

20.02.2026
Ct. No. 30
S.L. No. 21
SM

WPA 25733 of 2025
Sunshine Cold Storage Private Limited &
Anr.

Versus
The State of West Bengal & Ors.

Mr. Shiv Shankar Sharma
.....for the petitioners
Mr. Saikat Chatterjee
.....for the State
Mr. Satyendra Agarwal
Mr. Bijoy Bag
.....for the ESIC respondents

1. The writ application has been preferred challenging an order dated 21.04.2023 under Section 45A of the Employees State Insurance Act, 1948 and impugned appellate order dated 22.09.2023 and prohibitory/recovery order dated 05.08.2025 and 14.08.2025 under the Employees State Insurance Act, 1948 passed by the respondent no. 2, 3 and 4 respectively.

2. Admittedly, the appeal has been heard under Section 45AA of the ESI Act.

3. As none appears for the ESI in the present case, Mr. Satyendra Agarwal, learned empanelled counsel of the ESI authorities, present in Court, is appointed to represent the ESI in the present case.

4. Let his appointment be regularized by the appropriate authority.

5. Learned counsel for the petitioner submits that they can approach the forum under Section 75(2) of the ESI Act but considering that there is no regular

Presiding Officer they have preferred the writ application and they are willing to approach the forum if some protection is extended to them.

6. On hearing the parties and considering the materials on record, the writ application is disposed of with liberty granted to the petitioner to prefer an appeal under Section 75(2) of the ESI before the ESI Court within 30 days from the date of this order.

7. Period of limitation if any is extended accordingly.

8. It is further directed that as there is no regular Presiding Officer, the impugned orders under challenge including the recovery notices are stayed till the matter is taken up by the ESI Court.

9. It is made clear that in case no appeal is preferred within the period permitted as directed by this Court, the interim order shall stand vacated automatically and the authority shall be at liberty to proceed in accordance with law.

10. It is further observed that this Court has not gone into the merit of the case and all points are left open before the ESI court.

11. Writ application stands disposed of.

12. Applications, if any, connected thereto stand disposed of consequently.

13. Interim order, if any, stands vacated.

14. Photostat certified copy of this order, if applied for, be given to the parties on priority basis upon compliance of all formalities.

[Shampa Dutt (Paul). J]