



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 5154 OF 2016

PETITIONER :- Sanmitra Urban Co-operative Bank Ltd.
Akola, a registered Co-op. Society,
through its Chief Executive Officer, Mr.
Rammanohar Jamanlal Lohiya, Age 60
yrs., Ramdespeth, Akola, Tq. and Distt.
Akola.

...**VERSUS**...

RESPONDENTS :- 1. Assistant Provident Fund Commissioner,
Sub-Regional Office, 15-B Raghuraj
Arced, Civil Lines, Akola, Tq. and Dist.
Akola.
2. Employees Provident Fund Appellate
Tribunal, 4th floor, Core 2, SCOPE Minar,
Laxmi Nagar, Delhi – 110092.

Shri R.L.Khapre, counsel for the Petitioner.
Shri H.N.Verma, counsel for the Respondents.

WRIT PETITION NO. 142 OF 2014

PETITIONER :- Shri Keshav Urban Credit Co-Op. Society
Ltd, Shegaon, Regd. No. 955/94, Office
Near Bus Stand, Shegaon, Distt-
Buldhana.

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...VERSUS...

RESPONDENT :- Assist. Provident Fund Commissioner,
Office Of Assistant Provident Fund
Commissioner, Sub-Regional Office,
Akola.

Shri N.R.Saboo, counsel for the Petitioner.
Shri H.N.Verma, counsel for the Respondent.

WRIT PETITION NO. 333 OF 2011

PETITIONER :- M/s Baheti Automobiles, Near Shivaji
Park, Akola Through its Partner Shri
Kamalkishore Fulchand Baheti.

...VERSUS...

RESPONDENTS :- 1. Employees" Provident Fund Appellate
Tribunal, New Delhi.
2. Assistant Provident Fund Committee,
S.R.O., Nagpur, 132-A, Ridge Road,
Raghuji Nagar, Nagpur – 440 009.

Shri N.R.Saboo, counsel for the Petitioner.
Shri H.N.Verma, counsel for the Respondents.

WRIT PETITION NO. 1027 OF 2011

PETITIONER :- The Amravati Zilla Mahila Sahakari
Bank Limited, The Co-operative Bank,
registered under the Maharashtra Co-

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operative Societies Act, 1960, having its registered office at Jawahar Road, Amravati, through its Chief Executive Officer, Shri Subhash S/o Shamrao Mahure.

...VERSUS...

- RESPONDENTS :-
1. The Employees Provident Fund Appellate Tribunal, Scope Minar Core-II, 4th Floor, Laxmi Nagar District Center, Laxmi Nagar, New Delhi – 110092.
 2. The Assistant Provident Fund Commissioner, Sub Region Office, Sant Tukadoji Square, Raghuji Nagar, Nagpur.

Shri A.S.Kilor, counsel for the Petitioner.
Shri H.N.Verma, counsel for the Respondents.

WRIT PETITION NO. 1106 OF 2009

PETITIONER :- Wardha Nagri Sahakari Adhikosh (Bank) Ltd., Office at Madhav Bhavan, Dr. J.C. Kumarappa Marg, Wardha, Through its Chief Executive Officer.

...VERSUS...

RESPONDENT :- The Regional Provident Funds Commissioner Office of Employees Provident Funds Organization, SRO 132 A Ringe Road, Tukdoji Maharaj Square, Nagpur.

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Shri S.S.Ghate, counsel for the Petitioner.
Shri R.S.Sundaram, counsel for the Respondent.

WRIT PETITION NO. 1125 OF 2014

PETITIONER :- The Akola Merchant Co-operative Bank Ltd., Akola, through its Manager Mr.Dilip Babarao, Gohad, Aged about 37 years, occ. - Service, Nisarg Plaza, Damle Chowk, Hanuman Basti, Akola, Tq. and Distt. Akola.

...**VERSUS**...

RESPONDENTS :- 1. Assistant Provident Fund Commissioner, Sub-Regional Office, 15-B Raghuraj Arced, Civil Lines, Akola, Tq. and Dist. Akola.
2. Employees Provident Fund Appellate Tribunal, 4th Floor, Core 2, SCOPE Minar, Laxmi Nagar, Delhi – 110092.

Shri R.L.Khapre, counsel for the Petitioner.
Shri R.S.Sundaram, counsel for the Respondents.

WRIT PETITION NO. 3507 OF 2013

PETITIONER :- 1. The Central Board of Trustees, Employees Provident Fund , Having Office at Bhavishya Nidhi Bhawan, Bhikaji Cama

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place, New Delhi-110066, Through the Assistant Provident Funds Commissioner, Employees Provident Fund Organization.

2. The Assistant Provident Fund Commissioner, 132-A, Ridge Road, Tukdoji Chowk, Raghuji Nagar, Nagpur.

...VERSUS...

RESPONDENT :-

The Agrasen Nagari Sahakari Bank Ltd., Akola, A Registered Co-op. Society duly registered under the provisions of the Maharashtra Co-op. Societies Act, through its Manager, Gandhi Road, Akola, Tah. & Dist. Akola (M.S.).

Shri H.N.Verma, counsel for the Petitioners.
Shri R.L.Khapre, counsel for the Respondent.

WRIT PETITION NO. 3654 OF 2010

PETITIONERS :-

1. The Central Board of Trustee through The Assistant Provident Fund Commissioner, Sub Regional Office, Raghuraj Arcade, Civil Lines, Akola.

Deleted as per order
dtd.20.11.2014

2. ~~The Enforcement Officer, Employees Provident Fund, Mal Tekdi Road, Amravati (M.S.).~~

...VERSUS...

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RESPONDENT :- M/s Abhinandan Urban Co-operative Bank Ltd., Prabhat Chowk, Amravati, Taluka & Dist. Amravati.

Shri H.N.Verma, counsel for the Petitioner.
Shri A.P.Wachasunder, counsel for the Respondent.

WRIT PETITION NO. 3882 OF 2014

PETITIONERS :-

1. Anuradha Urban Cooperative Bank Ltd., having its head office at Shivaji Chowk, Chikhli, District Buldhana – 443 201. Registration No. BLD/BNK/01/03/98-99, through the Chief Executive Officer.
2. Pandnarinath Anandrao Tekade, Chief Executive Officer, Anuradha Urban Cooperative Bank Ltd., Shivaji Chowk, Chikhli, District Buldhana – 443 201.

...VERSUS...

