



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-28642-2017

Date of Decision : 09.12.2025

HOLLY CHILD PUBLIC SCHOOL

.....Petitioner

VERSUS

**EMPLOYEES STATE INSURANCE CORPORATION AND
ANOTHER**

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Amit Sheoran, Advocate with
Mr. Satish Kumar, Advocate,
for the petitioner.

Mr. Anil Shukla, Advocate,
for the respondents.

KULDEEP TIWARI, J.(Oral)

1. Through the instant petition cast under Article 226/227 of the Constitution of India, a challenge is thrown to the Award dated 05.05.2017 (Annexure P-10), passed by respondent no.1 imposing damages of Rs.9,83,518/- for delay in payment of ESI contribution for the period January, 2009 to February, 2013.

2. Before learned counsel for the petitioner could open his arguments, learned counsel for the respondents-ESIC interjected, and submitted that the instant petition itself is not maintainable, as a remedy against the impugned Award, under the provisions of Section 75 (1)(g) of the Employees's State Insurance (ESI) Act, 1948, is available to the petitioner.

3. Learned counsel for the respondents-ESIC, further placed reliance upon a judgement passed by the High Court of Judicature at Madras in “**M/s MMTC Ltd. vs. Employees State Insurance Corporation and another**” (WP-5612-2011, decided on 19.01.2024), to submit that once a specific statutory remedy is available, the writ petition is not maintainable, and there would be no infraction of principle of natural justice. The relevant part of the said judgement is extracted hereinafter:-

“11. It is not as though the writ petition cannot be maintainable when an alternative remedy is available, but writ jurisdiction can be invoked only under the following three contingencies, (i) where the writ petition seeks enforcement of any of the fundamental rights (ii) where there is failure of principles of natural justice or (iii) where the orders or proceedings are wholly without jurisdiction or the vires of the Act is challenged. None of these grounds exist in this case to challenge the impugned order. Therefore, this <https://www.mhe.tn.gov.in/judis> Court is of the view that the filing of this writ petition instead of challenging the impugned order under Section 75 of the ESI Act before the ESI Court is not maintainable.

12. Assuming without admitting that the writ petition can be maintainable, the writ petition ought to have been filed before the High Court of Andhra Pradesh and not before this Court. Simply because the impugned order had been served on the petitioner at Chennai Office, petitioner's representative participated in the enquiry and a counter was filed by the Social Security Officer, ESI Corporation, Chennai, it cannot be stated that these factors give jurisdiction to the petitioner to file a writ petition in this Court. There are proceedings under Section 45A initiated against MITCO by the ESI Corporation at Vijayawada followed by the other proceedings which culminated into an impugned order dated 24.09.2010 and Recovery Notice dated 28.1.2011. The judgments relied by the learned counsel for the petitioner cannot be made applicable to this case for the reason that the facts of the present case are totally different.”

4. This Court has put a specific query to the learned counsel for the respondents-ESIC, that since the instant petition has been pending since 2017, can the petitioner still avail the remedy under the provisions

of Section 75(1)(g) of the ESI Act, to which he submits that the period from the date of filing of instant petition till its disposal, can be excluded, for condoning the delay, if any, has occurred.

5. This Court finds the aforesaid submission of learned counsel for respondents-ESIC, just and reasonable, therefore, the petitioner is relegated to the competent authority concerned to avail the alternate statutory remedy, as available to the petitioner under the ESI Act.

6. In case, the petitioner files an apt motion before the competent authority concerned, the latter shall make all its endeavours to decide the same on its own merits, as expeditiously as possible.

7. Application seeking condonation of delay, if any, filed therewith, the same shall also be considered most sympathetically, considering the fact that the petitioners had, at the first instance, approached this Court by filing a misconceived motion under *bona fide* impression.

8. It is made clear that in case the petitioner is required to deposit any statutory amount, that shall be a pre-condition for entertaining the statutory appeal by the competent authority concerned.

9. **Disposed of** accordingly.

December 09, 2025
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No