



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

WRIT PETITION NO.3728 OF 2025

AKSHAY SAHAKARI SANSTHA MARYADIT, NAGPUR, THR. MANAGER,
SUDHIR NAMDEORAO DAWARE

VERSUS

THE EMPLOYEES STATE INSURANCE CORPORATION, NAGPUR, THR.
DIRECTOR, NAGPUR

<i>Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders</i>	<i>Court's or Judge's orders</i>
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Mr. M.R. Pande, Advocate for Petitioner.
Mr. VP. Maldhure, Advocate for Respondent.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATED : 23rd JANUARY 2026

PER COURT :-

1. Heard learned Advocate for the petitioner as well as learned Advocate for the respondent Corporation.
2. The petitioner's challenge is to the order dated 28.03.2025, passed by Assistant Director of the Employees State Insurance Corporation, Nagpur, under Section 45-A of the Employees' State Insurance Act, 1948 (for short, "ESI Act").
3. The primary contention canvassed on behalf of the petitioner is that the impugned order is passed by the respondent

without granting an opportunity of personal hearing to the petitioner, although the matter was specifically listed for personal hearing on 16.12.2024. Learned Advocate for the petitioner submits that the impugned order is in gross violation of principles of natural justice and unsustainable on that count. He submits that, by the impugned order, the respondent has finally determined the contribution of Rs.8,72,282/-, for the period from October-2014 to September-2019 and the petitioner, being the principle employer, is directed to pay the said amount within a period of 60 days from the date of impugned order. It is also directed that, on failure, appropriate proceedings for recovery under Section 45-C to 45-I of the ESI Act, would be initiated. He submits that this drastic order is passed without granting an opportunity of personal hearing. He invites attention to the impugned order, wherein it is specifically recorded that the matter was listed for personal hearing on 16.12.2024, at 11.00 a.m., however, without allowing the petitioner to advance submissions by way of personal hearing, the impugned order is passed.

4. Learned Advocate for the respondent Corporation though opposed the petition, however, was unable to point out that a personal hearing was granted to the petitioner before the final order was passed even though the matter was listed for personal hearing.

5. A perusal of the impugned order shows that there is no consideration about the contentions on merits which could have been raised in the personal hearing and as such, it is clear that the impugned order is passed without affording any opportunity of hearing to the petitioner. The order is unsustainable on this count alone.

6. It has to be noted that the proceedings were taken up by the respondent in view of the directions passed by the Division Bench of this Court in Writ Petition No.7783 of 2019, by order dated 26.03.2024 and the respondent was thus required to entertain the proceedings by following due procedure of law including the compliance with principles of natural justice. Despite this, it appears that the impugned order is passed grossly in violation of principles of natural justice and it deserves to be quashed and set-aside on this count alone.

7. Learned Advocate for the respondent although tried to point out the factual aspects with respect to the conduct of the petitioner, however, there is no dispute that the opportunity of personal hearing was not afforded to the petitioner. Hence, the matter needs to be remanded for deciding afresh. In view of this, following order is passed.

ORDER

- I) The writ petition is allowed.
- II) The order dated 28.03.2025, passed by the respondent is quashed and set-aside.
- III) The matter is remanded to the respondent for consideration of the proceedings afresh under Section 45-A of the ESI Act, by affording appropriate opportunity of hearing to the parties concerned.
- IV) Parties are directed to appear before the respondent on 02nd February 2026.
- V) The respondent is directed to expeditiously decide the proceedings preferably within a period of eight weeks from the date of receipt of this order.
- VI) The writ petition is disposed of.
- VII) No order as to costs.

(PRAFULLA S. KHUBALKAR, J.)

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