RESPONDENT :- Assistant Provident Fund Commissioner, Sub-Regional Office, Akola, Taluka and District Akola.

Shri M.V.Samarth, counsel for the Petitioners.
Shri H.N.Verma, counsel for the Respondent.

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WRIT PETITION NO. 4926 OF 2003

PETITIONER :-

The Anjangaon – Surji Nagari Sahakari Bank Limited, A Co-operative Bank registered under the provisions of the Maharashtra Co-operative Societies Act 1960, having its Registered Office at Shaniwarpeth Anjangaon – Surji, District Amravati, through its Chief Executive Officer Shri Narendra Tiwari.

...VERSUS...

RESPONDENTS :-

1. The Assistant Provident Fund Commissioner, Sub-Regional Office, 132-A Ridge Road, Sant Tukdoji Square, Raghuji Nagar, Nagpur 440009.
2. The Enforcement Officer, Employees Provident Fund, Maltekdi Road, Krushi Lodge, District Amravati.

Shri M.M.Agnihotri, counsel for the Petitioner.
Shri R.S.Sundaram, counsel for the Respondents.

WRIT PETITION NO. 5032 OF 2003

PETITIONER :-

The Amravati Merchants' Co-operative Bank Limited, A Cooperative Bank registered under the provisions of the Maharashtra Co-operative Societies Act 1960, having its Registered Office at Merchants' Chamber, Ambapeth, Badnera

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Road, District Amravati-444 601, through its Chief Executive Officer Shri Narayanrao S/o Shankarrao Vidhale.

...VERSUS...

- RESPONDENTS :-
1. The Assistant Provident Fund Commissioner, Sub-Regional Office, 132-A Ridge Road, Sant Tukdoji Square, Raghuji Nagar, Nagpur 440009.
 2. The Enforcement Officer, Employees Provident Fund, Maltekdi Road, Krushi Lodge, District Amravati.

Shri M.M.Agnihotri, counsel for Petitioner.
Shri R.S.Sundaram, counsel for Respondents.

WRIT PETITION NO. 5226 OF 2009

PETITIONER :- The Assistant Provident Fund Commissioner, Office of the Regional Provident Fund Commissioner, 132-A, Ridge Road, Tukdoji Maharaj Square, Raghuji Nagar, Nagpur 440009.

...VERSUS...

RESPONDENT :- Jagruti Bigar Shetaki Pat Purwatha Sahakari Sanstha Ltd., Mandikota, Tahsil Tiroda, District Gondia.

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Shri R.S.Sundaram, counsel for the Petitioner.
Shri S.R.Bhongade, counsel for the Respondent.

WRIT PETITION NO. 5566 OF 2010

- PETITIONERS :- 1. The Central Board of Trustee through
The Assistant Provident Fund
Commissioner, 132-A, Ridge Road,
Tukdoji Chowk, Raghuji Nagar, Nagpur.
- Deleted as per order 2. ~~The Enforcement Officer, Employees~~
dtd.20.11.2014 ~~Provident Fund, Mal Tekdi Road,~~
~~Amravati (M.S.).~~

...VERSUS...

RESPONDENT :- The Vasant Nagri Sahakari Pat Sanstha
Maryadit, Cotton Market Yard, Akot,
through its Manager Dinesh Purushottam
Rathi, R/o Akot, Tq. Akot, Dist. Akola.

Shri H.N.Verma, counsel for the Petitioner.
Shri A.J.Thakkar, counsel for the Respondent.

WRIT PETITION NO. 5576 OF 2015

- PETITIONERS :- 1. Bharti Maind Nagri Sahakari Pat Sanstha,
Jagdamba Apartment, Moti Nagar, Pusad,
District Yavatmal, through its President
Shri Apparao Maind, aged 64 years, r/o
Tilak Ward, Pusad, District Yavatmal.

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2. Gajanan Ramkrishna Nakade, aged 39 yrs, occ. Branch Manager, r/o Govind Nagar, Pusad, District Yavatmal.

...VERSUS...

RESPONDENTS :-

1. Central Board of Trustees, a Board Corporate constituted under Employees Provident Fund and Miscellaneous Provisions Act, 1952, having its registered office at Bhavishya Nidhi Bhavan, Bikaji Cama Palace, New Delhi 110 066, through Regional Provident Fund Commissioner, Sub Regional Office, 15-B, Raghuraj Aircad, Civil Lines, Akola.
2. Assistant Provident Fund Commissioner, O/o Employees Provident Fund Organisation, sub-regional office, 15-B, Raghuraj Aircad, Civil Lines, Akola.

Shri R.G.Kavimandam, counsel for the Petitioners.
Shri R.S.Sundaram, counsel for the Respondents.

WRIT PETITION NO. 5667 OF 2009

PETITIONER :-

Shattarka Nagri Sahakari Pat Sanstha,
Maryadit Nagpur 15 Through its Chief
Manager.

...VERSUS...

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RESPONDENT :- Assistant Provident Funds Commissioner,
Office of Employees Provident Fund
Organisation, SRO 132A, Ridge Road
Tukdoji Maharaj Chowk, Raghuji Nagar,
Nagpur.

Shri S.S.Ghate, counsel for the Petitioner.
Shri R.S.Sundaram, counsel for the Respondent.

WRIT PETITION NO. 6149 OF 2011

PETITIONER :- The Amravati Zilla Mahila Sahakari Bank
Limited, The cooperative Bank, registered
under the Maharashtra Cooperative
Societies Act, 1960, having its registered
office at Jawahar Road, Amravati,
through its Chief Executive Officer, Shri
Subhash S/o Shamrao Mahure.

...VERSUS...

RESPONDENT :- Assistant Provident Fund Commissioner,
Sub Region Office, 15B, Raghuraj
Arkade, Civil Lines, Akola 444 001.

Shri A.S.Kilor, counsel for the Petitioner.
Shri H.N.Verma, counsel for the Respondent.

WRIT PETITION NO. 6191 OF 2005

PETITIONER :- Assistant Provident Fund Commissioner,
Office of the Regional Provident Fund
Commissioner, 132-A, Ridge Road,
Tukdoji Square, Raghujinagar, Nagpur.

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...VERSUS...

RESPONDENT :-

Bhartiya Sindhu Sahakari Pat Sanstha Maryadit, Akola, through its Chief Manager, Mr Vimlesh Syamsunder Pande, aged about 35 years, Occupation Service, R/o Alankar Market, Tilak Road, Akola.

