

Court No. 551
(266306)

12.12.2025
(AD 517)
(S. Banerjee)

WPA 2251 of 2025

Basantpur Education Society
Vs.
Union of India & Ors.

Mr. Golam Mastafa
Mr. Tarasankar Samanta

...for the petitioner

Mr. Rajkumar Gourisaria
Mr. Atma Prakash Singh

...for the respondent no. 1

Mr. Shiv Shankar Banerjee
Mr. Siddharth Chamaria

...for the ESIC

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

The petitioner seeks issuance of a writ of
Mandamus commanding the respondents to “*look
into the grievances of the petitioner and thereby put
the petitioner out of the coverage of ESIC and further
commanding them not to disturb and/or harass the
petitioner Basantpur Education Society by making
unlawful demand of money or in any way
whatsoever*”.

Mr. Mastafa, learned advocate appearing for
the petitioner submits that the petitioner has not
been getting any facility in terms of the Employees
State Insurance Corporation Act, 1948 and the
various schemes framed thereunder despite being

covered by the said Act of 1948. It is submitted that in view thereof the petitioner made representations before the respondent ESIC authorities requesting them to keep the petitioner out of ESIC coverage but the same have not been considered at all.

Mr. Banerjee, learned advocate appearing for the respondent-ESIC authorities submits that this writ petition is a ploy to stall recovery of amounts for which the petitioner has been found liable by an order dated July 12, 2024 passed in a proceeding under Section 45A of the said Act of 1948. It is further submitted that recovery of the amounts as ordered by the Assistant Director by the order dated July 12, 2024, has already commenced. It is further submitted that earlier the petitioner had complained against certain NGOs who, according to the petitioner, were functioning without ESIC coverage and that due action has been taken by the ESIC authority on the basis of such representation.

Mr. Gourisaria, learned advocate appearing for the respondent no. 1 submits that the petitioner had earlier made a representation dated October 3, 2018 praying for reduction of the ESIC contribution and as such the petitioner cannot be said to be having a case for being taken out of ESIC coverage.

Heard the learned advocates for the respective parties and considered the material on record.

Since the petitioner contends that despite being an entity covered under the said Act of 1948 no facility in terms of the said Act of 1948 is being made available to the petitioner and that for such reason the petitioner has made representations before the ESIC authorities requesting them to get the petitioner out of ESIC coverage, this Court is of the view that a decision as regards the aspect as to whether or not the petitioner should be continued to be covered under the ESI Act or should be brought out of its ambit, should be taken by the relevant authority under the said Act of 1948.

Since the petitioner has already made a representation dated July 30, 2024 (Annexure P-6 at page 39 of the writ petition), to the Assistant Director, Employees State Insurance Corporation, thereby requesting the said authority to move the petitioner out of ESIC coverage, the said authority, i.e., the respondent no. 3 herein being the Assistant Director, Employees State Insurance Corporation is directed to consider and dispose of the petitioner's representation dated July 30, 2024 by passing a reasoned order, strictly in accordance with law upon affording an opportunity of hearing to the petitioner

within a period of four weeks from the date of communication of this order.

It is clarified that this Court has not gone into the merits of the petitioner's claim and the respondent no. 3 shall be free to take a reasoned independent decision in the matter strictly in accordance with law. The respondent no. 3 shall communicate the reasoned decision as aforesaid to the petitioner within a week from the date of passing thereof.

It is further clarified that this order directing consideration of the petitioner's representation shall in no way impede any recovery proceeding that might have been initiated/commenced or may be initiated/commenced by the respondent ESIC authorities either in execution of the order dated July 12, 2024 or of any other order that may have been passed or may be passed pertaining the period during which the petitioner remained/may remain covered by the said Act of 1948. This order shall also not be treated as a mandate to put the petitioner out of the coverage of the said Act of 1948 and any Scheme framed thereunder (i.e. ESIC coverage) unless the law so requires.

WPA 2251 of 2025 stands disposed of with the
above observations. No costs.

(Om Narayan Rai, J.)