

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (Civil) No. 10309/2007
(From the judgment and order dated 26/09/2005 in CMA No.1185/1999
of the High Court of Andhra Pradesh at Hyderabad)

E.S.I. CORPORATION Petitioner(s)
VERSUS
MEDINOVA DIAGNOSTICS SERVICES LTD. Respondent(s)
(With appln(s) for c/delay in filing SLP and with prayer for
interim relief and office report) (FOR FINAL DISPOSAL)
WITH
SLP(C) NO. 14122 of 2007
(With appln. for directions and office report)

Date: 26/09/2011 These Petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE D.K. JAIN
HON'BLE MR. JUSTICE ANIL R. DAVE

For Petitioner(s) Mr. V.J. Francis, Adv.
Mr. Anupam Mishra, Adv.
Mr. Jenis V. Francis, Adv.

For Respondent(s) Mr. A.P. Dhamija, Adv.
Mr. J.P. Singh, Adv.
Mr. Sanjeev Malhotra, Adv.

UPON hearing counsel the Court made the following
O R D E R
Delay condoned.

Learned counsel appearing for the
respondent has placed before us a copy of
Notification issued by the State of Andhra
Pradesh and published in the Andhra Pradesh
Gazette on October 14, 2008. By the said
Notification, issued in exercise of the powers
conferred by sub-section (5) of Section 1 of the
Employees' State Insurance Act, 1948 (for short
"the Act"), the Government of Andhra Pradesh has
extended the provisions of the Act to certain
classes of establishments specified in the sub-
joined Schedule, as the same having been
previously published in Part-I Extraordinary

...2/-

:2:

issue of the Andhra Pradesh Gazette No. 662,
dated 23rd November, 2007 vide G.O.Ms. No. 2525,
LET & F Department, dated: 13th November, 2007.
The said Schedule reads as follows:

"Description of Areas in which the
establishments. establishment are
situated

(1)

(2)

Private Educational In Andhra Pradesh
Institutions (those run State in areas where
by individuals, trustees, the Employee State
societies or other Insurance Scheme has
organizations) and already been brought

Medical Institutions  
(including Corporate,  
Joint Sector, trusts,  
charitable and private  
ownership hospitals,  
nursing homes, diagnostic  
Centers, pathological  
labs) wherein 20 or more  
persons are employed or  
were employed on any day  
of the preceding twelve  
months, except the  
Medical and Educational  
Institutions established  
and run by Ramakrishana  
Math and Ramakrishna  
Mission.

in force under sub-  
sections (3) and (5)  
of Section 1 of the  
Employees State  
Insurance Act,  
1948."

The effect of the said Notification is  
that all diagnostic centers, pathological labs,  
wherein 20 or more persons are employed or were  
employed on any day of the preceding twelve  
months have been covered under the Act. It is  
manifest that the said Notification has not been  
given retrospective effect.

...3/-

:3:

In light of the said Notification, no  
fault can be found with the impugned judgment  
rendered by the High Court, inter alia, holding  
that in the absence of any Notification, as  
envisaged under Section 1(5) of the Act,  
intimating the respondents herein that they will  
come within the purview of the said Act, the  
activities undertaken by the respondents would  
not fall within the meaning of "manufacturing  
process" so as to be covered under Section 2(12)  
of the Act.

In view of the above, the Special Leave  
Petitions are dismissed.

(VINOD LAKHINA)  
Court Master

(KUSUM GULATI)  
Court Master