

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2020

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.8627 of 2020

and

WMP No.10445 of 2020

K.R.Hospital
Dr.K.Rajendran,
No.48, Nethaji Road
Manjakuppam,
Cuddalore - 607 001.

...Petitioner

Vs

1. The Deputy Director,
Employees State Insurance Corporation,
Panchdeep Bhawan,
No.143, Sterling Road,
Chennai - 600 034.

2. The Recovery Officer,
Employees State Insurance Corporation,
Panchdeep Bhawan,
No.143, Sterling Road,
Chennai - 600 034.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the impugned notice issued by the 2nd respondent in his Ref.No.51001077430001401/CP/372151 dated 22.05.2020 and quash the same.

For Petitioner : Mr.P.Dinesh Kumar

For Respondents : Mr.G.Bharadwaj
Standing Counsel for ESI

O R D E R

This matter is taken up for hearing through Video Conferencing mode.

2. This Writ Petition is filed challenging the demand notice dated 22.05.2020 issued by the 2nd respondent.

3. Heard both sides and perused the materials placed before this Court.

4. It is an undisputed fact that the present impugned proceedings is only a consequential proceedings demanding ESI contribution and interest from the petitioner under the ESI Act after passing an order determining the liability under section 45A of the ESI Act, 1948 on 22.05.2019. It is also not in dispute that the said order was not put to challenge by the petitioner. Therefore, the petitioner is not justified in challenging only the consequential proceedings, namely, the impugned demand notice, without challenging the order passed under Section 45A dated 22.02.2019. Unless the petitioner succeeds in challenging the said order under Section 45A, they are not entitled to maintain the present Writ Petition. Therefore, this Court is of the view that the writ petition is not maintainable against the consequential proceedings.

5. Accordingly, the Writ Petition is dismissed. However, the dismissal of this Writ Petition will not stand in the way of the petitioner challenging the order passed under Section 45A of the ESI Act, dated 22.02.2019 in the manner known to law before the appropriate forum. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vri/vsi

To

1.The Deputy Director,
Employees state Insurance Corporation,
Panchdeep Bhawan,
No.143, Sterling Road,
Chennai - 600 034.

2. The Recovery Officer,
Employees State Insurance Corporation,
Panchdeep Bhawan,
No.143, Sterling Road,
Chennai - 600 034.

+1cc to Mr.G.Bharadwaj, Advocate, sr no.30455

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BS (CO)

RMP (29/10/2020)