

OD-6

ORDER SHEET
WPO/917/2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

BELUR SRAMAJIBI SWASTHYA PRAKALPA SAMITY
VS
THE STATE OF WEST BENGAL AND ORS

BEFORE:

The Hon'ble JUSTICE SUVRA GHOSH

Date : 17TH February, 2022.

Appearance :

Mr. Supriyo Chattopadhyay, Adv.

Mr. Tapan Kr. Sarkar, Adv.

...for the petitioner

Mr. Debasish Ghosh, Adv.

...For the State

The Court : Affidavit of service filed by the petitioner is taken on record.

The Employees' State Insurance Corporation is not represented despite service of notice.

Learned Counsel for the petitioner draws the attention of the Court to an order dated 1st November, 2012 passed by the Principal Secretary Labour Department wherein the request for exemption of the establishment from the purview of the ESI Act was considered. The organization was held eligible for the said exemption in terms of Section 91 of the Act and consent of the Additional Commissioner and Regional Director was requested in the order. Pending such decision, exemption was granted to the establishment under Section 87 of the Act for one year from 1st April,

2012 to 31st March, 2013. The said exemption was renewed from time to time until it was rejected by an order dated 17th November, 2017, for the period from 1st April, 2016 to 31st March, 2017. Learned Counsel for the petitioner submits that the order impugned dated 17th November, 2017 was passed without giving an opportunity of hearing to the petitioner and is bereft of any reasoning. The petitioner prays for setting aside the said order and consideration of the representation filed by the petitioner before the authority on 28th September, 2021, on merit.

Learned Counsel for the State respondents submits that the present writ petition has become redundant as the order impugned pertains to a period from 1st April, 2016 to 31st March, 2017. He further submits that the authority may be directed to consider the representation submitted by the petitioner.

Upon considering the submissions made on behalf of the parties, this Court is of the view that as a comprehensive representation submitted by the petitioner challenging the order impugned dated 17th November, 2017 is pending before the authority since 28th September, 2021, the authority should be directed to consider such representation at the earliest.

Accordingly, the writ petition is disposed of directing the second respondent to consider and dispose of the representation filed on 28th September, 2021 within one month from the date of communication of this order after giving reasonable opportunity of hearing to all the interested parties including the petitioner, in accordance with law. In considering the said representation, the authority shall not be influenced by any

observation made in the order dated 17th November, 2017 and may take into consideration the observation made in the order dated 1st November, 2012. Pending disposal of the representation, no coercive step shall be taken against the petitioner by the authority.

With the above observations, WP No.917 of 2022 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.)