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**(2019) 07 BOM CK 0221**  
**In the Bombay High Court**  
**Case No : Writ Petition No. 287 Of 2019**

Kala Mines & Minerals

APPELLANT

Vs

Regional Provident Fund Commissioner II

RESPONDENT

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**Date of Decision :** 29-07-2019

**Acts Referred:**

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

**Citation :** (2019) 07 BOM CK 0221

**Hon'ble Judges :** C.V. Bhadang, J

**Bench :** Single Bench

**Advocate :** Vijay A. Palekar, N. Kalsur

**Final Decision :** Disposed Off

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## Judgement

C.V. Bhadang, J

1. Rule, made returnable forthwith. The learned Counsel for the respondent waives service. Heard finally by consent of parties.
2. The petitioner is challenging the order dated 04.02.2019 passed by the first respondent, rejecting the application for review filed by the petitioner under Section 7-B of The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (Act, for short). By the said application, the petitioner had sought review of the order dated 31.12.2018 passed under Section 7-A of the said Act.
3. The only contention raised by Mr. Vijay Palekar, the learned Counsel for the petitioner, is that the application for review has been dismissed without giving an opportunity of hearing to the petitioner.
4. A perusal of the impugned order dated 04.02.2019 does not show that the petitioner or its representative has been heard in the matter. The affidavit in reply filed on behalf of the respondent on 11.06.2019 makes out a different ground for dismissal of the application. In para 16 of the said affidavit, it is claimed that the application for review was not in prescribed form i.e. Form no. 9

and that is the reason why the application was rejected. There is not even a whisper of this ground in the order dated 04.02.2019. In any event, it is not even claimed in the affidavit in reply that the petitioner has been heard in the matter.

5. In such circumstances, the petition is allowed. The impugned order dated 04.02.2019 is hereby set aside. The application for review filed by the petitioner is restored back to the file of the first respondent for deciding it afresh in accordance with law after giving an opportunity of hearing to the petitioner.

6. The petitioner shall keep its representative present before the first respondent on 19.08.2019 at 10.00 a.m.

7. It will be open to the petitioner to appropriately amend the review application to bring it in conformity with Form no. 9 as prescribed.

8. The petition is disposed off in the aforesaid terms with no order as to costs.