

GAHC010094232024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/2509/2024

NABA KANTA TALUKDAR
S/O- LATE BIPIN CHANDRA TALUKDAR,R/O- SAP-2/62,OIL COLONY,
DULIAJAN, DIST. DIBRUGARH, ASSAM, PIN- 786602.

VERSUS

THE EMPLOYEES STATE INSURANCE CORPORATION AND 2 ORS
REPRESENTED BY THE REGIONAL DIRECTOR,ESI CORPORATION,
REGIONAL OFFICE, BAMUNIMAIDAM, GHY-781021.

2:THE ASSISTANT/ DEPUTY DIRECTOR
AUTHORISED OFFICER
ESI CORPORATION
REGIONAL OFFICE
BAMUNIMAIDAM
GHY-781020.

3:THE RECOVERY OFFICER
ESI CORPORATION
REGIONAL OFFICE
BAMUNIMAIDAM
GHY-781020

Advocate for the Petitioner : MR. M BISWAS

Advocate for the Respondent : SC, ESIC

B E F O R E
HON'BLE MR. JUSTICE NELSON SAILO
ORDER

15.05.2024

Heard Mr. B J Mukherjee, learned counsel for the petitioner who submits that the petitioner is the owner of a school and he along with his partner had been running the school since 2003. The petitioner's partner had been managing the affairs of the school including ESIC registration, contribution, etc. The institution was split into junior and senior section during 2013-14 and is operating from two different addresses. The petitioner has been looking after the junior section since then. The petitioner's partner, who had been looking after the ESIC registration, contribution, etc. of the institution, passed away in 2016 and his wife had taken over his part. The petitioner recently received demand notice from ESIC and when he approached the authorities he was informed that the splitting up of the institution was not recorded with the authorities, as such, he filed the representation with all the facts and prayed for re-assessment of the demand notice/certificate. However, the authorities have not acted upon the same till date. Hence, this petition.

[2.] Mr. M Smith, learned counsel Standing Counsel for the Employees State Insurance Corporation appearing for all the respondents, on the other hand,

submits that there is a statutory provision under Section 75 of the Employees' State Insurance Act, 1948 and therefore, the petitioner should be relegated to the said forum. The learned counsel for the petitioner, on the other hand, submits that since the petitioner was not aware about the assessment, the petitioner may be permitted to file an application for waiver of Section 75 (2B).

[3.] Considering the submissions made herein above, the Writ Petition stands disposed of with a direction to the petitioner to approach the Employees Insurance Court under the relevant provisions of the Employees' State Insurance Act, 1948 and it is further provided herein that in case the petitioner files an application under Section 75 (2B) of the said Act, the same may be considered by the Court concerned.

JUDGE

Comparing Assistant