

OD 28

WP/198/2021
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

M/S ALAM TANNERY PRIVATE LTD. AND ANR.
VERSUS
THE ADDITIONAL COMMISSIONER AND REGIONAL DIRECTOR EMPLOYEES
STATE INSURANCE CORP., W.B. AND ORS.

BEFORE:

The Hon'ble JUSTICE SUVRA GHOSH

Date: 7th October, 2021.

Appearance:

Mr. Soumyajit Das Gupta, Adv.
Mr. Ashis Kumar Mukherjee, Adv.
Mr. Saurabh Prasad, Adv.

Mr. Saumitra Banerjee, Adv.

Md. Zubair Alam, Adv.

The Court:- Heard learned counsels for the parties. The petitioners pray for a direction upon the respondent no.1 to quash the orders dated 1st April, 2021 issued ex-parte by the authority without considering the case made out by the petitioners. The petitioners take this Court to notices issued by respondent no.1 on 17th August, 2017 and 30th September, 2020 demanding deposit of interest under Section 39(5) of the ESI Act, 1948 read with Regulation 31 of the ESI General Rules 1950.

The petitioners claim that the entire interest, if not more, has been paid by the petitioners. The respondent authorities refer to the orders dated 1st April,

2021 and submit that the petitioners failed to appear before the authority on several occasions despite being given several opportunities, for which the said orders were passed by the authority.

Having considered the submissions made by the parties, it appears that the petitioners are ready and willing to appear before the authority and place their case before them. The authority also concedes to the proposal of the petitioners.

Under the circumstances, both the orders passed under Section 85(b) of the ESI Act, 1948 on 1st April, 2021 be quashed/set aside.

The respondent no.1 shall issue fresh notice upon the petitioners within a month from the date of communication of this order fixing a date for hearing of the petitioners' case. The petitioners shall peremptorily appear before the authority on the fixed date and it is made clear that no adjournment shall be granted by the authority to the petitioners on the said date under any circumstances. The authority shall deal with the contention of the petitioners and pass fresh order in accordance with law, preferably within a month from the date of initiation of the process.

With the above directions WP 198 of 2021 is disposed of. There shall be no order as to costs.

Since no affidavits have been invited the allegations made in the writ petition are deemed not to have been admitted.

Urgent certified website copies of this order, if applied for, be supplied to the parties expeditiously on compliance with the usual formalities.

(SUVRA GHOSH, J.)

SP/