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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 13334/2021 & CM APPL. 42007/2021 & 42008/2021**

M/S INDUS TOWERS LTD. (FORMERLY BHARTI INFRATEL LTD.) Petitioner

Through: Mr. Raj Birbal, Sr. Advocate with
Ms. Raavi Birbal, Advocate (M-9818024661)

versus

REGIONAL PROVIDENT FUND COMMISSIONER - II AND
ORS Respondents

Through: Mr. Sandeep Vinshnu, Advocate for
R-1 to 3 (M-9810394594).

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **25.11.2021**

1. This hearing has been done in physical Court. Hybrid mode is permitted in cases where permission is being sought from the Court.
2. The present writ petition has been filed challenging the impugned order dated 22nd October, 2021 passed by the Ld. RPFC-II, EPFO Delhi West, Dwarka, New Delhi in *Diary No.40/2015* titled "*EPFO Delhi West v. M/s. Indus Towers Ltd.*". By the impugned order, the Respondent No.1/RPFC-II has dismissed the application dated 1st October, 2021 preferred by the Petitioner herein seeking recusal of the Respondent No.1/RPFC-II from the inquiry proceedings under Section 7A of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (*hereinafter 'the Act'*) on the ground of conflict of interest, judicial propriety and principles of natural justice.
3. The grievance of the Petitioner is that the concerned RPFC-II, who is

now conducting the inquiry under Section 7A of the Act, was earlier representing the Department. Thus, the same person acting as the inquiry officer under Section 7A of the Act, would be contrary to law.

4. Submissions have been made on behalf of the Petitioner and the Respondents. However, without going into the facts of the present case, in order to avoid any controversy or embarrassment to the officer concerned in this regard, it is directed that the proceedings in respect of the Petitioner, under Section 7A of the Act for the period of enquiry from 04/2008 to 04/2015, which is the subject matter of this case, shall now be conducted by any officer apart from the officer who has passed the impugned order dated 22nd October, 2021.

5. Ld. Counsels for the parties submit that the proceedings in this case were earlier being dealt with by RPFC-I. Accordingly, let the matter now be dealt with by RPFC-I.

6. In future, the EPFO shall bear in mind that the officers who appear as the Department's representatives or are making submissions on behalf of the Department before an inquiry officer, are not made inquiry officers or the adjudicating authority in respect of the same case.

7. In view of the above order, the issue of bias is not being gone into.

8. No further orders are called for in this matter.

9. The present petition, along with all pending applications, is disposed of.

PRATHIBA M. SINGH, J.

NOVEMBER 25, 2021

Rahul/ASD