

THE HON'BLE SRI JUSTICE P.KESHA VA RAO

WRIT PETITION NO. 8331 OF 2015

ORDER:

Heard the learned counsel for the petitioner as well as the learned Standing Counsel appearing for respondent Nos. 1 and 2.

2. The prayer sought in the Writ Petition is as under:

“...to issue an appropriate writ, order or direction particularly in the nature of Writ of mandamus declaring the action of the 1st Respondent in passing the impugned proceedings dated 19-01-2015 followed by the demand notice in Form No. ESI CP2 dated 29-01-2015 in Ref. No. AP/Ins-VII/52-00-031932-000-1301/CP/13918 issued by 2nd Respondent directing the petitioner to pay an amount of Rs.72,170/- in original for the period from June, 2009 to March, 2010 and interest of Rs.44,358-72 up to 18-01-2015 in toto Rs.1,17,029/- without there being any order of assessment or any communication either replying or rejecting the objections forwarded by the petitioner by its reply dated 29-10-2010 to the show cause notices dated 24-08-2010 in two numbers and also the reply dated 08-06-2014 to the show cause notice dated 05-03-2010 as illegal, arbitrary, unjust, violative of principles of natural justice, unfair, improper, violative of the provisions of the ESI Act, 1948 and the Rules and consequently set aside the same.”

3. During the course of hearing, it is brought to the notice of this Court that this Court, while exercising jurisdiction under Article 226 of the Constitution of India, cannot entertain the Writ Petition in respect of the matters to be decided by the Employees' State Insurance Court as contemplated under Section 75 of the Employees' State Insurance Act, 1948.

4. However, learned counsel appearing for the petitioner strenuously contended that the grievance of the petitioner is that the principles of natural justice are violated since the objections

raised by the petitioner are not considered while passing the impugned orders in the present Writ Petition.

5. Be that as it may, the question that has to be decided is to whether the petitioner Trust is liable to pay the amounts as demanded by the respondents. If that is the case, this Court is in agreement with the principle laid down by this Court in the case of *ASHOK LEYLAND LIMITED, DUCTRON, CASTINGS LIMITED, R.R. DISTRICT v. DEPUTY TAHSILDAR/SPECIAL REVENUE INSPECTOR (ESI) RECOVERY CELL, COLLECTORATE, R.R. DISTRICT, HYDERABAD AND ANOTHER*¹.

6. In that view of the matter, this court is of the opinion that the Writ Petition is not maintainable.

7. Accordingly, the Writ Petition is dismissed.

8. However, liberty is given to the petitioner to approach the Employees' State Insurance Court as constituted under Section 74 of ESI Act and initiate appropriate proceedings within a period of four weeks from the date of receipt of a copy of this order. Till such time, the respondents are directed not to take any coercive steps against the petitioner.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

P. KESHA VA RAO,J

Date: 28.11.2018

KPM

¹ 2001 (4) ALD 96 (DB)