

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 2271 of 2026**

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HARDEVSINH NARUBHA JADEJA PROPRIETOR OF RAJASHRI
CORPORATE SERVICES

Versus

THE REGIONAL DIRECTOR, ESI CORPORATION & ANR.

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Appearance:

RONITH JOY(9560) for the Petitioner(s) No. 1

MR AV NAIR(5602) for the Respondent(s) No. 1,2

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**CORAM: HONOURABLE MR. JUSTICE HEMANT M.
PRACHCHHAK**

Date : 23/02/2026

ORAL ORDER

1. Present petition is filed by the petitioner under Article 226 of the Constitution of India read with the provisions of the Employees State Insurance Corporation Act, 1948 (hereinafter be referred to as "*the Act*") challenging the interim order dated 09.01.2026 passed by the learned Employees' State Insurance Court, Ahmedabad (hereinafter be referred to as "*the ESI Court*") in ESI Application No. 53 of 2025 whereby, the learned Court has directed the petitioner to deposit 50% of the alleged demand amount, failing which, the respondent-Corporation has been permitted to recover the entire amount.

2. Brief facts giving rise to the present petition are that, after retirement in the year 2013, the petitioner started a proprietorship firm and obtained an ESIC Code. That, the nature of activity was limited to supply of manpower on job to job basis. That, the petitioner had undertaken certain contractual work at Junagadh Dairy, which

came to an end vide letter dated 30.04.2016 and thereafter, the petitioner's activities, if any, were confined to Bhuj, which was an ESI exempted area. It is the case of the petitioner that, till October 2018, whatever minimal work was being undertaken was carried out from Bhuj and the firm was operating from a rented premises, which was vacated in the year 2018, and thereafter, the establishment stood closed and since then, the petitioner has not carried out any activity attracting coverage under the ESI Act. That, earlier, for the period 10/2013 to 08/2015, the petitioner was served with a notice under Form CP-2 dated 29.11.2017 and upon receipt of the said notice, the petitioner paid the demanded contribution along with damages, and the said issue stood fully concluded and closed by the respondent-Corporation. That, despite the aforesaid factual position, in the year 2022, the respondent-Corporation issued a C-18 ad-hoc notice, which was served at an old address. Upon becoming aware of the same, the petitioner appeared before the authority on 14.12.2022 and furnished documents relating to closure of establishment and exemption of area. Without conducting any inspection, without verifying the documentary record supplied by the petitioner, and without appreciating the actual factual position, the respondent No.1 passed an order under Section 45A of the ESI Act dated 14.12.2022, raising a demand of Rs. 48,16,350/-, which is wholly arbitrary and disconnected from reality. That thereafter, the respondent No.2 initiated coercive recovery proceedings and issued Form CP-4 dated 08.08.2024, seeking recovery of Rs. 73,78,823/-, shockingly attaching the pension account of the petitioner maintained with SBI Bank, without any prior personal visit, verification or application of mind. Being aggrieved by the arbitrary demand and illegal recovery proceedings, the petitioner filed ESI Application No. 53 of 2025 along with an application for interim protection before the learned Employees' State Insurance

Court, Ahmedabad. Even after the filing of the said application and during pendency thereof, the respondents illegally debited amounts of Rs. 37,035/- on 14.05.2025 and Rs. 35,226/- on 30.05.2025 from the petitioner's pension account, thereby compelling the petitioner to approach the Court urgently. That, considering the illegality of recovery from a pension account, the learned ESI Court, by order dated 04.06.2025, stayed the recovery proceedings and directed release of the petitioner's pension account. However, by the impugned order dated 09.01.2026, the learned ESI Court, while deciding Exhibits 2, 7 and 10, has mechanically directed the petitioner to deposit 50% of the alleged demand, failing which the respondents have been permitted to resume recovery proceedings, thereby effectively nullifying the earlier stay order without assigning any reasons.

3. Being aggrieved and dissatisfied with the order dated 09.01.2026 passed by the learned Employees' State Insurance Court, Ahmedabad in ESI Application No. 53 of 2025, the petitioner has preferred this petition.

4. Heard Mr. Ronith Joy, learned counsel appearing for the petitioner and Mr. A.V. Nair, learned counsel who appeared on advance copy on behalf of the respondents.

5. Learned counsel Mr. Joy has submitted that the impugned order passed by the ESI Court is illegal, unjust, arbitrary, erroneous and contrary to the facts and material on record and the provisions of the Act and therefore, the same is required to be quashed and set aside. He has submitted that the ESI Court has grossly erred in proceeding on the assumption that the requirement of deposit under Section

75(2B) of the ESI Act operates as an absolute and automatic mandate. He has submitted that the ESI Court has failed to consider the undisputed and specifically pleaded fact that the petitioner is a retired Army personnel, presently surviving on pension and limited employment as a security guard, and is not carrying on any business activity whatsoever. He has submitted that the ESI Court has failed to consider that the establishment of the petitioner had ceased operations years prior, that whatever limited work was undertaken was confined to an ESI exempt area, and that the demand raised under Section 45A itself is under serious challenge, however, without examining these foundational aspects, the ESI Court has imposed a condition, which is erroneous, illegal and unjust. He has submitted that the ESI Court has acted illegally in virtually nullifying and overruling the earlier stay order dated 04.06.2025 passed by its predecessor, whereby recovery proceedings were stayed and the petitioner's pension account was directed to be released, however, the ESI Court has passed the impugned order without disclosing any reasons for departing from the earlier order and such an approach is impermissible in law and reflects non application of mind. He has submitted that the ESI Court has failed to appreciate the grave illegality and harshness involved in attachment and recovery from the petitioner's pension account. Over and above the grounds agitated in the memo of petition, learned counsel Mr. Joy has urged that the impugned order is required to be quashed and set aside and the present petition is required to be allowed.

6. As against that, learned counsel Mr. A.V. Nair, appearing for the respondents, has opposed the present petition and submitted that there is no any infirmity or any illegality in the impugned order passed by the ESI Court and therefore, no interference is required to be called

for in the present petition. He has submitted that the ESI Court has rightly directed the petitioner to deposit 50% of the alleged demand amount and therefore, the present petition is required to be dismissed.

7. I have heard the learned counsel appearing for the respective parties and perused the material placed on record. I have also gone through the impugned order passed by the ESI Court. Considering the fact that the main ESI Application is pending adjudication before the ESI Court, which is coming up in the month of March, the petitioner has challenged the order at an immature stage and therefore, this Court is not inclined to entertain the present petition.

8. In the result, the present petition being devoid of any merits deserves to be dismissed and it is accordingly, dismissed. There shall be no order as to costs.

(HEMANT M. PRACHCHAK,J)

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