IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.873 of 2019

==

M/s Rose Public School GM Road, Income Tax Chouraha, Lalbagh, P.S.-Town, District-Darbhanga through its Principal, Rajeev Ranjan, S/o-Surya Narayan Jha, R/o Mohalla-Mirganj, Lalabagh, P.S.-Town, District-Darbhanga.

... ... Petitioner/s

Versus

1. Employees' State Insurance Corporation Panchdeep Bhawan, Jawaharlal Nehru Marg, Patna through its Commissioner.
2. Commissioner, Employees State Insurance Corporation, Panchdeep Bhawan, Jawaharlal Nehru Marg, Patna.
3. Addl. Commissioner, Employees State Insurance Corporation, Panchdeep Bhawan, Jahawarlal Nehru Marg, Patna.
4. Assistant Director, Employees State Insurance Corporation, Panchdeep Bhawan, Jahawarlal Nehru Marg, Patna.

... ... Respondent/s

==

Appearance :

For the Petitioner/s	:	Mr.Baidya Nath Thakur, Adv.
For the Respondent/s	:	Mr. Sanjeev Kumar, Adv.

==

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT
Date : 19-07-2019

Heard learned counsel for the parties.

In this case, the petitioner is challenging the order of assessment dated 25.9.2017 passed by the Assistant Director of the State Employees' Insurance Corporation, Patna, the Authorized Officer by which an assessment of Rs. 7,65,765/- has been made.

The petitioner is a school, comes under the provision of ES.I. Act and the Employees' State Insurance Act has been extended to the Darbhanga region also.

The Employees' State Insurance Corporation has covered the establishment by issuing the code number and, as such, the school was required to make proper deduction from the salary of the employees and adding the matching amount as per the statutory provision and to deposit the same to the E.S.I. Corporation. As per E.S.I. Corporation, that has not been carried out and, accordingly, a proceeding under Section 45A of the E.S.I. Act was initiated. Notices were issued for appearance but, neither the employer nor the representative appeared before the authorized officer for personal hearing and, ultimately, the authorized officer has made an assessment of contribution of Rs. 7,65,765/-. In paragraph no.5 of this writ application, it has been stated that the petitioner school was quite unaware of the present order and when the establishment could know about it, they have approached this Court.

Learned counsel for the petitioner submits that it was an ex-parte order, without proper service of notice upon them whereas learned counsel for the E.S.I. Corporation submits that not only once rather five times the notices were served but, they have chosen to remain absent and, as such, it does not require interference.

Having considered the rival contentions of the parties, admittedly this order is an ex-parte order and in paragraph no.5, it has been stated that the petitioner was unaware of the proceeding, when he could know the order, he approached to this Court. The propriety requires that before passing any order, all the affected parties should be heard. In the present case, huge amount has been assessed as a dues to be deposited by the present petitioner. For the end of justice, the order dated 25.9.2017 passed by the Assistant Director, State Employees' Insurance Corporation is set aside and the petitioner is directed to remain present on 19.8.2019 with the records before the Assistant Director, State Employees' Insurance Corporation, in failure to appear, the Authority will be at liberty to pass an order even ex-parte but, if he appears before the Authority concerned then the Authority will examine all the pleas taken by the petitioner and will decide the case on its merit.

With the aforementioned observation and direction, this writ application is disposed of.

(Shivaji Pandey, J)

rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.07.2019
Transmission Date	