

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P. No. 1076 of 2006

Simplex Engineering & founder Works Limited, 65 Industrial Estate, Bhilai, Through its Dy. General Manager Y.M. Dave, Aged 50 years, Son of Late M.D. Dave, 5A, Industrial Estate, Bhilai (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through : Secretary Department of Labour Government of Chhattisgarh, D.K.S Bhawan, Raipur (C.G.).
2. Employees State Insurance Corporation Through Regional Manager, 18-South Avenue, Choubey Colony, Raipur (C.G.). & Others.
3. Regional Director, Employees State Insurance Corporation, Raipur (C.G.).

---- Respondent

AND

W.P. No. 1273 of 2006

Simplex Casting Limited, 5A, Industrial Estate, Bhilai, Through its Dy. General Manager Y.M. Dave, Aged 50 years, Son of Late M.D. Dave, 5A, Industrial Estate, Bhilai (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through : Secretary Department of Labour Government of Chhattisgarh, D.K.S Bhawan, Raipur (C.G.).
2. Employees State Insurance Corporation Through Regional Manager, 18-South Avenue, Choubey Colony, Raipur (C.G.). & Others.
3. Regional Director, Employees State Insurance Corporation, Raipur (C.G.).

---- Respondent

For Petitioner	:	Dr. N.K. Shukla Senior Advocate along with Mr. Vikram Sharma, Advocate.
For Respondent No. 1	:	Mr. Majid Ali, Panel Lawyer
For Respondent No. 2 &3:		Mr. Shailendra Dubey, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

21/06/2017

1. These two writ petitions are directed against the demand notice dated 6th of February, 2006, by which the Petitioner's Company has been directed to appear and contest its case for depositing contribution for the period i.e. 16/09/1989 to 30/09/1998 in W.P. No. 1076/2006 and 01/10/1991 to 30/09/1998 in W.P. No. 1273/2006.

2. Learned Counsel for the Petitioner would submit that the Petitioner is not liable to pay any amount for the said period, as in the case of **M/s Project Automobiles, Bhilai and 3 others -Vs State of M.P. And two Others in W.P. No. 1507/1999**, the Madhya Pradesh High Court has decided the issue and held that similarly situated petitioner is not required to deposit subscription for the period from 01/07/1991 to 31/10/1997 and therefore, impugned order deserves to be quashed.

3. Learned Counsel for Respondents 2 & 3 would submit that the Petitioner be relegated and be directed to take possible defence before the Regional Officer Employees State Insurance Corporation, Raipur.

4. I have heard counsel for the parties and considered their rival submissions made herein above.

5. Annexure-P-4 in W.P. No. 1076/2006 and Annexure P-5 in W.P. No. 1273/2006 are only the notices directing the Petitioner to represent his case along with the relevant decision, if any, in his favour, before the competent Authority. No order directing to deposit the contribution has been made against the Petitioner.

6. The Madhya Pradesh High Court in **W.P. No. 1507 of 1999, M/s. Project Automobiles, Bhilai and 3 others Vs State of M.P. And two others** has relied upon the decision of Supreme Court and following directions have been made:-

“Ultimately, the Supreme Court disposed of the aforesaid appeal by order dated 25th of September, 1997 and while doing so, it observed as follows:-

“Therefore, the State Government of Madhya Pradesh will be the appropriate Government to which joint applications could be moved by the appellant-union representing workmen on one hand and the respective employers, namely, respondent nos. 3 to 6 herein on the other, and on such joint applications being made by the, the appropriate Government, namely, the State Government of M.P. Will obviously consider the applications on their own merits after hearing the representation of the corporation as enjoined section 89 of the Act. We, therefore, relegate the appellant to the said remedy and if such joint applications are moved by the appellant representing the workmen of respondent nos 3 to 6 alongwith the employers, namely, respondent nos. 3 to 6 within a period of eight weeks from today, the said applications will have to be decided by the appropriate govt. namely, the State Govt. of M.P. In accordance with law and on their own merits after following the procedure laid down by Chapter VIII of the Act. If such applications are made within eight weeks, then the interim relief granted by this Court on 24/04/1999¹ which has operated in connection with the concerns of respondent nos. 3 to 6 and their employees, will continue to operate till these application are decided by the State Government. Such applications for exemption shall be decided by the State Government of M.P. Within a period of three months from the date of the receipt of such applications for exemption. It is made clear that if such applications are not moved within a period of eight weeks from today by the concerns of respondents nos. 3 to 6 jointly with the appellant, then the extension of interim relief dated 24/04/1991 will not ensure for their benefit and will stand vacated on the expiry of eight weeks from today.”

7. Be that as it may, since the Petitioner has not filed his reply along with relevant decision, therefore, it is directed that the Petitioner may file its reply along with relevant decision before the said authority and the said

authority in turn would consider and decide the reply of the Petitioner within 6 weeks from the date of receipt of the certified copy of this order.

8. Interim order shall remain in force for a further period of 6 weeks. Parties are free to file their additional reply.

9. With the aforesaid observations, the writ petitions stand disposed of.

Sd/-
SANJAY K. AGRAWAL
Judge

Rahul