

WPO/268/2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

M/S. BHARAT SANCHAR NIGAM LIMITED AND ANR.
VERSUS
EMPLOYEES STATE INSURANCE CORPORATION AND ORS.

BEFORE

The Hon'ble Justice RAJA BASU CHOWDHURY

Date: 13TH MARCH, 2023

APPEARANCE

Mr. Santanu Chatterjee, Advocate

....for the petitioners

Mr. Shiv Chandra Prasad, Advocate

...for the ESIC

The court: The present writ application has been filed, *inter alia*, challenging an order dated 6th September, 2022 passed under Section 45G of the Employees' State Insurance Act, 1948 (hereinafter referred to as the said Act).

It is submitted on behalf of the petitioners that despite the petitioners preferring an appeal under Section 45AA of the said Act, the ESI authorities have not disposed of the same. On the contrary, the respondents are attempting to enforce a garnishee order dated 6th September, 2022 issued under Section 45G of the said Act.

Mr. Chatterjee, learned Advocate appearing for the petitioners submits that till date, the petitioners have not received any communication with regard to the fate of the aforesaid appeal.

Mr. Prasad, learned Advocate appearing for the respondents submits that since the petitioners had not made the pre-deposit, as required under Section 45AA of the said Act, in respect of determination made under Section 45A of the said Act, the petitioners' appeal has not been disposed of. By drawing attention of this Court to pages 73 and 80 of the writ application, he says approximately a sum of Rs.39 lakh and odd has been determined towards the contributions payable by the petitioners under Section 45A of the said Act.

Having heard learned Advocates for the respective parties and after perusal of the records, I am of the view that the present writ petition can be disposed of by directing the petitioners to comply with the provisions as regards the pre-deposit, as is required to be made while filing an appeal under Section 45AA of the said Act. If the pre-deposit of 25% of the amount of Rs.39 lakh, in respect of order passed under Section 45A of the said Act, is made by the petitioners within a period of four weeks from date, the appellate authority shall hear out and dispose of the petitioners' appeal, under Section 45AA of the said Act, on merits after giving an opportunity of hearing to the petitioners. Till disposal of the aforesaid appeal, the notice/garnishee order dated 6th September, 2022, issued under Section 45G of the said Act shall remain stayed. In the event the petitioners do not deposit the pre-deposit amount as directed hereinabove, the order of stay shall stand automatically vacated and respondents shall be at liberty to proceed against the petitioners in accordance with law.

With the aforesaid observations, the writ application being WPO 268 of 2023 stands disposed of.

There shall be no order as to costs.

Urgent certified copy of this order and judgment, if applied for, be given to the appearing parties as expeditiously as possible upon compliance with all necessary formalities.

(RAJA BASU CHOWDHURY, J.)

akg/