



IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No. 10054 of 2025

M/s. Kamaljeet Singh **Petitioner**
Ahluwalia Steel & Power
Division, Barpada, Keonjhar

Mr. B.P. Panda, Advocate

-versus-

Union of India and another **Opp. Parties**

Mr. Ashutosh Mohanty, CGC for O.P.
No.1

Mr. Amarendra Prasad Ray, Advocate
for O.P. No.2

CORAM:
JUSTICE M.S.SAHOO

ORDER
30.04.2025
Hybrid Mode

Order No.

- 3.** **1.** Petitioner is aggrieved by the notice dated 3.9.2024 (Annexure-1 series) under section 40, read with section 39 of the Employees' State Insurance Act, 1948 to the writ petition in Form C-18(Adhoc) by the Assistant Director, Employees' State Insurance Corporation. Learned counsel for the petitioner refers to the recital in the notice (the first paragraph) which is reproduced herein :

"I have to state that Under Section-40, read with section-39 of the Employees' State Insurance Act,



1948 (hereinafter referred to as the Act) the Principal Employer of the Factory/Establishment covered under the Act is required to pay in respect of every employee both the employer's contribution and the employees' contribution at the rates specified in rule 51 of the ESI (General) Rules, 1950 (as amended). The contributions are required to be paid in terms of regulation 29,31 and 33 of the ESI (General) Regulations, 1950 into a Bank duly authorized by the Corporation, except otherwise provided and within the periods laid down for the purpose."

2. Learned counsel highlights the portion of the notice indicating that the noticee is described as principal employer of the factory/establishment. The notice does not give any details of the contractor, any address of the persons/beneficiaries who were employed. Paragraphs 2(III) & (IV) leave the details as blank. Calculation at paragraph-4 shows number of employees to be '140' (scored through by drawing a line) and written over to be '135'. It is submitted these features put the entire process of issuance of notice under cloud.

3. Learned counsel referring to the order under section 45-A of the Employees' State Insurance Act, 1948 (Annexure-4 to the petition) submits that the order is 'dated 13/12/24'. The numerical '24' has been scored through. It



is submitted that though the order is appealable, in view of the basis of the order being under cloud and the order being inherently defective the defects going to the root of the matter, petitioner seeks his remedy invoking extra-ordinary writ jurisdiction.

4. Issue notice along with this order.

Mr. Asutosh Mohanty, learned Central Govt. Counsel and Mr. A.P.Ray, learned counsel appear for opposite parties no.1 & 2 respectively and waive notice. Let an extra copy be served on Mr. Ray, learned counsel appearing for O.P. No.2. Learned counsel Mr. Ray seeks four weeks to obtain instruction for apprising this Court and file counter on behalf of opposite party, if so advised.

As prayed for, list on 02.07.2025. Learned CGC shall also obtain instruction in the matter.

Liberty to mention for listing before the assigned Bench.

I.A. No. 5642 of 2025

5. Heard learned counsel for petitioner. He reiterates his submission as noted above.



6. Issue notice.

Mr. Asutosh Mohanty, learned CGC and Mr. A.P.Ray, learned counsel appear for opposite parties no.1 & 2 respectively.

Let an extra copy be served on the learned counsel appearing for O.P. no.2.

As an interim measure, the order dated 13.12.2024 received by the petitioner on 28.03.2024 shall remain stayed and shall not be given effect to till disposal of the writ petition.

List on 02.07.2025.

Liberty to mention for listing before the assigned Bench.

(M.S.Sahoo)
Judge

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