

HIGH COURT OF CHHATTISGARH, BILASPUR

WPL No. 96 of 2015

1. Khalsa Higher Secondary School Kutchery Road, LIC Marg, Raipur, Chhattisgarh
2. Principal, Khalsa Higher Secondary School Kutchery Road, LIC Marg, Raipur, Chhattisgarh

---- Petitioner

Versus

1. Employees' State Insurance Corporation Through Regional Director, Regional Office, 107 Jagannath Chowk, Ram Nagar Road, Kota, Raipur, Chhattisgarh
2. Recovery Officer, Employees' State Insurance Corporation, Regional Office, 107 Jagannath Chowk, Ram Nagar Road, Kota, Raipur, Chhattisgarh

---- Respondent

For Petitioners	Shri Raja Sharma, Advocate
For Respondents	Shri Pradeep Saxena, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

04/08/2015

1. With the consent of learned counsel for the parties, the petition is heard finally.
2. Petitioner is aggrieved by the orders passed by the Deputy Director (Insurance 1), the authority under the Employees' State Insurance

Act, 1948 (for short 'the ESIC Act'), on 14-1-2013 & 28-1-2013 passed under Section 45A of the ESIC Act directing the petitioner to deposit a sum of Rs.3,81,095/- and Rs.2,09,138/-, respectively towards the employer's contribution under the said ESIC Act.

3. Indisputably, the order under Section 45A of the ESIC Act has been made appealable under Section 45AA. The period for preferring the appeal is sixty days without there being any clause for extension of time.
4. Learned counsel for the petitioners would rely on the order passed by this Court in **M/s Minwool Rock Fibres Ltd. v. The Regional Provident Fund Commissioner-II, Raipur & Another**¹, to argue that in similar circumstances this Court has permitted the petitioner therein to prefer appeal with direction to the appellate authority to consider the same on its own merits.
5. Learned counsel would further refer to the judgment of the Supreme Court in **M.P. Steel Corporation v. Commissioner of Central Excise**², to argue that provisions of the Limitation Act does not apply to proceedings before a quasi judicial authority or Tribunal, as the same is applicable only to Courts. He would, thus, submit that the appellate authority under the ESIC Act has no power to condone the delay, therefore, the occasion to prefer this writ petition has arisen.

¹ WPL No.141 of 2014 (decided on 30-6-2014)

² Civil Appeal No.4367 of 2004 (decided on 23-4-2015)

6. Considering the entire facts and circumstances of the case, the writ petition is disposed of with a direction that if the petitioner prefers an appeal under Section 45AA of the ESIC Act within a period of 30 days from today, the appellate authority shall consider and decide the appeal, in accordance with law and on its own merits strictly in accordance with law.
7. It is made clear that nothing observed hereinabove shall be construed as any opinion on the merits of the case.
8. On the request of learned counsel for the petitioner, documents Annexure – P/2 be returned to the petitioner, on supplying photocopies of the same.

Sd/-

Judge

Prashant Kumar Mishra

Gowri

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

WPL No.96 of 2015

Khalsa Higher Secondary School v. Employees' State Insurance Corporation

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4/8/2015	Heard Shri Raja Sharma, Adv. for the petitioner and Shri Pradeep Saxena, Adv. for the respondents. <u>I.A.No.2</u> This is an application for amendment. It is ordered, as prayed for. Necessary amendment be incorporated in the original petition during the course of the day. With the consent of learned counsel for the parties, the petition is heard finally and order passed separately. Sd/- Judge Prashant Kumar Mishra	