

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1232 of 2011

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Birendra Kumar son of Late Satyendra Prasad Singh, Managing Director of
M/s Marigendra Cold Storage Private Limited, village Rajwara,
P.S.Barauni, District Begusarai

.... Petitioner/s

Versus

1. The Employees State Insurance Corporation through its Director General, Panchdeep Bhawan, Jawahar Lal Nehru Marg, Patna -1
2. The Insurance Commissioner through its Director General, Panchdeep Bhawan, Jawahar Lal Nehru Marg, Patna -1
3. The Regional Director through its Director General, Panchdeep Bhawan, Jawahar Lal Nehru Marg, Patna -1
4. The Assistant Director, Regional Office, Employees State Insurance Corporation, Panchdeep Bhawan, Jawahar Lal Nehru Marg, Patna-1
5. Rajesh Kumar son of name not known, Deputy Director (Revenue Recovery Officer) ESI Corporation, Panchdeep Bhawan, Jawahar Lal Nehru Marg, Patna -1

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Murarai Narain Chaudhary, Advocate
Mr.Vijay Kumar, Advocate

For the State : Mr.Ajay Kumar Singh, AC to SC 2

For the Respondent Nos. 1 to 5 : Mr. Rabindra Kumar Choubey, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

6 04-05-2015

Heard the parties.

The petitioner is aggrieved by the order dated 28.09.2010 (Annexure-3) passed by the respondent Regional Director of the Employees State Insurance Corporation, Patna whereby it has been held that in terms of Section 2 (12) of the Employees State Insurance Act, 1948 (in short “the Act”) the petitioner’s firm is covered under the provision of the Act. The petitioner, being the Managing Director of the Cold Storage, has been directed to submit the records for the period from 01.03.2008 to 31.12.2008 before the authorized Officer for determination of the liability of the petitioner for the said period.

Learned counsel appearing on behalf of the

respondent nos. 1 to 5 submits that the petitioner, if at all aggrieved by the impugned order, has a statutory remedy under Section 75 of the Act, but the petitioner without exhausting such statutory remedy has approached this Court in the present proceeding filed under Article 226 of the Constitution of India. Therefore, according to him, the present writ petition is not maintainable.

The submission of learned counsel appearing on behalf of the respondent nos. 1 to 5 appears to be correct. It is well settled that the issues of fact are required to be raised and conclusively decided by the statutory authority and only thereafter, power of judicial review of the High Court may be invoked.

Evidently, the petitioner has got alternative and efficacious statutory remedy under Section 75 of the Act, but he has not availed of that remedy. In above view of the matter, the writ petition has to fail and is, accordingly, dismissed.

However, the petitioner, if so advised, shall be at liberty to avail the remedy available to him under the Act itself.

(Birendra Prasad Verma, J)

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