

(2011) 11 BOM CK 0108

In the Bombay High Court

Case No : Writ Petition No. 2249 of 2011

Birla Sun Life Insurance Co. Ltd. and Another

APPELLANT

Vs

The Regional Provident Fund Commissioner-I (Ministry of Labour and Employment, Government of India) and Others

RESPONDENT

Date of Decision : 29-11-2011

Acts Referred:

Employees Provident Funds and Miscellaneous Provisions Act, 1952 — Section 17

Citation : (2012) 132 FLR 284 : (2012) LLR 392

Hon'ble Judges : S.J. Kathawala, J

Bench : Single Bench

Advocate : K.M. Naik, assisted with Mr. S.P. Salkar, for the Appellant; Bindan Chandran, for the Respondent

Judgement

S.J. Kathawala, J.—Heard learned Advocates for the parties. The order impugned is dated 18th March, 2009 passed by the Assistant Provident Fund Commissioner (Exemption) RO Kandivali rejecting the Exemption Application filed by the Petitioners under Para 27-A under the Employees' Provident Fund and Miscellaneous Provisions Act, 1952. The learned Advocate appearing for the Respondents submits that Section 17, read with Para 27A under the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, makes it clear that the Government is the Appropriate Authority to reject the Application of the Petitioner and that the Assistant Provident Fund Commissioner, who has passed the impugned order of rejecting the Petitioner's Application for withdrawal has no authority to do so.

2. In view thereof, the order dated 18th March, 2009 passed by the Assistant Provident Fund Commissioner (Exemption) is set aside. The Application filed by the Petitioners shows that the same has been addressed to the Secretary, Ministry of Labour, Government of India, New Delhi and that it is forwarded through the Central Provident Fund Commissioner Employees' Provident Fund Organisation, who in turn is forwarded through the Regional Provident Fund

Commissioner Sub-Accounts Office, Kandivali. The Petitioner, shall, therefore follow up the Application dated 30th August, 2008 with the Secretary Ministry of Labour, Government of India, New Delhi and the Central Provident Fund Commissioner Employees' Provident Fund Organisation, who in turn shall consider the Application of the Petitioner and pass final orders thereon within a period of four weeks from today.

3. In the meantime, the Respondents shall not take any coercive action against the Petitioners. In the event of the final order, being adverse to the Petitioner, the same shall not be implemented for a period of two weeks from the date of receipt of the said order by the Petitioners. The Writ Petition is accordingly disposed of.