

INTERIM ORDERS ON I.A.I & II

The applicant-establishment has filed the main application seeking to set aside the order passed by the respondent U/s.85-B of the ESI Act vide No. SRO.MYS.INS-73000347290001302, dated 06.10.2025.

2. Along with the main application, the applicant has filed IA.No.I to stay the operation of the order dated 06.10.2025 claiming damages of Rs.6,05,883/- levied for the period from March 2011 to December 2016, till disposal of the main application and IA.No.I to waive the applicant from depositing 50% of the damages ordered by the respondent before this court in the interest of justice.

3. The case of the applicant is that it is a private un-aided educational institution established in 1979 at Hassan. For the first time, vide Form C-11 dated 04.08.2016, the respondent informed the applicant that it is covered under the provisions of the ESI Act from 16.03.2011 and allotted it the code No.7300034729001302. Thereafter, the respondent determined the contribution payable by the applicant and accordingly, the applicant paid a sum of Rs.9,79,972/- towards ESI contribution for the period from November 2012 to December 2012 and January 2017 to September 2017. The applicant further submits that coverage of educational institutions under the provisions of ESI Act vide Notification dated 16.03.2011 was not published through any media/newspaper and further, there was no inspection made by the respondent immediately thereafter and hence, the applicant was unaware of the requirement of its coverage under the ESI Act. Such being the case, the respondent vide impugned order dated 06.10.2025, imposed damages of Rs.6,05,883/- for the delayed payment of contribution for the period from March 2011 to December 2016. The said impugned order was passed without affording reasonable opportunity of personal hearing to the applicant. The impugned order is a non-speaking order and no reasons have been assigned by the respondent for imposing damages on the applicant. Therefore, the counsel for the applicant has prayed for stay of the impugned order passed by the respondent and further to waive off the amount to be deposited as per the provisions of ESI Act. In support of his contentions, the counsel for the applicant has relied upon the decisions in- 1) *Scorpion Security Ltd V/s the regional Provident Fund Commissioner-II, W.P.No.6270/2020 (L-PF), dated 02.02.2020* 2) *Anil William Thomas V/s Employees State Insurance Corporation in CM(M)*

2998/2024, CM Appl.41338/2024 and CM Appl.41339/2024 dated 24.07.2024.

4. A perusal of the documents produced by the applicant reveals that though the applicant was required to cover its under the ESI Act by virtue of the notification dated 16.03.2011, it had failed to do so and subsequently only after inspection of its premises by the respondent, it was covered under the ESI Act w.e.f.16.03.2011 vide order dated 04.08.2016. As per the applicant himself, there were in all 40 teaching and non-teaching staff on the rolls of the applicant-establishment as on 16.03.2011. The applicant had thereafter paid the contribution in respect of its employees from the year 2011 in the year 2018 and 2019. Taking into consideration the delayed payments, it appears that the respondent has now passed the impugned order U/s.85-B of the ESI Act imposing damages of Rs.6,05,883/- for the delayed payment of ESI contribution for the period from March 2011 to December 2016. Such being the case, it is to be determined by this court as to whether the damages imposed by the respondent on the applicant was in accordance with the provisions of ESI Act. The same can be determined only after appearance of the respondent.

5. From the records, it is apparent that there is delay on the part of the applicant in getting its institution covered under the ESI Act and thereafter in making payment of contribution. However, as this court is still required to examine as to whether the damages demanded by the respondent is in accordance with law and also as the damages determined is considerable in nature, it would be appropriate at this stage, to allow IA No.I subject to condition and partly allow IA. No. II by directing the applicant to deposit part of the damages assessed under the impugned order. With the above observations, this court proceeds to pass the following-

ORDER

IA No.I is allowed subject to conditions.

IA No.II is hereby partly allowed.

The impugned Order passed by the Respondent U/s.85-B of the ESI Act dated 06.10.2025, bearing No.SRO.MYS.INS/73000347290001302 is hereby stayed subject to payment of 10% of the damages claimed by the respondent ESI corporation.

Issue notice on main application, I.A.No.I & II to the respondent along with the Stay Order through speed post.

For appearance of the respondent, Call on:
20.01.2026.

**JUDGE,
ESI Court, Mysuru.**