

EXPARTE ORDER ON I.A.I to III

IA No.I filed by the Applicant of ESI Act to stay the operation of the Orders passed by the Respondents viz.,

(1) Order passed under Section 45-A of ESI Act dated 18.11.2015 as per annexure -A

(2) Order passed under Section 45-A of ESI Act dated 03.10.2016 as per annexure-B

(3) Garnishee order under Section 45-G of ESI Act dated 10.02.2022 as per Annexue-C claiming Rs.25,28,812/-.

IA No.II filed by the Applicant under Section 75(2-B) of ESI Act to waive off the amount to be deposited under Section 75 (2-B) of ESI Act.

Applicant has stated that Applicant's establishment is running a school under the name and style Muslim Educational Society, it is an unaided education society. The respondent corporation official visited the school and the applicant school contended that there was a writ appeal pending before the Hon'ble High Court of Karnataka about the applicability of ESI coverage to the unaided school. Without considering the request the respondent, has issued order under Section 45-A of ESI Act claiming contribution. The respondent corporation has issued show cause notice on 12.04.2013. The corporation issued notice for personal hearing, but applicant institution has not appeared for personal hearing. The respondent has not provided an opportunity to the applicant before assessing the amount under ESI Act. The applicant had not engaged 42 employees and they have taken assumed wages without any basis. The respondent passed an order directing the applicant to pay Rs.8,55,855/- as contribution amount. The respondent further issued order by the respondent under Section 45-G as per Annexure -C of the Act calling upon the respondent No.3 to transfer the amount available in the possession of the bank pertaining to the applicant. If the Order passed by the respondents are not stayed and amount to be deposited not waived off, the Applicant will suffer great

hardship and loss. Hence, prayed that IA No.I and II may be allowed.

Heard.

Perused the Records. The Applicant has filed the above case to set aside the Order passed by the Respondent under Section 75 of the ESI Act. As interim relief, the Applicant has sought for stay of impugned Order passed by the Respondent, to waive off the amount to be deposited under Section 75(2-B) of the ESI Act. Applicant has contended that the respondent has not provided an opportunity to the applicant before assessing the amount under ESI Act. The applicant had not engaged 42 employees and they have taken assumed wages without any basis and the applicant is not liable to pay ESI contribution.

At this stage taking into consideration of the facts, if Orders passed by the Respondent is not stayed, the purpose of filing the above case will be defeated. No hardship will be caused to the Respondent if the Order passed by the Respondent is stayed. Taking into consideration above said facts, it is just and necessary to grant relief to the Applicant as follows;

ORDER

Orders passed by the Respondent viz.,

- (1) Order passed under Section 45-A of ESI Act dated 18.11.2015 as per annexure -A
- (2) Order passed under Section 45-A of ESI Act dated 03.10.2016 as per annexure-B
- (3) Garnishee order under Section 45-G of ESI Act dated 10.02.2022 as per Annexue-C issued by the respondents 1 and 2 to the applicant are stayed subject to condition;

The Applicant has to deposit Rs.8,00,000/- in respect of demand made for Rs.25,28,812/- within 15 days from the date of this order with the Respondent Corporation.

ESI.A.28/2022

Issue Notice on Application, IA No.I & II and copy of stay order to the Respondents through RAPD if Applicant deposits the amount as per the Order.

Call on 12.04.2022.

**JUDGE,
ESI Court, Mysuru.**