

MHIC120002822023



**IN THE INSURANCE COURT AT PUNE
Presided Over by SHRI. K. N. GAUTAM**

Application ESI NO. 45 OF 2023

Ershad Enterprises
Fatima Nagar, Pune 411 040 ... Applicant

VERSUS

Employees State Insurance corporation
Bibvewadi, Pune 411 037 ... Opponent

**ORDER BELOW EXH. C-2
(Dated : 03.07.2024)**

Heard ld. Counsels for the applicant and opponent.
Perused reply of the opponent at Exh. E-3. I have also gone through
the case record.

2. It is the contention of the applicant that it is a proprietary concern engaged in the business of providing services and erection jobs by getting contract from Indian Oil Corporation. It has applied for ESI code by showing 20 family members as employees as ESI code was necessary in order to get contract from Indian Oil Corporation. The applicant has applied for registration under ESI Act though it was not covered under the Act. It is contended that after receiving ESI code as the terms of tender were not favourable

so it has not taken the contract from Indian Oil Corporation. It is contended that therefore, it has not done any business, not paid any wages which resulting in closure of applicant establishment. The applicant received ex-parte order under Section 45A of the ESI Act from ESI corporation dated 30.1.2023 claiming contribution of Rs. 5,30,145/-. In such circumstances, the applicant constrained to file the application. The applicant failed by way of interim relief prayed that order under Section 45A dated 30.01.2023 may be stayed till final disposal of the main application.

3. The opponent contended that while obtaining registration under the ESI Act the applicant shown nature of its business as commercial establishment and also shown 20 employees employed with it. As the ESI Act became applicable to the applicant, so it was statutory liability of the applicant to pay ESI corporation. Hence, the ESI Corporation issued notice in Form C-18 (Adhoc) dated 6.12.2022 and the applicant was called for personal hearing on 2.1.2023. However, the applicant failed to attend personal hearing and hence another opportunity of personal hearing was given on 24.1.2023, but of no avail. Thereafter, the order under Section 45A of the ESI Act dated 30.1.2023 was passed. Lastly, it is contended that the application may be rejected.

4. In the instant case, the applicant has deposited 50% of the amount claimed by order under Section 45A of the ESI Act dated 30.1.2023 vide DD dated 13.11.2023 of Rs. 2,65,073/- in Court. As per Section 75(2-B) the applicant is required to deposit 50% of amount due from him as claimed by the opponent otherwise he is

not entitled to raise the matter before this Court.

5. The opponent has not disputed said fact. Hence, I pass the following order :-

ORDER

- 1) The application [Exh. C-2] is allowed.
- 2) The execution and operation of order under Section 45A of the ESI Act dated 30.01.2023 is hereby stayed till final decision of the main application.
- 3) No order as to costs.

Pune
Date : 03.07.2024
nsp/-

(K.N. Gautam)
Judge, Insurance Court, Pune.