Shri R.S.Sundaram, counsel for the Petitioner.
Shri R.L.Khapre, counsel for the Respondent.

CORAM : MANISH PITALE, J.

DATE OF RESERVING THE JUDGMENT: 28.02.2019.

DATE OF PRONOUNCING THE JUDGMENT: 25.04.2019.

J U D G M E N T

Heard.

2. **Rule.** Rule made returnable forthwith. These writ petitions are heard finally with the consent of the learned counsel for the parties.

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3. This group of writ petitions, filed by the banks (employer) as also by the Assistant Provident Fund Commissioner challenge orders passed by the Employees Provident Fund Appellate Tribunal as also the Assistant Provident Fund Commissioner, pertaining to the question as to whether pigmy agents/collection agents appointed by the banks for collection of small deposit amounts could be covered under the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as "Act of 1952") and whether the Provident Fund Commissioner could enquire into the applicability of the Act of 1952 on such banks and if so, the liability of the banks under the provisions of the Act of 1952.

4. Since common questions arise in the present petitions, the said questions are being decided first and then individual writ petitions will be dealt with.

5. On behalf of the banks, learned counsel led by Mr.R.L. Khapre contended that in view of the award of the Industrial Tribunal at Hyderabad concerning specific question referred to the

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said Tribunal by the Central Government, which stood modified by the judgment of Andhra Pradesh High Court in the case of *Indian Banks Association v. The Workmen of Syndicate Bank and others*, reported in **1988 (1) LLJ 233** and such modified award stood confirmed by the Hon'ble Supreme Court in its judgment in the case of *Indian Bank Association v. Workmen of Syndicate Bank*, reported in **(2001) 3 SCC 36**, there was no scope for the Provident Fund Commissioner to argue that the pigmy agents/ collection agents of the banks were covered under the provisions of the Act of 1952. It was contended that the said service condition of entitlement towards provident fund upon being covered under the provisions of the Act of 1952 stood rejected by the aforesaid modified award, confirmed up to the Hon'ble Supreme Court and that such an award had binding force under section 18(3)(d) of the Industrial Disputes Act, 1947 (hereinafter referred to as "Act of 1947"), thereby showing that the Act of 1952 was not applicable and the contentions raised on behalf of the banks deserved to be allowed. It was specifically contended that the Hon'ble Supreme Court categorically held in the case of *Punjab National Bank and*

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Ors. v. Manjeet Singh and Anr., reported in **(2006) 8 SCC 647** that once such an award on a reference made by the Central Government pertaining to an establishment had attained finality, it was binding on all parties and the same could not be reopened.

6. On this basis, it was contended that the reliance placed on the judgments of Division Bench of this Court in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization*, reported in **2014 (4) Mh.L.J. 436** and **2017 (2) Mh.L.J. 946** in writ petition and review petition as also the judgment of the Hon'ble Supreme Court in the case of *Nashik Merchant Cooperative Bank Ltd. v. The Regional Provident Fund Commissioner II*, (Civil Appeal No.15680 of 2017, decided on 05/10/2017) was misplaced because the said contention pertaining to binding nature of the award confirmed up to the Hon'ble Supreme Court, was not brought to the notice of the Division Bench of this Court as well as the Hon'ble Supreme Court. On this basis, it was contended that the judgments and orders passed in the case of *Pachora Peoples' Co-op. Bank Ltd. v.*

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Employees Provident Fund Organization and Nashik Merchant Cooperative Bank Ltd. v. The Regional Provident Fund Commissioner II (supra) were *per incuriam* and not binding on this Court. Alternatively, it was submitted that this Court ought to refer the said question to Full Bench of this Court for resolution.

7. In this regard, reliance was placed by the learned counsel appearing for the banks on various judgments pertaining to the concept of *ratio decidendi* of a judgment, *per incuriam* judgments and the fact that even a learned Single Judge of this Court could directly refer a matter to the Full Bench of this Court for consideration on certain issues.

8. *Per contra*, the learned counsel appearing for the Provident Fund Commissioner led by Mr. R.S.Sundaram and Mr. H.N.Verma, submitted that there was no substance in the contention raised on behalf of the banks. It was submitted that the judgments of the Division Bench of this Court in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund*

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Organization (supra) had been specifically confirmed by the Hon'ble Supreme Court in the case of *Nashik Merchant Cooperative Bank Ltd. v. The Regional Provident Fund Commissioner II* (supra) and that the said judgments of this Court had remanded similar matters concerning identical questions to the Authorities under the Act of 1952 for consideration and further that in the review judgment of this Court in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra) specific parameters for assessment of questions were laid down by this Court for the guidance of the Authorities. It was submitted that in such a situation, the banks as well as the authorities under the Act of 1952 had ample opportunity to place on record material for the Authorities to answer all questions, including the question of applicability of the Act to the banks, upon remand of the cases. It was submitted that the said judgments of the Division Bench of this Court, as confirmed by the Hon'ble Supreme Court, were clearly applicable to the present cases and that the Provident Fund Commissioner, who was the petitioner in some petitions and the respondent in others before this Court, conceded to the

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requirement of all the matters being remanded to the Provident Fund Appellate Tribunal to be decided afresh on the parameters laid down in the review judgment of the Division Bench of this Court in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra).

9. On the contention raised on behalf of the banks that the pigmy agents/collections agents were not covered under the provisions of the Act of 1952 on the basis of binding force of the award under the provisions of the Act of 1947, confirmed up to the Hon'ble Supreme Court, it was submitted that the said contention was of no avail, because upon remand, the question of applicability of the Act of 1952 would certainly be gone into by the Tribunal and the power and authority of the concerned officers/authorities under the provisions of the Act of 1952 could not be taken away by the said interpretation put forth on behalf of the banks. On the question of *per incuriam* or the necessity to refer the matters to Full Bench of this Court, it was submitted that the same was not necessary, in view of the fact that similar cases

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had been already remanded to the Authorities by a Division Bench of this Court, as confirmed up to the Hon'ble Supreme Court and there was no conflict or dispute regarding any question of law that arose in the present matter, warranting reference of the present cases to a Full Bench for consideration and resolution. The learned counsel placed reliance on the judgment of the Hon'ble Supreme Court in the case of *Director of Settlements, A.P. and others v. M. R. Apparao and another*, reported in (2002) 4 SCC 638 to contend that when the Hon'ble Supreme Court in the case of *Nashik Merchant Cooperative Bank Ltd. v. The Regional Provident Fund Commissioner II* (supra) specifically used the words “We are of the view that the entitlement of the employees to be covered by the provisions of the Act of 1952 needs to be decided in the light of the aforesaid laid down parameters.”, it became clear that the order of remand passed in the judgments in the writ petition and review in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra) had received the stamp of approval of the Hon'ble Supreme Court and that in the present cases also an order of remand was required to be passed,

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so that the contentions of the rival parties could be decided on the basis of the specific parameters laid down in the review judgment of the Division Bench of this Court in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra).

