

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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**CWP-12942-2013 (O&M)
Date of decision:18.12.2017**

Chandigarh Industrial and Tourism Development Corporation Limited

....Petitioner

Versus

Union of India and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. R.K.Bashamboo, Advocate for the petitioner.

Mr. Harkesh Manuja, Advocate for respondent No.2.

Mr. B.S. Bhatia, Advocate for respondent No.3.

P.B. BAJANTHRI, J. (ORAL)

In the instant writ petition, petitioner has prayed for the following relief:-

“i. To issue a writ in the nature of Mandamous directing the respondents No.1 and 2 to decide the exemption of the employees of the petitioner corporation from the provisions of E.S.I.Act within a reasonable period.

II. To issue a writ in the nature of Mandamous directing respondent No.3 not to insist for exemption in view of the amendment of Section 90 w.e.f. 20.10.89 as the Govt. undertakings are not required to seek exemption time and again.

III. To issue writ in the nature of mandamus directing respondent No.3 not to take further action

with regard to the notices issued and annexed as Annexure P10 to P16.

Iv. To issue a writ in the nature of certiorari for quashing the order issued by respondent no.3, regarding recovery of the dues as per the Annexure P5 to P9 and P29/29A.”

Respondent No.1 has passed a speaking order on 06.07.2017 rejecting the petitioner's claim. In view of the said development present petition do not survive for consideration unless and until petitioner challenges the order dated 06.07.2017. Petitioner grievance cannot be heard. Learned counsel for respondent No.3 submitted that insofar as challenge to various orders in para 4 of the prayer, petitioner had a remedy before the ESI Court under Section 75 of Employees State Insurance Act, 1948 (for short ESI Act).

In view of these facts and circumstances, petition do not survive for consideration. Accordingly, CWP stands disposed of. Reserving liberty to the petitioner to challenge the speaking order dated 06.07.2017 of respondent No.1 and he is also permitted to make necessary prayer in respect of second prayer in the present petition. He is directed to examine insofar as challenge to Annexures P5 to P9 and P29/29A whether is it appealable before ESI Court or not before challenging the same under Article 226 of Constitution of India.

(P.B.BAJANTHRI)
JUDGE

18.12.2017

pooja saini

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No