



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 504 OF 2024

(Sushama wd/o Deepak Lokhande and others vs. Assistant Director ESI Corpn. Nagpur)

*Office Notes, Office Memorandum of Coram,
appearances, Court's orders or the directions,
and Registrar's orders.*

Court's or Judge's order

Mr. A.J.Pathak, Advocate for petitioners.
Mr. G.R.Kothari, Advocate for respondent.

CORAM : SIDDHESHWAR S. THOMBRE, J.
OCTOBER 07, 2025

1) Heard learned counsel for the petitioner as well as respondent.

2) By way of present petition, the petitioner has challenged the order dated 12/12/2023, passed by Employees' State Insurance and Industrial Court at Nagpur in Misc. Application (ESI)No.16/2023, whereby the learned ESI Court directed the petitioner to deposit the amount as mentioned in the order under Section 45A within one month from the date of order.

3) The petitioner's contention is that as per Section 75(2B) of the Employees' State Insurance Act, 1948, only 50% of the amount which is mentioned mentioned in the order under Section 45A of the Act. Therefore, the order passed by the learned ESI Court directing the petitioner to deposit the entire amount is contrary to the provision of Section 75(2B) of the ESI Act, 1948, which reads as under :-

“75(2B) – No matter which is in dispute between a principal employer and the Corporation in respect of any contribution or any other dues shall be raised by the principal employer in the Employees' Insurance

*Court unless he has deposited with the Court **fifty per cent** of the amount due from him as claimed by the Corporation:*

PROVIDED that the Court may, for reasons to be recorded in writing, waive or reduce the amount to be deposited under this sub-section.]”

4) I have gone through the order passed by the ESI Court and in view of the specific provision of Section 75(2B) of the ESI Act, there is pre-condition that the unless 50% of the amount due as claimed by the Corporation is deposited, no Court shall entertain the proceeding.

5) In view of the specific provision, the learned ESI Court ought not to have directed the petitioner to deposit the entire amount. Therefore, the impugned order cannot be sustained as per Section 75(2B) of the ESI Act.

6) In view of above, the writ petition is allowed. The impugned order dated 12/12/2023 passed by the Employees' State Insurance and Industrial Court, Nagpur is hereby quashed and set aside. The petitioner to deposit 50% of the amount mentioned in the order under Section 45A of the Act. No order as to costs.

(SIDDHESHWAR S. THOMBRE, J.)