10. Heard counsel for the parties and perused the material placed on record. The question as to whether pigmy agents/collection agents of banks were entitled for reliefs as workmen, was subject matter of the aforesaid reference made by the Central Government to the Industrial Tribunal at Hyderabad. The question referred to the Tribunal by the Central Government for adjudication under the provisions of the Act of 1947, was as follows :-

“Whether the demands of the Commission Agents or as the case may be Deposit Collectors Employed in the Banks listed in the Annexure that they are entitled to pay scales, allowances and other service conditions available to regular clerical employees of those banks is justified? If not, to what relief are the workmen concerned entitled and from which date?”

11. The Tribunal, answered the reference by holding that such collection agents below the age of 45 years as on

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03/10/1980 shall be considered for regular absorption for the post of clerks and cashier in the banks and they could be taken as legal employees if they passed qualifying examination to be conducted by the banks and it was further held that those collection agents, who were above the age of 45 years on the said date and were unwilling to be absorbed in the service of the banks, they shall be paid fall back wages of Rs.750/- per month and further that they would be entitled to certain incentive remuneration, in addition to payment of gratuity of 15 days commission for each year of service rendered. In the process of reaching to the said conclusions, the Tribunal categorically found that the collection agents were employees of the bank and there was a relationship of master and servant or employer and employee. It was also stated by the Tribunal that the collection agents cannot claim any provident fund or pension but they could pray for gratuity as mentioned above.

12. The said award of the Tribunal was challenged before the Andhra Pradesh High Court and by the judgment and order

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dated 28/03/1997 passed by the High Court in the case of *Indian Banks Association v. The Workmen of Syndicate Bank and others* (supra), the High Court held that the finding of the Tribunal regarding collection agents being workmen of the respective banks was correct, but the direction for absorption of the collection agents in the service of the banks, who were below the age of 45 years was not sustainable. The High Court did uphold the other direction of the Tribunal pertaining to fall back wages, conveyance allowance, incentive remuneration and gratuity.

13. The said award was in turn challenged before the Hon'ble Supreme Court and it was decided in the said judgment in the case of *Indian Banks Association v. The Workmen of Syndicate Bank and others* (supra), wherein the award as modified by the High Court was upheld and hence, the finding that the collection agents were indeed workmen, attained finality.

14. It is the case of the learned counsel appearing on behalf of the banks before this Court that the facts regarding the details of the award passed by the Tribunal as modified and

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confirmed by the High Court and the Hon'ble Supreme Court were not brought to the notice of the Division Bench of this Court when the judgments were rendered in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra) in the writ petition and review petition. On this basis, it was contended that even if the judgments in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra) were confirmed by the Hon'ble Supreme Court in the case of *Nashik Merchant Cooperative Bank Ltd. v. The Regional Provident Fund Commissioner II* (supra), such judgments were on a concession given by the counsel agreeing to remand of the matters before the Authorities under the Act of 1952 and that being in ignorance of the said position of law regarding binding effect of award under section 18(3)(d) of the Act of 1947, the judgments in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra) were *per incuriam* and not binding on this Court. As noted above, alternatively, it was submitted that this aspect was required to be referred to a Full Bench of this Court.

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15. In order to consider the said contentions raised on behalf of the banks, it would be necessary to first refer to the judgment of the Hon'ble Supreme Court in the case of *Punjab National Bank and Ors. v. Manjeet Singh and Anr.* (supra), on which much reliance has been placed on behalf of the banks on the aspect of binding force of the said award of the Tribunal on reference made by the Central Government, as modified by the High Court and upheld by the Hon'ble Supreme Court in the case of *Indian Banks Association v. The Workmen of Syndicate Bank and others* (supra). A perusal of the said judgment, shows that the Hon'ble Supreme Court in the case of *Punjab National Bank and Ors. v. Manjeet Singh and Anr.* (supra) in paragraph 17, has held as follows :-

“17. In an industrial dispute referred to by the Central Government which has an all-India implication, individual workmen cannot be made party to a reference. All of them are not expected to be heard. The unions representing them were impleaded as parties. They were heard. Not only were the said unions heard before the High Court, as noticed hereinbefore from a part of the judgment of the High Court, they had preferred appeals before this Court, Their contentions had been noticed by this Court. As the award was made in presence of

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the unions, in our opinion, the contention of respondents that the award was not binding on them cannot be accepted. The principles of natural justice were also not required to be complied with as the same would have been an empty formality. The court will not insist on compliance of the principles of natural justice in view of the binding nature of the award. Their application would be limited to a situation where the factual position or legal implication arising thereunder is disputed and not where it is not in dispute or cannot be disputed. If only one conclusion is possible, a writ would not issue only because there was a violation of the principles of natural justice.”

16. The emphasis in the said judgment was on the fact that there was no necessity to issue separate notice to employees of banks and establishments, who stood covered under the aforesaid reference made by the Central Government before the Tribunal at Hyderabad. In the context of the argument raised on behalf of the employees therein that they were entitled to issuance of separate notice and adherence to principles of natural justice when the bank intended to take steps as per the modified award, it was held that under section 18(3)(d) of the Act of 1947, award pronounced on a reference made by the Central Government was binding on all parties, including workmen in such establishments

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to whom the award pertained. In fact, the Hon'ble Supreme Court in earlier judgments in the case of *National Engineering India Ltd. v. State of Rajasthan*, reported in (2000) 1 SCC 371 and *Kapra Mazdoor Ekta Union v. Birla Cotton Spinning and Weaving Mills Ltd. and another*, reported in (2005) 13 SCC 777 had reiterated the binding nature of the award under section 18(3)(d) of the Act of 1947 on the basis that for maintenance of industrial peace, such awards are required to be held as binding on all the employees and establishments.

