P.F.Commissioner

RESPONDENT

Date of Decision : 20-12-2019

Acts Referred:

Employees' Provident Fund And Miscellaneous Provisions Act, 1952 — Section 7B

Citation : (2019) 12 OHC CK 0002

Hon'ble Judges : Biswanath Rath, J

Bench : Single Bench

Advocate : Asim Amitav Das, B.R.Swainb, R.Swain B.Sahu, M.B.Ray,B.R.Swain, Piyush KU.Mishra, S.S.Mihsra, A.K.Panda

Final Decision : Disposed Of

Judgement

Biswanath Rath, J

Heard learned counsel for the petitioner and learned counsel for the opposite parties.

This Writ Petition involves a challenge to the order vide Annexure-3 passed U/s.7-B of the Employees' Provident Fund and Miscellaneous

Provisions Act, 1952 hereinafter in short be called as 'The Act, 1952'.

Learned counsel for the petitioner submits that the impugned order is an ex parte order as the same has been passed without providing opportunity of

hearing to the petitioner. Learned counsel for the petitioner accordingly sought for intervention of this Court in the impugned order and requests this

Court for remanding the matter for fresh adjudication giving opportunity of hearing to the petitioner.

Learned counsel for the opposite parties on the other hand taking this Court to the impugned order vide Annexure-3 submitted that at least four

adjournments have been made in a span of four months in the matter and in spite of fullest opportunity the petitioner did not choose to appear and

contest. He therefore contended that no fault can be found on the Employeesâ?? Provident Fund Organization. It is, in the circumstance, learned

counsel for the opposite parties opposed the challenge made to the order vide Annexure-3.

Considering the rival contentions of the parties, this Court finds, learned counsel for the opposite parties is justified in saying that in spite of fullest

opportunity at least four opportunities being granted to the petitioner he did not participate in the proceeding and contest the proceeding involving the

application at his own instance. Be that as it may, since the petitioner has a statutory scope of review, granting one more opportunity would have

sufficed the problem. For the ex parte nature of the order vide Annexure-3 and for there being no scope for consideration of the case of the petitioner,

this Court while interfering with the order vide Annexure-3, but for the negligence of the petitioner to present its review petition sets aside the order

vide Annexure-3, subject to however the petitionerâ??s depositing a sum of Rs.5,000/- (Rupees Five thousand only) before the Orissa High Court

Bar Association Welfare Fund within a period of two weeks hence. In the process the Employees Provident Fund authority is also directed to relook

the petition filed by the petitioner U/s.7-B of the Act, 1952 and dispose of the same giving opportunity of hearing to the petitioner. The entire exercise

is directed to be concluded within a period of two months from the date of appearance of the petitioner. The petitioner is also directed to appear

before the competent authority of the Employees Provident Fund Organization, Rourkela on 6th of January, 2020 along with receipt showing payment

of cost and certified copy of this order. This order is also subject to the petitionerâ??s compliance with the order of this Court dated 7.04.2005

passed in Misc. Case No.4259 of 2005.

The Writ Petition stands disposed of with the above direction.

Issue urgent certified copy as per rules.