

46.
15.12.2022
S.D.

W.P.A. 9623 of 2022

**Board of Major Port Authority
For Syama Prasad Mukherjee Port & Ors.
Vs.
The Union of India & Ors.**

Mr. Arunava Ghosh, Sr. Adv.,
Mr. Niloy Sengupta
Mr. S. Sen

...For the petitioner

Mr. Ajoy Kumar Chatterjee
Mr. Sukanta Ghosh

...For the Respondent Nos. 1,2,4, & 5

Mr. T.K. Chatterjee

...For the Respondent No. 3

Mr. Ghosh, learned Senior counsel appears on behalf of the petitioners and submits that the petitioners have prayed for exemption under Section 88 of the Employees' State Insurance Act (ESI Act) 1948. Initially, the said prayer for exemption has been disallowed and an appeal was preferred by the petitioners before the appellate authority. The respondent no. 3 has issued letters of demand on June 15, 2017, January 29, 2018, April 11, 2019, March 22, 2021 and December 1, 2021. He prays for stay of the aforesaid letters of demand.

Mr. Ajay Krishna Chatterjee, learned counsel appears on behalf of the respondent nos. 1, 2, 4, & 5.

Mr. T.K. Chatterjee, learned counsel represents the respondent no. 3. He submits that the petitioner no. 1 itself got registered on May 5, 2016 under the ESI Act. Therefore, the petitioners cannot pray for exemption under the said Act. Hence, the writ petition is not maintainable.

Learned advocate appearing on behalf of the petitioners when asked by this Court regarding the status of the pending appeal submitted that necessary instructions have to be taken regarding the pendency of the same before the appellate authority.

Time as prayed for to take necessary instructions is granted.

Let the matter appear for further consideration under the same heading “**Motion**” on **January 10, 2023**.

All parties shall act on the server copy of this order duly downloaded from the **website** of this Court.

(Lapita Banerji, J.)