17. But, a perusal of para 17 of the judgment in the case of *Punjab National Bank and Ors. v. Manjeet Singh and Anr.* (supra) quoted above, shows that the Hon'ble Supreme Court while reiterating binding nature of the award under the aforesaid provisions, has observed that the principles of natural justice would still apply to a situation where the factual position or legal implication arising is disputed and not where it is not in dispute or cannot be disputed. It is further held that if only one conclusion was possible, a writ would not issue only because there was a

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violation of principles of natural justice. These observations in the very same judgment are relevant for the present case. This is because the present case concerns notices issued by Authorities under the provisions of the Act of 1952 regarding applicability of the provisions of the said Act and hence, contributions liable to be paid by the banks as well as the collection agents, in the respective facts of the individual cases. This necessarily encompasses the question of power of the Authorities under the provisions of the Act of 1952 to take steps as are necessary to fulfill the object of the Act of 1952.

18. In this context, the nature of observations made by the Industrial Tribunal at Hyderabad shows that the main question considered by the Tribunal under the provisions of the Act of 1947 was, as to whether collection agents of banks were workmen as defined under the Act of 1947 and whether there was relationship of employer and employee between the banks and the collection agents. This is evident from paragraph 43 of the award of the Industrial Tribunal at Hyderabad. The entire discussion in the

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award is centered around the aforesaid question specified in paragraph 43 of the award and it is on the basis of conclusions rendered on the said question that the final directions and findings are given in paragraph 69 of the award, details of which have been already noted above. There is an observation in paragraph 68 of the award that according to the member of the Industrial Tribunal, it was felt that the collection agents could not claim provident fund or pension, but the positive findings rendered in paragraph 69 pertained only to the question as to whether the collection agents could be said to be workmen and employees of the banks. The question, therefore, is whether the observation made in paragraph 68 of the award, in the absence of any analysis would successfully and permanently restrain the Authorities under the Act of 1952 to even enter into the question as to whether the said Act was applicable to the collection agents, who were found to be workmen and employees of the banks.

19. In this context, section 7-A of the Act of 1952 becomes significant, the relevant portion of which reads as follows:-

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“[7-A. Determination of moneys due from employers. – [(1) The Central Provident Fund Commissioner, any Additional Central Provident Fund Commissioner, any Deputy Provident Fund Commissioner, any Regional Provident Fund Commissioner or any Assistant Provident Fund Commissioner, may, by order, –

(a) in a case where a dispute arises regarding the applicability of this Act to an establishment, decide such dispute; and

(b) determine the amount due from any employer under any provisions of this Act, the Scheme or the [Pension] Scheme or the Insurance Scheme, as the case may be, and for any of the aforesaid purposes may conduct such inquiry as he may deem necessary.]”

20. The above quoted portion shows that even in a case where dispute arises regarding the applicability of the Act of 1952 to an establishment, such a dispute also has to be decided by the Provident Fund Commissioner. This shows that power and jurisdiction of the Provident Fund Commissioner under section 7-A (1)(a) of the Act of 1952 encompasses the fundamental question as to whether the Act of 1952 can even be applied to a particular establishment. This Court is of the opinion that the observation made in paragraph 68 of the award passed by the Industrial Tribunal at Hyderabad in a reference made by the Central

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Government under the provisions of the Act of 1947, cannot take away the aforesaid power of the Provident Fund Commissioner under section 7-A(1)(a) of the Act of 1952 to decide as to whether the provisions of the Act of 1952 would apply to the banks/ establishments in the present cases. If such an interpretation was permitted, the very object of the Act of 1952 would be frustrated. It is important that the banks in the present case are seeking to stall an enquiry under the provisions of the Act of 1952 at the threshold by relying upon the said judgment of the Hon'ble Supreme Court regarding binding nature of the award under section 18(3)(d) of the Act of 1947, but the same cannot be permitted.

21. In this context, the judgments of the Division Bench of this Court in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra) assume significance, because a perusal of the specific parameters laid down by the judgment of the Division Bench of this Court in review shows that the Authorities under the Act of 1952 have been

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directed to make enquiry based on material including appointment orders/contract letters/agreement between the banks and the collection agents, as also to enquire as to whether the banks have been paying wages disguised as commission to the collection agents. Thus, the orders of remand passed by the Division Bench of this Court do not lead to the conclusion that the banks have been held to be liable or covered under the provisions of the Act of 1952, but detailed enquiry has been directed to be conducted by the Provident Fund Authorities under the Act of 1952 to ascertain whether the banks could be covered under the provisions of the Act of 1952. At this stage, it would be relevant to reproduce the parameters specified by the Division Bench of this Court in the review judgment in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra).

“32 We are, therefore, of the view that the following factors must be considered by the EPF Authorities in such cases :-

- (a) The EPF Authorities should collect necessary documents by inspection of records of the Establishment/ Industry.

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- (b) A direction to the Management to produce the documents as may be found necessary, should be issued whenever the EPF Authorities realize that the Management is holding back certain documents.
- (c) The appointment orders/ contract letters or agreements in between the Banks and the pigmy agents/ deposit collectors should be made available for scrutiny and should be taken into consideration.
- (d) Based on the above documents, the EPF Authorities must adjudicate on the following aspects:-
- (i) Whether, the contracts/ appointment orders have a semblance of employer-employee relationship?
- (ii) Whether, there is supervision, control and direction of the Bank over such agents?
- (iii) Whether, these agents are under an obligation to work only for a particular Bank or it's Branches?
- (iv) Whether, these agents are permitted to work elsewhere or undertake any other business, job, profession or calling?
- (v) Whether, such agents are primarily dependent upon the work of collecting deposits for a particular Establishment?

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- (e) Interrogate the pigmy depositors to elucidate information about their exact nature of duties.
- (f) Based on the documents and an analysis upon considering the above mentioned factors, the APFC will have to arrive at a conclusion supported by reasons that such pigmy agents can be termed as "workmen" and share employer-employee relationship with the Bank and are being paid wages disguised as commission. The said commission amount would then be termed as basic wages under Section 2(b) of the EPF Act.”

22. In this backdrop, it becomes clear that there is no substance in the contention raised on behalf of the banks that due to binding nature of award of the Industrial Tribunal at Hyderabad, as modified by the High Court and confirmed by the Hon'ble Supreme Court, under section 18(3)(d) of the Act of 1947, even the initiation of enquiry based on the said parameters laid down by the Division Bench of this Court cannot be undertaken.

