

AD-19
Ct No.09
25.09.2023
TN

WPA No. 3386 of 2023

M/s Eastern Confectionaries
Vs.
The Union of India and others

Mr. Rupayan Deb,
Ms. Priya Nandy

.... for the petitioner

Mr. Amal Kumar Dutta

.... for the UOI

Mr. T.K. Chatterjee

.... for the respondent nos.2 and 3

Mr. Avijit Tewary

.... for the respondent no.4

- 1.** Learned counsel for the respondent nos.2 and 3, at the outset, takes an objection as to maintainability, since a specific provision is there in the Employees State Insurance Act, providing an alternative forum for any challenge of the sort as preferred herein.
- 2.** Learned counsel for the petitioner submits that the petitioner has challenged a notice of the respondent-authorities dated August 31, 2022, on the ground that the petitioner does not fall within the rigours of the ESI Act, 1948.
- 3.** Be that as it may, insofar as the objection is concerned, the petitioner has not challenged any

final adjudication of any compensation payable by the petitioner but has merely challenged the issuance of a notice.

- 4.** Since the petitioner has not made out any palpable ground for interference at the stage of issuance of the notice and has an opportunity before the Recovery Officer to ventilate the grievances as sought to be made out in the writ petition, no interference is required by the writ court at this stage.
- 5.** Accordingly, WPA No. 3386 of 2023 is disposed of by directing the petitioner to approach the Recovery Officer and ventilate its grievances, pertaining to the issues raised in the present writ petition and/or otherwise, before the Recovery Officer. The Recovery Officer, before coming to any final conclusion as to the amounts due and payable by the petitioner, if any, shall give an opportunity of hearing to the petitioner and pass a reasoned order thereafter in accordance with law, without being influenced in any manner on the merits of the case by any of the observations made herein.
- 6.** There will be no order as to costs.

- 7.** Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)