

WPO 931 of 2021

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

EXIMPO TEA LIMITED AND ANR.
VERSUS
EMPLOYEES' STATE INSURANCE CORPORATION AND ORS.

BEFORE:

The Hon'ble JUSTICE SUVRA GHOSH

Date : 3rd March, 2022.

Appearance:

Mr. Soumya Mazumder, Adv.

Mr. Pradip Sarwagi, Adv.

Mr. A. P. Gomes, Adv.

...for the petitioners.

Dr. Sutanu Kumar Patra, Adv.

...for the respondent nos.1, 2, 3.

The Court: The order dated 1st July, 2021 passed by the Deputy Director, Employees' State Insurance Corporation is under challenge in this writ petition.

Heard learned counsels appearing for the parties.

It is not in dispute that a show-cause notice issued by the respondents to the petitioners on October 31, 2018 was challenged before this Court and by an order dated 14th March, 2019 passed in WP No.49 of 2019, a Co-ordinate Bench of this Court set aside the notice dated October 31, 2018 and granted liberty to the respondents to issue a fresh show-cause notice to the petitioners disclosing all material particulars. Pursuant to the said order, several show-cause notices were issued to the petitioners on 16th July, 2019, 11th November, 2019, 18th December, 2019 and 7th April, 2021. But unfortunately it is the admitted position that none of the notices were issued in compliance with the directions of this Court in the order dated 14th March, 2019. Though the petitioners replied to the notices, they did not appear before the authority for the reason that the notices were in violation of the

order of this Court. Ultimately, the respondent authorities passed the order impugned on 1st July, 2021 determining the contributions payable by the Employers.

It is pertinent to mention here that the order of this Court passed on 14th March, 2019 records that the show-cause notice should refer to the visit note and particulars of the employees of the petitioners. The notices which followed are all bereft of such recording/particulars.

In view of the above, this Court is inclined to hold that as the notices were issued in violation of the direction of this Court passed on 14th March, 2019 in WP No.49 of 2019 and also as the order impugned was passed pursuant to the said notices, the order impugned as well as the notices cannot be sustained in law and are required to be quashed/set aside.

In the result, the notices dated 16th July, 2019, 11th November, 2019, 18th December, 2019 and 7th April, 2021 and the order impugned dated 1st July, 2021 are set aside/ quashed. However, the respondent authorities shall be at liberty to issue fresh show-cause notice to the petitioners strictly in compliance with the order of this Court passed on 14th March, 2019 as well as the present order.

With the above directions and observations, WPO No.931 of 2021 is disposed of.

There shall, however, be no order as to costs.

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

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance with all necessary formalities.

(SUVRA GHOSH, J.)