23. It is also relevant that the Hon'ble Supreme Court in the case of *Nashik Merchant Cooperative Bank Ltd. v. The Regional*

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Provident Fund Commissioner II (supra) upheld the said parameters laid down by the Division Bench of this Court in the said review orders by holding as follows:-

“3. The order of the High Court taking the aforesaid view seems to be primarily based on an earlier decision of the High Court dated 7th February, 2014 in the case of The Pachora Peoples' Co-op. Bank Ltd. vs. The Employees Provident Fund Organization (Ministry of Labour, Govt. of India) [rendered in Writ Petition No.5086 of 2011 (Aurangabad Bench)]. It has been brought to the notice of the Court by the learned counsels for the appellants that the decision in The Pachora Peoples' Co-op. Bank Ltd. (supra) was subjected to a review before the High Court. Though the review petition was dismissed, a view was taken by the High Court that as hundreds of such disputes/cases are pending before the EPF Authorities and the High Court, certain parameters should be laid down by the High Court to govern the exercise of power in this regard by the EPF authorities under the Act of 1952. The High Court on a consideration of the matter deemed it proper to lay down the following parameters:

“(a) The EPF authorities should collect necessary documents by inspection of records of the Establishment/Industry.

(b) A direction to the Management to produce the documents as may be found necessary should be issued whenever the EPF authorities realize that

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the Management is holding back certain documents.

(c) The appointment orders/contract letters or agreements in between the Banks and the pigmy agents/deposit collectors should be made available for scrutiny and should be taken into consideration.

(d) Based on the above documents, the EPF authorities must adjudicate on the following aspects:

- (i) Whether, the contracts/appointment orders have a semblance of employer-employee relationship?
 - (ii) Whether, there is supervision, control and direction of the Bank over such agents?
 - (iii) Whether, these agents are under an obligation to work only for a particular Bank or it's Branches?
 - (iv) Whether, these agents are permitted to work elsewhere or undertake any other business, job, profession or calling?
 - (v) Whether, such agents are primarily dependent upon the work of collecting deposits for a particular Establishment?
- (e) Interrogate the Pigmy depositors to elucidate information about their exact nature of

duties.

(f) Based on the documents and an analysis upon considering the above mentioned factors, the APFC will have to arrive at a conclusion supported by reasons that such pigmy agents can be termed as “workmen” and share employer-employee relationship with the Bank and are being paid wages disguised as commission. The said commission amount would then be termed as basic wages under section 2(b) of the EPF Act.”

4. As in the present case, the judgment of the High Court impugned in these appeals does not indicate consideration of any of the aforesaid parameters and the High Court itself felt that the matter needs to be dealt with by reference to specific parameters noticed above, we are of the view that the entitlement of the employees to be covered by the provisions of the Act of 1952 needs to be tested in the light of the aforesaid laid down parameters. We, therefore, are of the view that in the facts of the present case it would be proper to set aside the order of the High Court and remand the matters for a *de novo* consideration by the EPF Authorities in the light of the parameters laid down by the High Court in its order of review dated 11th January, 2017 in The Pachora Peoples' Co-op. Bank Ltd. (supra), as extracted herein above.”

24. In this context, the learned counsel appearing for the Provident Fund Commissioner are justified in relying upon the

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judgment of the Hon'ble Supreme Court in the case of *Director of Settlements, A.P. v. M.R.Apparao* (supra), wherein it has been held that when the Hon'ble Supreme Court uses words to the effect “*We are also of the view*”, it amounts to the Hon'ble Supreme Court approving the view taken by the High Court in a particular case. The above quoted portion of the judgment of the Hon'ble Supreme Court in the case of *Nashik Merchant Cooperative Bank Ltd. v. The Regional Provident Fund Commissioner II* (supra) shows that it has been categorically stated by the Hon'ble Supreme Court that “*We are of the view that the entitlement of the employees to be covered by the provisions of the Act of 1952 needs to be decided in the light of the aforesaid laid down parameters.*” Thus, the law laid down by the Hon'ble Supreme Court in the case of *Director of Settlements, A.P. v. M.R.Apparao* (supra) applies squarely to the present case and the learned counsel appearing for the banks were not justified in contending that the said directions and observations given by the Hon'ble Supreme Court in the case of *Nashik Merchant Cooperative Bank Ltd. v. The Regional Provident Fund Commissioner II* (supra) were given on a concession of the

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counsel appearing for the banks in those cases. This Court is of the opinion that the judgments of the Division Bench of this Court in *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra) in writ petition and review read with judgment of the Hon'ble Supreme Court in the case of *Nashik Merchant Cooperative Bank Ltd. v. The Regional Provident Fund Commissioner II* (supra), approving the remand order and the parameters specified by the Division Bench of this Court in the review judgment, are binding on this Court and, therefore, the present group of writ petitions needs to be disposed of in that light. The contentions raised on behalf of the banks that the judgments in the writ petition and review application in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra) are *per incuriam* due to ignorance of the binding nature of settlement under section 18(3)(d) of the Act of 1947, is found by this Court to be unsustainable. A perusal of the judgments of the Division Bench of this Court in the writ petition and review application in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra) shows that

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copious reference and quotations have been made by the Division Bench of this Court from the judgment of the Hon'ble Supreme Court in the case of *Indian Banks Association v. The Workmen of Syndicate Bank and others* (supra), whereby the modified award of the Industrial Tribunal at Hyderabad was confirmed. In this context, the judgments relied upon by the learned counsel appearing for the banks in the case of *Narmada Bachao Andolan v. State of M.P.*, **AIR 2011 SC 1989** and other judgments can be no avail because this Court is of the opinion that the said contention, which was not raised before the Division Bench of this Court regarding binding nature of award of the Industrial Tribunal would have no effect on the findings rendered by the Division Bench of this Court, as the parameters laid down in the review judgment of the Division Bench of this Court clearly point to the fact that no final conclusion has been given regarding the applicability of the Act of 1952 and only the power of the Authorities under the Act of 1952 to make enquiry, including enquiry contemplated under section 7-A (1)(a) of the Act of 1952 pertaining to the very applicability of the said Act, has been

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recognized. Hence, the said contention regarding the judgments of the Division Bench of this Court being *per incuriam* is rejected.

