

02-01-2024
ct no. 13
Sl.263
sp

WPA 23645 of 2023

Md. Sahadat Hossain @ Sahadat Hussain
-Versus-

Employees' State Insurance Corporation & Ors.

Mr. Subhasis Sarkar,
Ms. Susmita Ghorai,
Mr. Musharaf Alam Sk.

...for the petitioner

Mr. Arindam Maitra

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

Mr. Vivekananda Das,
Mr. S.N. Ganguly,
Ms. Sneha Dutta

...for the respondent no. 4

1. Affidavit of service and supplementary affidavit filed in Court today are taken on record.
2. The respondent no. 4 is neither a necessary nor a proper party to the instant proceedings. The name of the respondent no. 4 shall be struck off from the instant proceedings.
3. The petitioner is aggrieved by notice dated July 25, 2023 passed by the Employees' State Insurance Corporation (ESIC) authorities for not making mandatory deposit and covering their employees under the Employees' State Insurance Act, 1948.
4. Counsel for the petitioner submits that his organization is a registered society engaged

in the business of making silk sarees and allied products. He submits that his client is not a body covered under the said Act. It is further submitted that the society has a trust which takes care of the medical requirements of the employees as good as the Act.

5. The aforesaid defences cannot be entertained in view of the mandatory provisions of the ESI Act of 1948 of registration and making of mandatory contribution under Section 2(xii).
6. Learned counsel for the respondents submits that neither has the petitioner ever challenged the application of the act to their employees nor is the exempted organization under Section 87 of the Employees' State Insurance Act, 1948.
7. Since the petitioner has effective alternative remedy of appeal under Section 45AA of the said Act against the impugned order dated 25th July 2023.
8. Reserving the right of the petitioner of preferring an appeal under Section 45AA and taking out any other proceedings in accordance with law under the statute, the writ petition shall stand disposed of without any orders.
9. There shall be no order as to costs.

10. Urgent photostat certified copy of this judgment, if applied for, be given to the parties upon compliance of all formalities.

(Rajasekhar Mantha, J.)