

EXPARTE ORDER ON I.A.I to III

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

- (1) Order passed u/s 45-A of the ESI Act dated 24.02.2016, 29.05.2017 and 18.06.2019,
- (2) Garnishee order u/s 45-G of ESI Act dated 18.01.2021
- (3) Order passed u/s 85-B of ESI Act dated 03.02.2022 passed by the respondents 1 to 3 till disposal of the above case.

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's establishment is an educational institution. The respondent issued garnishee order dated 18.01.2021 demanding sum of Rs.21,44,155/-. The applicant has not deducted any contribution from the employees since the inception and most of the employees left the services and due to pendency of writ appeal, the applicant has not paid any contribution. In the meanwhile the respondent issued another code of ESI. The respondent has recovered the sum of Rs.28,10,386/- against the order passed u/s 45A of ESI Act for recovery of Rs.21,44,155/-. The recovery officer has issued order u/s 85-B of ESI Act claiming damages of Rs.15,65,720/-. During the pendency of an Appeal the authorities cannot insist for recovery of contributions of dues. The Applicant institute suffered severe financial crunch and not in a position to pay the claimed amount. The respondent has not provided an opportunity for recovery of contribution. The respondent has not taken into consideration the drastic reduction in admissions in the school and collection of fees. The respondent has issued three different code numbers and ESI No.2/2021 is pending before this Court. The applicant has requested the respondent to keep the issue in abeyance. 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 & III 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 (1) (g) 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 and permission to operate the bank account. Applicant has contended that respondent has allotted different three codes and due to pending of Appeal of educational institution, the applicant has not paid the claimed amount and requested to keep the issue in abeyance and thus among other grounds the applicant is not liable to pay ESI contribution.

Taking into consideration the facts of the case, 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 u/s 45-A of the ESI Act dated 24.02.2016, 29.05.2017 and 18.06.2019,
- (2) Garnishee order u/s 45-G of ESI Act dated 18.01.2021
- (3) Order passed u/s 85-B of ESI Act dated 03.02.2022 passed by the respondents are stayed subject to condition;

The Applicant has to deposit Rs.5,00,000/- in respect of demand made for Rs.15,65,720/- 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 Respondents through RAPD if Applicant deposits the amount as per the Order.

Call on 13.04.2022

**JUDGE,
ESI Court, Mysuru.**