
(2008) 12 AHC CK 0429
In the Allahabad High Court

Maharishi Shiksha Sansthan and Another	APPELLANT
Vs	
State of U.P. and Another	RESPONDENT

Date of Decision : 01-12-2008

Acts Referred:

Employees State Insurance Act, 1948 — Section 1

Citation : (2009) 1 AWC 521 : (2008) 119 FLR 935

Hon'ble Judges : Ashok Bhushan, J;Arun Tandon, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Ashok Bhushan and Arun Tandon, JJ.—Heard Sri Shakti Swarup Nigam for the appellants and Sri K. R. Sirohi, senior advocate, assisted by Sri Rajesh Tiwari for the respondents.

2. The appellant No. 1 before this Court is an unaided institution said to be recognised by the Central Board of Secondary Education. The institution had approached this Court by means of Writ Petition No. 53277 of 2008 challenging the notification issued in exercise of powers u/s 1(5) of E.S.I. Act, 1948 dated 30th June, 2008 whereby educational institutions have been brought within the purview of the E.S.I. Act, 1948.

3. Learned Counsel for the appellants had contended before the Hon"ble single Judge that word "establishment" has not been defined under the E.S.I. Act. Educational Institutions cannot be treated to be an establishment within the meaning of Section 1(5) of the E.S.I. Act, 1948 inasmuch as the words "other establishments" as used in the said Section would necessarily take it's colour from the preceding words industrial, commercial, agricultural or otherwise, being read as ejusdem generis. The educational institutions do not perform any industrial or commercial activity and therefore it cannot be included within the purview of E.S.I. Act, 1948.

4. The Hon"ble single Judge by means of the impugned judgment and order

dated 22nd October, 2008 held that the contentions so raised on behalf of the petitioner is misconceived, the word "otherwise" as used in the said section is wide enough to cover educational institutions. Reliance has been placed upon the judgment of the Supreme Court in the case of Hindu Jea Band, Jaipur Vs. Regional Director, Employees" State Insurance Corporation, Jaipur,

5. We have heard learned Counsel for the parties and have gone through the record.

6. We are of the considered opinion that the Hon"ble single Judge has rightly held that educational institution would be covered under the definition of establishment specifically in view of the use of the word "otherwise". It has rightly been held that the word "otherwise" is of wide amplitude covering all other establishments including educational institutions.

7. Reference may also be had to the following judgments of the Apex Court wherein a University as well as School has been held to be an industry (a) University of Delhi v. Ram Nath AIR 1963 SC 1877 and (b) Miss A. Sundarambal Vs. Government of Goa, Daman and Diu and Others, on the same logic educational institutions would also answer the description of establishment as per Section 1(5) of the E.S.I. Act.

8. In view of the aforesaid, the special appeal lacks merit and is dismissed.