

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WPL NO.6268 of 2011**

NTPC-SAIL Power Company Private Limited, through Shri V.D. Paranjape,
S/o D.G. Paranjape, aged about 56 years, General Manager, NTPC-SAIL
Power Company Private Limited, Bhilai, District Durg (CG)

----Petitioner**Versus**

Employees State Insurance Corporation, through the Regional Director,
Employees State Insurance Corporation, 18 South Avenue, Choubey
Colony, Raipur (CG)

---- Respondent

For Petitioner : Mr.B.D.Guru, Advocate
For Respondent : Mr.Pradeep Saxena, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****17/07/2018**

1. The petitioner was issued with a notice under Section 85-B of the Employees' State Insurance Act, 1948 (hereinafter called as "ESI Act") to recover damages, which was replied by the petitioner stating inter-alia that the petitioner is not responsible for compliance of the provisions contained in ESI Act as contractors working at NTPC SAIL Power Company Private Limited, Bhilai are responsible for compliance of the ESI Act. Learned authority has passed the order directing imposition of damages to the extent of ₹ 4,65,808/-. Against which, this writ petition has been filed by the petitioner herein.
2. Learned counsel for the petitioner would submit that neither the grounds raised by the petitioner have been considered by the authority nor a decision rendered by the Supreme Court in

Employees' State Insurance Corporation v. HMT Ltd. And

another¹ has been considered. Therefore, the impugned order deserves to be set aside.

3. On the other hand, learned counsel for the respondent would support the impugned.
4. I have heard leaned counsel for the parties and considered their rival submissions made hereinabove and also gone through the records with utmost circumspection.
5. It is apparent on the face of record that the petitioner has raised dispute that the petitioner-Company is not responsible for compliance of the provisions contained in ESI Act. Such a ground has not been considered by the authority and decision rendered by the Supreme Court in **Employees' State Insurance Corporation** (supra) has not been taken note of.
6. In view of above, the impugned order is set aside and the matter is remitted to the respondent-authority to pass a reasoned and speaking order considering the reply filed by the petitioner within a period of three months from the date of receipt of certified copy of this order after hearing the parties.
7. The writ petition is allowed to the extent indicated herein-above.
No cost(s).

Sd/-
(Sanjay K.Agrawal)
Judge

B/-

¹ (2008) 3 SCC 35