

EXPARTE ORDER ON I.A.I & II

IA No.I filed by the Applicant under Sec.78 Act to stay the operation of the Orders passed by the Respondents viz.,

- (1) Order passed u/s 45-A of ESI Act dated 22.06.2021
- (2) Garnishee order dated 28.01.2022 u/s 45-G of ESI Act claiming Rs.2,21,073/- 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 has stated that Applicant's establishment is an aided institution running a school and having only 7 staffs, as such ESI Act is not applicable to the applicant institution. The applicant has not received any notice calling upon the institution to attend a personal hearing. The applicant did not have 10 employees on its rolls at any point of time prior to or as on 01.06.2016. The respondent no.1 has issued garnishee order under Section 45-G of ESI Act on 28.01.2022 on the basis of alleged demand notice. The respondent has not provided reasonable opportunity to put forth its case. In view of Covid-19 pandemic and due to lock down, payment of salaries to the staff of the institution has caused immense hardship and it is a private institution catering predominantly to poor students, it is finding it very difficult to raise funds for its function. If the Orders 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 & 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. Applicant has contended that due to Covid-19 pandemic and due to lock down, payment of salaries to the staff of the institution has caused immense hardship and it is a private institution catering predominantly to poor students, it is finding it very difficult to raise funds for its function and the applicant institution did not have 10 employees on its rolls at any point of time.

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

Orders passed by the Respondent viz.,

- (1) (1) Order passed u/s 45-A of ESI Act dated 22.06.2021
- (2) Garnishee order dated 28.01.2022 u/s 45-G of ESI Act claiming Rs.2,21,073/- issued by the respondents 1 and 2 to the applicant are stayed subject to condition;

The Applicant has to deposit Rs.75,000/- in respect of demand made for Rs.2,21,073/- 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 11.04.2022.

**JUDGE,
ESI Court, Mysuru.**