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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3451 OF 1993

Maharashtra State Electricity Board,
Through the Executive Engineer (Rural),
MSEB, Aurangabad.

...PETITIONER

-VERSUS-

- 1 The State of Maharashtra.
Through the Government Pleader,
High Court, Bench at Aurangabad.
- 2 The Employees State Insurance Corporation,
Through the Director General, State Insurance,
Panchdeep Bhavan, Ganesh Peth, Nagpur.
- 3 Union of India.
Through it's Government Pleader
(Shri R.G.Deo) for Union of India,
High Court of Judicature of Bombay
Bench at Aurangabad.

...RESPONDENTS

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Mr.D.P.Deshpande, Advocate for the Petitioner.
Smt.V.A.Shinde, AGP, for Respondent No.1.
Mr.B.D.Sonawane, Advocate for Respondent Nos.2 and 3.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 11th August, 2015

Oral Judgment:

- 1 This petition was admitted by this Court by the order dated 24.08.1994. By an earlier order dated 25.10.1993, this Court had directed

the Petitioner to deposit Rs.50,000/- considering that the recovery of amount is approximately of Rs.2 lac. It is stated that this amount has been deposited. Thereafter, Rs.1 lac has also been deposited.

2 The Petitioner has challenged the recovery initiated by the Respondent/ Employees' State Insurance Corporation by the order dated 10.07.1993 and the notices for damages dated 30.09.1993. It is also prayed that the Petitioner be exempted from the coverage of the Employees' State Insurance Act, 1948 on account of the fall in the number of employees.

3 The Scheme of the Act is well in place. Section 45A provides for determination of contribution. The recovery of contributions as arrears of land revenue, has also been provided. Any order in relation to recovery of amounts being passed, can be questioned under Section 75 before the ESIC Court. While assailing the order of recovery, the Petitioner is not precluded from raising a ground that the Act is not applicable to it since the number of employees have fallen to 19, thereby, bringing the Petitioner out of the coverage of the said Act.

4 The issues as regards quantification of the contributions, recovery of contributions/ outstanding contributions and disputed

questions as to whether, the Act can be said to be applicable or not, cannot be gone into in the writ/ supervisory jurisdiction of this Court. The orders impugned can be questioned before the ESIC Court.

5 In such circumstances, I am not inclined to deal with the cause of action raised by the Petitioner since the same can be gone into by the appropriate Court.

6 In the light of the above, this petition is dismissed.

7 Shri Deshpande, learned Advocate, submits that he would prefer to question the impugned orders before the ESIC Court by instituting appropriate proceedings within a period of SIX WEEKS from today.

8 Considering the fact situation recorded above, liberty as prayed for is granted subject to the Petitioner instituting appropriate proceedings within SIX WEEKS from today. The pendency of this petition from October, 1993 till the passing of the order today, shall be a good ground for condonation of delay.

9 The entire amount deposited in this Court by the Petitioner

with accrued interest, shall be transmitted by the Registry of this Court to the office of the Employees' State Insurance Corporation, P-6, Naregaon Road, Chikalthana, Aurangabad.

10 Rule is, therefore, discharged.

(RAVINDRA V. GHUGE, J.)