

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13243 of 2018

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M/s Hotel Yuvraj Delux, represented through its proprietor namely Pramod Kumar Singh, situated at Zero Mile, Barauni, Begusarai, District- Begusarai.

... .. Petitioner

Versus

1. Employees State Insurance Corporation, Panchdeep Bhawan, Jawahar Lal Nehru Marg, Patna-1.
2. Regional Director, E.S.I.C., Panchdeep Bhawan, J.L.N. Marg, Patna-1.
3. Deputy Director cum Authorized Officer, E.S.I.C., Panchdeep Bhawan, J.L.N. Marg, Patna-1.
4. Assistant Director, E.S.I.C., Panchdeep Bhawan, J.L.N. Marg, Patna-1.
5. Recovery Officer, E.S.I.C., Panchdeep Bhawan, J.L.N. Marg, Patna-1.
6. The Branch Manager, Bank of Baroda, Zero Mile, Barauni Branch, Begusarai.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Devesh Shankaran, Advocate Mr. Anil Kumar Gupta, Advocate
For the Respondent/s	:	Mr. Rabindra Kumar Choubey, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 11-07-2019

Heard learned counsel for the petitioner and learned counsel for the Employees State Insurance Corporation.

In this case, a short but important question has been raised that Employees State Insurance Corporation in a proceeding under Section 45-A without giving notice and proper hearing, has passed order against the petitioner.

The plea has been taken by the Employees State



Insurance Corporation that the petitioner has a forum of appeal under Section 45-AA of the E.S.I. Act as well as he can challenge the order under Section 75 of the E.S.I. Act.

The law in this line is very much settled in the case of *Whirlpool Corporation. v. Registrar of Trade Marks* reported in *1998 (8) SCC 1*, wherein it has been held that in the event any action is taken without giving any notice to the person, the concerned person instead of exhausting the remedy of appeal can make a complain before the Writ Court and the Writ Court will be at liberty to consider the same and take decision in accordance with law.

In the present case, the assessment has been made without giving proper notice to the petitioner. Accordingly, the order dated 20.05.2016 passed by the Deputy Director, Employees State Insurance Corporation, as well as the order dated 06.06.2018 passed by the Assistant Director, Employees State Insurance Corporation (Recovery Officer), are quashed. The matter is remanded back to the Deputy Director, Employees State Insurance Corporation, to decide the case on its merit. This Court directs the petitioner to remain present before the Deputy Director on 31.07.2019 along with all his records connecting the period involved in the present case and the Deputy Director will



decide the case after giving hearing to the present petitioner. If the petitioner failed to appear before the Deputy Director, in such circumstance, the Deputy Director will be at liberty to take decision in accordance with law.

With the aforesaid observations and directions, this writ petition is allowed to the above extent.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	17.07.2019
Transmission Date	

