

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 23436 of 2017

ORDER:

1) Heard learned counsel for the petitioner and Sri B.G.Ravinder Reddy, learned counsel appearing for the respondents.

2) The present writ petition came to be filed seeking issuance of writ of mandamus declaring the order dated 03.07.2017 passed in I.A.No.96 of 2017 in EIC (SR) No.936 of 2017 on the file of the Chairman, Industrial Tribunal-I, Hyderabad, as arbitrary, illegal and contrary to law.

3) The averments in the affidavit filed in support of the writ petition would show that the petitioner established a hotel at Erragadda, Hyderabad, but he could not run the said establishment due to separate Telangana agitation and accordingly suffered heavy losses. The petitioner could not appear before the Deputy Director for hearing on 10.02.2017 for enquiry under Section 45-A of the Employees State Insurance Act, 1948 (for short "the Act"). It is also stated that the petitioner could not appear before the Deputy Director-1st respondent on 10.02.2012 as he was un-well and his non-appearance is neither intentional nor wanton. The 1st respondent passed an exparte order, determining Rs.3,83,418/- as contribution payable by the petitioner for the period 01.01.2012 to 31.07.2016. Aggrieved by

the same, the petitioner filed E.I.C. before the third respondent. Along with the said case, he also filed I.A.No.96 of 2017 to waive the condition of deposit of the alleged determined amount. By an order dated 03.07.2017, the third respondent dismissed the said petition. Challenging the same, the present writ petition came to be filed.

4) Learned counsel for the petitioner mainly submits that the order passed by the third respondent in dismissing the I.A. is illegal, improper and incorrect. He further submits that the petitioner could not respond to the notice issued under Section 45-A of the Act as he was un-well and that it was neither intentional nor willful. He also submits that the petitioner is willing to deposit 25% of the amount. Learned Standing Counsel for the respondents submits that he has no objection for remanding the matter back to the authorities for passing orders on merits, if the petitioner deposits 25% of the amount.

5) Having regard to the above and with a view to give an opportunity to the petitioner to contest the matter on merits, the order under challenge is set aside and the matter is remanded back to the 1st respondent for passing appropriate orders on merits, subject to the condition of petitioner depositing 25% of the amount as directed and payable by the petitioner under Section 45-A of the Act.

6) With the above direction, the writ petition is disposed of. There shall be no order as to costs.

7) Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

20.07.2017
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