25. The alternative contention raised on behalf of the banks, regarding necessity to refer the issues raised on behalf of the banks for consideration to a Full Bench of this Court, is also without any substance. This Court has considered the specific issues raised on behalf of the banks and it is found that the aforementioned judgments of the Division Bench of this Court in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra) and the judgment of the Hon'ble Supreme Court in the case of *Nashik Merchant Cooperative Bank Ltd. v. The Regional Provident Fund Commissioner II* (supra) cannot be said to be *per incuriam* and, therefore, there is no question of any necessity to refer such issues to Full Bench of this Court. There cannot be any quarrel with the proposition that even a learned Single Judge can refer issues for consideration and decision to a Full Bench of this Court directly, but once this Court

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has come to the conclusion that in the present cases there is no necessity to make such a reference, the said proposition can be of no assistance to the banks. Therefore, the judgments relied upon by the learned counsel for the banks in this context do not need to be discussed.

26. There is also reference made to judgments of this Court and the Hon'ble Supreme Court regarding the question as to what can be said to be *ratio decidendi* of a judgment, but the said judgments do not need any discussion or consideration because this Court has found that the judgments of the Division Bench of this Court in writ petition and review in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra) as well as the judgment of the Hon'ble Supreme Court in the case of *Nashik Merchant Cooperative Bank Ltd. v. The Regional Provident Fund Commissioner II* (supra) lay down a ratio that is binding on this Court and that there is no question of the said judgments not being binding, because they were allegedly rendered on concessions made on behalf of the banks therein.

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Accordingly, the said contention raised on behalf of the banks is rejected.

27. It is important to refer to the fact that even while approving the parameters laid down by the review judgment of the Division Bench of this Court, the Hon'ble Supreme Court in its judgment in the case of *Nashik Merchant Cooperative Bank Ltd. v. The Regional Provident Fund Commissioner II* (supra) specifically directed that the Provident Fund Authorities under the Act of 1952 would be at liberty to take decision afresh in the matters after hearing the contesting parties, who also would be at liberty to raise all contentions as may be available in law. Therefore, it becomes clear that if the dispute in the present cases is also remanded to the Provident Fund Authorities under the Act of 1952, to be taken up for consideration on the parameters laid down by the Division Bench of this Court in its judgment in review in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra), all questions would be open and they would be decided on material that would be placed on record by rival parties, which could be enquired into by the

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Authorities as per the mandate of the Act of 1952. Such an enquiry can certainly not be permitted to be thwarted at the threshold on the basis of the said argument regarding binding nature of the award of the Industrial Tribunal under section 18(3)(d) of the Act of 1947.

28. In the light of the above, this Court is of the opinion that the writ petitions in the present case deserve to be partly allowed and all the cases deserve to be remanded to the Provident Fund Commissioner for undertaking enquiry under section 7-A of the Act of 1952, on the parameters laid down by the Division Bench of this Court in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra) quoted above, including on the question of the applicability of the Act of 1952 to the banks/employers in the present case as mandated under section 7-A(1)(a) of the Act of 1952. On this basis, the writ petitions are being disposed of individually herein below:-

- (1) In the light of the above, Writ Petition No.5154 of 2016; Sanmitra Urban Co-operative Bank Ltd., Akola v.

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Assistant Provident Fund Commissioner and another, is partly allowed. The impugned order passed by the Employees Provident Fund Appellate Tribunal, New Delhi and order passed by the Assistant Provident Fund Commissioner, Akola are quashed and set aside. The dispute is remanded back to the Assistant Provident Fund Commissioner, Akola to undertake enquiry under section 7-A of the Act of 1952 in the light of the above quoted parameters specifically laid down by the Division Bench of this Court in review in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra).

- (2) In the light of the above, Writ Petition No.142 of 2014; *Shri Keshav Urban Credit Co-op. Society Ltd., Shegaon v. Assistant Provident Fund Commissioner*, is partly allowed. The impugned order passed by the Assistant Provident Fund Commissioner, Akola is quashed and set aside and the matter is remanded back to the Assistant

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Provident Fund Commissioner, Akola for holding fresh enquiry under section 7-A of the Act of 1952 on the basis of the above quoted parameters laid down by the Division Bench of this Court in review in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra).

- (3) In the light of the above, Writ Petition No.333 of 2011; *M/s. Baheti Automobiles v. Employees' Provident Fund Appellate Tribunal, New Delhi and another*, is partly allowed. The impugned orders dated 09/12/2004 and 31/03/2005 passed by the Assistant Provident Fund Commissioner, Nagpur, as also the impugned order dated 03/09/2010 passed by the Employees' Provident Fund Appellate Tribunal are quashed and set aside and the matter is remanded back to the Assistant Provident Fund Commissioner, Nagpur for holding fresh enquiry under section 7-A of the Act of 1952 by applying the above quoted parameters laid down by the Division

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Bench of this Court in review in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra).

- (4) In the light of the above, Writ Petition No.1027 of 2011; *The Amravati Zilla Mahila Sahakari Bank Limited v. The Employees' Assistant Provident Fund Appellate Tribunal and another*, is partly allowed. The impugned orders dated 24/05/2004 and 30/07/2004 passed by the Assistant Provident Fund Commissioner, Nagpur as also the impugned order dated 07/01/2011 passed by the Employees Provident Fund Appellate Tribunal are quashed and set aside and the matter is remanded back to the Assistant Provident Fund Commissioner, Nagpur for holding fresh enquiry under section 7-A of the Act of 1952 on the basis of the above quoted parameters laid down by the Division Bench of this Court in review in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra).

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- (5) In the light of the above, Writ Petition No.1106 of 2009; Wardha Nagri Sahakari Adhikosh (Bank) Limited v. The Regional/Assistant Provident Funds Commissioner, is partly allowed. The impugned order passed by the Regional Provident Fund Commissioner, Nagpur is quashed and set aside and the matter is remanded back to the Regional Provident Fund Commissioner, Nagpur for holding fresh enquiry under section 7-A of the Act of 1952 on the basis of the above quoted parameters laid down by the Division Bench of this Court in review in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra), quoted above. The prayer made on behalf of the intervener i.e. the Union of Employees to de-tag the present writ petition from the bunch of present writ petitions is rejected.
- (6) In the light of the above, Writ Petition No.1125 of 2014; The Akola Merchant Co-operative Bank Ltd., Akola v.

