

Court No. 2
02.9.2024
(Item No. 36)
(AB)

IN THE HIGH COURT AT CALCUTTA
Circuit Bench At Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 1771 of 2024

M/S. Maha Maya Construction
VS
Employee's State Insurance Corporation & Ors.

Mr. Nabankur Paul
Ms. Sutapa Sen Paul
Mr. Bodhisattya Ghosh
..... for the petitioner

Affidavit of service filed in Court today is taken on record.

The postal delivery track report showing notice has been delivered though not part of the affidavit of service has been made over to this Court and has been taken on record.

Mr. Nabankur Paul, learned counsel appears for the petitioner.

None appears for the respondents.

The petitioner has assailed the impugned order dated **August 25, 2022, annexure P-3** at **page 18** to the writ petition passed by respondent No. 3 under **Section 45A of the Employees' State Insurance Act, 1948 (for short, ESI Act).**

Section 45AA of the **ESI Act** provides for an appellate authority before which the impugned order is appealable.

Considering the averments made in the writ petition and considering the submissions made on behalf of the petitioner and also upon scrutiny of the said impugned order dated **August 25, 2022**, it appears to this Court that, several factual matrix are also required to be gone into to adjudicate the said impugned order. The appellate authority is tooled with such jurisdiction. The provisions for statutory appeal as laid down under the statute is also an efficacious, speedy and alternate remedy left open to the petitioner.

In such view of the matter, this Court is of the considered view that, this constitutional Court in exercise of its high prerogative writ jurisdiction should not entertain this writ petition.

Accordingly, the petitioner shall be at liberty to file a properly constituted appeal within a period of **a week** from date before the jurisdictional appellate authority. The jurisdictional appellate authority then shall proceed with the appeal and shall arrive at its logical conclusion in accordance with law after providing an opportunity of hearing to the petitioner and the other parties to the said appeal and then shall pass its reasoned order.

The appellate authority shall proceed strictly in accordance with law and shall conclude the appeal as expeditiously as possible.

It is made clear that, this Court has not gone into the merits of the claim of the petitioner in any manner and the petitioner and other parties to the said appeal shall be at liberty to take whatever points they wish to urge before the appellate authority by relying upon whatever records and documents they wish to rely upon.

It is also made clear that, the appellate authority shall proceed with the appeal independently without being influenced by observation, if any, made by this Court.

With the above observations and directions this writ petition **W.P.A. 1771 of 2024** stands **disposed of**, without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties expeditiously, on compliance of usual legal formalities.

(Aniruddha Roy, J.)