



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.9369 of 2026

***M/s Atul Kumar Jena, Petitioner
Bhadrak***

Mr. Somanath Mishra, Advocate

-versus-

***Deputy Director (Revenue), Opp. Parties
Employees State Insurance
Corporation, Bhubaneswar
and others***

**CORAM:
JUSTICE MRUGANKA SEKHAR SAHOO**

**ORDER
26.03.2026
(Hybrid Mode)**

Order No.

- 01.** 1. The petitioner is a Proprietorship Firm represented through its Proprietor has approached this Court invoking the jurisdiction under Articles 226 and 227 of the Constitution of India read with Employees State Insurance Act, 1948.
2. The petitioner firm undertakes contract work of different natures, was engaged as a contractor by the Dhamara Port Trust at Dhamara in the district of Bhadrak.

It is submitted that the notifications as contemplated in section 1 of the ESI Act, 1948 i.e. 1(3), 1(4) and 1(5) were not notified till 2024.



3. Since, the said sections of the ESI Act would have significance in considering the contentions of the petitioner, they are reproduced herein:

“1. Short title, extent, commencement and application.-

(1) This Act may be called the Employees’ State Insurance Act, 1948.

*(2) It extends to the whole of India 2***.*

(3) It shall come into force on such date or dates³ as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and 4 [for different States or for different parts thereof].

(4) It shall apply, in the first instance, to all factories (including factories belonging to the Government) other than seasonal factories:

⁵[Provided that nothing contained in this sub-section shall apply to a factory or establishment belonging to or under the control of the Government whose employees are otherwise in receipt of benefits substantially similar or superior to the benefits provided under this Act.]

(5) The appropriate Government may, in consultation with the Corporation and 6[where the appropriate Government is a State Government, with the approval of the Central Government], after giving 7[one month’s] notice of its intention of so doing by notification in the Official Gazette, extend the provisions of this Act or any of them, to any other establishment or class of establishments, industrial, commercial, agricultural or otherwise:

⁸[Provided that where the provisions of this Act have been brought into force in any part of a State, the said provisions shall stand extended to any such establishment or class of establishments within that part if the provisions have already been extended to



similar establishment or class of establishments in another part of that State].

⁵[(6) A factory or an establishment to which this Act applies shall continue to be governed by this Act notwithstanding that the number of persons employed therein at any time falls below the limit specified by or under this Act or the manufacturing process therein ceases to be carried on with the aid of power.]”

4. It is submitted that the notification for the Dhamara Port which would bring the port under the operation of the ESI Act as contemplated section 1(3) after being notified, the petitioner was asked to register under ESI Act by email annexed to the writ application dated 28.03.2024 as well as 04.04.2024. The Regional Office, ESI Corporation issued letter dated 04.04.2024 (annexed to the writ application at Annexure-2) addressed to the petitioner which at paragraph 4 indicates thus:

“4. On the basis of the particulars in respect of your factory/establishment submitted by you, the report of the Inspection conducted by the Social Security Officer, who Inspected your establishment on -NA-, your establishment falls within the purview of Section 1(5) of the Act with effect from 02-04-2014. In case, however, subsequent facts reveal that your establishment was coverable from a date prior to the date mentioned above, you shall make yourself liable to comply with the provisions of the Act from such earlier date.”

It is submitted that the requiring the petitioner to comply the provisions of the Act w.e.f. 02.04.2014



cannot be countenanced in law, when the notification U/S.1(5) came on 28.03.2024.

5. The further challenge in the writ application is to the garnishee orders (Annexure-3 series) which have been issued by the ESI Authority under section 45G of the ESI Act, 1948 read with the second & third schedule of Income Tax Act, 1961 and Income Tax (Certificate Proceedings) Rules, 1962.

Challenge is also to the order dated 06.08.2025 (Annexure-6) under section 45-A of the ESI Act, 1948.

6. The banks those have received the garnishee notices have been arrayed to the writ application as Opp. Party Nos.3 to 8.

7. Issue notice along with this order.

Mr. A.P. Ray, learned counsel who usually appears being the Standing Counsel for the Opp. Party authorities is present in Court. He shall accept notice on behalf of the said Opp. Party Nos.1 & 2.

No further notice be issued to the Opp. Party Nos.1 & 2. Adequate number of copies shall be served on Mr. Ray, learned counsel during course of the day.

The learned Standing Counsel shall obtain instructions in the matter and file counter affidavit, if so advised, by the next date, upon serving copy thereof on the learned counsel for the petitioner.

I.A. No.5479 of 2026

8. Heard learned counsel for the petitioner.



He reiterates his submissions as noted above and seeks interim prayer for stay of the garnishee orders dated 04.02.2026, 04.01.2026, 04.01.2026 04.02.2026 and 04.02.2026, 04.02.2026 (Annexure-3 series).

9. Issue notice as above.

The learned Standing Counsel shall accept notice. Adequate number of copies of the I.A. shall be served along with the writ application during course of the day.

The learned Standing Counsel opposes the prayer for interim order stating that at this stage, the garnishee orders may not be stayed.

10. Having heard learned counsel for the petitioner as well as the learned Standing Counsel, it is directed that the garnishee orders 04.02.2026, 04.01.2026, 04.01.2026 04.02.2026 and 04.02.2026, 04.02.2026 (Annexure-3 series) issued by Opp. Party No.2 shall not be given effect to.

The petitioner is directed to maintain the balance in all the bank accounts held in Opp. Party No.3 to 8 Bank as on date i.e. 26.03.2026.

Upon furnishing of the certified copy of this order, the Opp. Party Nos.3 to 8 bank shall maintain the balance as on today in all the accounts, which are subjected to garnishee orders.

The petitioner shall be allowed to operate those accounts by any further deposits and debits. During pendency of the application, there shall be no further



remittances from any of the accounts to the corporation without leave of this Court.

11. The matter shall be listed in the week commencing 11.05.2026 'for admission'.

12. The Parties shall have liberty to act upon the copy of the order obtained from the official website of this Court.

13. The matter shall be listed for admission in the week commencing 11.05.2026.

Liberty to mention.

Urgent certified copy be issued as per Rules.

(Mruganka Sekhar Sahoo)
Judge

Rajesh