

EXPARTE ORDER ON I.A.I & II

IA No.I filed by the Applicant under Sec.78 Act to stay the operation of the Order passed by the respondent dated 05.06.2023 under Section 45-G of ESI Act for Rs.1,17,475/- and to de-freeze the account number 520101053434631 of union bank of India, Virajpet, till disposal of the main petition.

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 and also permission to operate the account of the applicant.

Applicant has stated that it is an educational institution. The institution has only 8 to 9 teachers working in the institution. The teachers are working only for a stipulated period with a consolidated package and the teachers never worked continuously for a period of 240 days and they were engaged only for a stipulated period and given payment for teaching hours. Hence, the applicant does not come under the purview of ESI Act. The respondent issued demand notice and directed the bank manager of Union Bank of India to transfer the amount of Rs.1,17,475/-. The applicant never avoided to pay the legal dues and never refused to pay the same. The respondent without considering the payment made earlier issued notice u/s 45-G of ESI Act. The ESI.A 37/2022 and ESI.A 82/2022 are pending before this Tribunal for adjudication. If the Orders passed by the respondents are not stayed and amount to be deposited not waived off and if permission is not granted to operate the bank account, the Applicant will suffer great hardship and loss. Hence, prayed that IA No.I & 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 and to waive off the amount to be deposited under Section 75(2-B) of the ESI Act and also permission to operate the account of the applicant. The Applicant has contended that applicant institution is education institution and they are not more than 8 to 9 at any point of time and they are not eligible to be covered under the ESI Act. At this stage, 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 Orders 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

I.A.No.II filed u/s 75 (2-B) is partly allowed.

I.A.No.I filed by the Applicant is allowed. Order dated 05.06.2023, under Section 45-G of ESI Act for Rs.1,17,475/- is stayed until further orders subject to condition and applicant account number 520101053434631 of Union Bank of India, Virajpet, is de-frozen. The said bank is directed to allow the applicant to operate the said account until further orders subject to condition;

The Applicant has to deposit Rs.25,000/- in respect of demand made for Rs.1,17,475/- within 15 days from the date of this order with the Respondent Corporation.

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

Call on 04.09.2023.

**JUDGE,
ESI Court, Mysuru.**