

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.16790 OF 2018

ORDER :

This petition is filed for a writ of *Mandamus* declaring the action of the 1st respondent in ordering the petitioner company to get its employees covered under Employees State Insurance Act, 1948, despite exemption provided to the mining operations under the said Act, as illegal and arbitrary and for a consequential direction to the respondents not to insist for such coverage and further not to withhold the bills of the petitioner on the said premise.

Learned counsel for the petitioner submits that the 2nd respondent issued notice dated 25.04.2018 and 26.04.2018 asking the petitioner company to extend ESI coverage to its employees and petitioner submitted explanation on 26.04.2018 stating that ESI scheme has no application to its company as per Section 2(j) of the Mines Act, 1952 and also Section 2(12) of the ESI Act, but without considering the same, the respondents are trying to recover the amounts from the bills of the petitioner. He also submits that let the 2nd respondent consider the explanation of the petitioner and take further action.

Heard Sri Kakara Venkata Rao, learned Standing Counsel for the 2nd respondent who submits that the petitioner company is governed by the clauses of the agreement entered into by it with the 2nd respondent; that according to the said agreement petitioner is bound to take ESI coverage to its employees; that

the said agreement also provides for fair wage policy; that the respondent is bound to implement the same; and that the petitioner having entered into the said agreement, now cannot question the same. Further, the petitioner has alternate remedy of arbitration as per the clauses of the agreement and he can approach ESI Court under Section 75 of the ESI Act.

Sri B.G.Ravinder Reddy, learned Standing Counsel takes notice for 3rd respondent.

Now it is to be seen that the 2nd respondent has issued notices and the petitioner has submitted explanation to the said notices and this Court has granted interim order on 11.06.2018. Since the issue is before 2nd respondent and the learned Standing Counsel has also raised several issues, it is for the 2nd respondent to take a decision.

In view of the same the 2nd respondent is directed to take decision by considering the explanation submitted by the petitioner in pursuance to the notices issued to them. Till 2nd respondent takes a decision, the interim order granted on 11.06.2018 shall continue.

Accordingly, the writ petition is disposed of. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

02.08.2018
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