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Assistant Provident Fund Commissioner and another, is partly allowed. The impugned order passed by the Assistant Provident Fund Commissioner, Akola as also the impugned order passed by the Employees Provident Fund Appellate Tribunal are quashed and set aside and the matter is remanded back to the Assistant Provident Fund Commissioner, Akola for holding fresh enquiry under section 7-A of the Act of 1952 as per the above quoted parameters laid down by the Division Bench of this Court in review in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra), quoted above.

- (7) In the light of the above, Writ Petition No.3507 of 2013; The Assistant Provident Fund Commissioner v. The Agrasen Nagari Sahakari Bank ltd., Akola, is partly allowed. The impugned order passed by the Employees Provident Fund Appellate Tribunal is quashed and set aside. In view of the findings rendered above in this

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judgment, the order of the Assistant Provident Fund Commissioner, Nagpur is also quashed and set aside with a direction to the said Authority to conduct fresh enquiry under section 7-A of the Act of 1952 as per the above quoted parameters laid down by the Division Bench of this Court in review in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra).

- (8) In the light of the above, Writ Petition No.3654 of 2010; The Central Board of Trustees, through The Assistant Provident Fund Commissioner v. M/s. Abhinandan Urban Co-operative Bank Ltd., is partly allowed. The impugned order passed by the Employees Provident Fund Appellate Tribunal is quashed and set aside. In view of the findings rendered above in this judgment, the order of the Assistant Provident Fund Commissioner, Nagpur is also quashed and set aside with a direction to the said Authority to conduct fresh enquiry under

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section 7-A of the Act of 1952 as per the above quoted parameters laid down by the Division Bench of this Court in review in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra).

- (9) In the light of the above, Writ Petition No.3882 of 2014; *Anuradha Urban Cooperative Bank Ltd. and another v. Assistant Provident Fund Commissioner*, is partly allowed. The impugned order passed by the Employees Provident Fund Appellate Tribunal is quashed and set aside. In view of the findings rendered above in this judgment, the order of the Assistant Provident Fund Commissioner, Nagpur is also quashed and set aside with a direction to the said Authority to conduct fresh enquiry under section 7-A of the Act of 1952 as per the above quoted parameters laid down by the Division Bench of this Court in review in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra).

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(10) In the light of the above, Writ Petition No.4926 of 2003; The Anjangaon-Surji Nagari Sahakari Bank Limited v. The Assistant Provident Fund Commissioner and another, is partly allowed. The impugned order passed by the Assistant Provident Fund Commissioner, Nagpur is quashed and set aside and the matter is remanded to the said Authority for fresh enquiry under section 7-A of the Act of 1952 as per the above quoted parameters laid down by the Division Bench of this Court in review in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra).

(11) In the light of the above, Writ Petition No.5032 of 2003; The Amravati Merchants' Co-operative Bank Limited v. The Assistant Provident Fund Commissioner and another, is partly allowed. The impugned order passed by the Assistant Provident Fund Commissioner, Nagpur is quashed and set aside and the matter is remanded to the said Authority for fresh enquiry under section 7-A of

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the Act of 1952 as per the above quoted parameters laid down by the Division Bench of this Court in review in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra).

- (12) In the light of the above, Writ Petition No.5226 of 2009; *The Assistant Provident Fund Commissioner v. Jagruti Bigar Shetaki Pat Purwatha Sahakari Sanstha Ltd.*, is partly allowed. The impugned order passed by the Employees Provident Fund Appellate Tribunal is quashed and set aside. In the light of the findings rendered above, the order of the Assistant Provident Fund Commissioner, Nagpur is also quashed and set aside and the matter is remanded to the said Authority for fresh enquiry under section 7-A of the Act of 1952 as per the above quoted parameters laid down by the Division Bench of this Court in review in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra).

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(13) In the light of the above, Writ Petition No.5566 of 2010; The Central Board of Trustees through The Assistant Provident Fund Commissioner v. The Vasant Nagri Sahakari Pat Sanstha Maryadit, is partly allowed. The impugned order passed by the Employees Provident Fund Appellate Tribunal is quashed and set aside. In the light of the findings rendered above, the order of the Assistant Provident Fund Commissioner, Nagpur is also quashed and set aside and the matter is remanded to the said Authority for fresh enquiry under section 7-A of the Act of 1952 as per the above quoted parameters laid down by the Division Bench of this Court in review in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra).

(14) In the light of the above, Writ Petition No.5576 of 2015; Bharti Maind Nagri Sahakari Pat Sanstha and another v. Central Board of Trustees and another, is partly allowed. The impugned order passed by the Assistant Provident

Fund Commissioner, Nagpur is quashed and set aside and the matter is remanded to the said Authority for fresh enquiry under section 7-A of the Act of 1952 as per the above quoted parameters laid down by the Division Bench of this Court in the review in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra).

- (15) In the light of the above, Writ Petition No.5667 of 2009; *Shattarka Nagri Sahakari Pat Sanstha v. Assistant Provident Funds Commissioner*, is partly allowed and a direction is given to the Assistant Provident Fund Commissioner, Nagpur to hold proper enquiry in terms of the notices issued under section 7-A of the Act of 1952 to the petitioner-Sanstha and to conduct such enquiry as per the above quoted parameters laid down by the Division Bench of this Court in review in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra).

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(16) In the light of the above, Writ Petition No.6149 of 2011; The Amravati Zilla Mahila Sahakari Bank Limited v. The Assistant Provident Fund Commissioner, Akola, is partly allowed. The impugned order passed by the Assistant Provident Fund Commissioner, Akola is quashed and set aside and the matter is remanded to the said Authority for fresh enquiry under section 7-A of the Act of 1952 as per the above quoted parameters laid down by the Division Bench of this Court in review in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra).

(17) In the light of the above, Writ Petition No.6191 of 2005; Assistant Provident Fund Commissioner v. Bhartiya Sindhu Sahakari Pat Sanstha Maryadit, Akola, is partly allowed. The impugned order passed by the Employees Provident Fund Appellate Tribunal is quashed and set aside. In view of the findings rendered above, the order of the Assistant Provident Fund Commissioner, Nagpur

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is also quashed and set aside and the matter is remanded to the said Authority for fresh enquiry under section 7-A of the Act of 1952 as per the above quoted parameters laid down by the Division Bench of this Court in review in the case of *Pachora Peoples' Co-op. Bank Ltd. v. Employees Provident Fund Organization* (supra).

29. Rule is made absolute in the aforesaid terms. No order as to costs.

JUDGE

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