

(2022) 12 KL CK 0220

In the High Court Of Kerala

Case No : Writ Petition (C) No. 41480 Of 2022

M/s Cooperative College Of Nursing

APPELLANT

Vs

Deputy Director

RESPONDENT

Date of Decision : 21-12-2022

Acts Referred:

Employees State Insurance Act, 1948 — Section 45C, 45D, 45E, 45F, 45G, 45H, 45I

Citation : (2022) 12 KL CK 0220

Hon'ble Judges : Amit Rawal, J

Bench : Single Bench

Advocate : M.R.Sarin, T.V.Ajayakuamar, Jimmy George, A.S.P. Kurup

Final Decision : Disposed Of

Judgement

Amit Rawal, J

1. Petitioner is a Co-operative college of nursing registered under the Societies of Registration Act and the provisions of the Employees State Insurance Act is applicable. There was some default in making the payment of contribution in respect of the employees giving cause to the Deputy Director, Sub Regional Office, Thiruvananthapuram to issue a show cause notice dated 19.09.2019 alleging that there was a default of Rs.11,56,694/- (Rupees Eleven lakh fifty six thousand six hundred and ninety four only) and also an amount of interest at the rate of 12% with effect from 01.06.2015., calculating the amount at the rate starting from Rs.13,335/- per month till the date of recovery. The aforementioned legal notice was replied but of no avail and vide communication dated 10.11.2022, received an order under Section 45-C to 45-I of the Employees State Insurance Act, 1948 demanding the default of Rs.21,08,683/- (Rupees Twenty one lakh eight thousand six hundred and eighty three only) and further interest at the rate of Rs.422.49 per day with effect from 10.11.2022.

2. Learned counsel appearing on behalf of the petitioner submitted that on account of non-deposit of the aforementioned amount a garnishee notice Ext.P3

dated 13.12.2022 has been issued. The order Ext.P2 though is appealable, but the petitioner expressed his bonafides to pay off the dues by instalments if this Court deem it appropriate.

3. Issue notice before admission. Learned Government Pleader, Mr.Jimmy George accepts notice for respondent Nos.1 and 2. Learned counsel for the respondent No.3 Union Bank of India submits that the bank had only acknowledged and honoured the request submitted by respondent No.2 on account of the default in the contribution under the provisions of the ESI Act.

4. Mr.Jimmy George raises the objection qua maintainability of the writ petition as the order dated 10.11.2022 is appealable.

5. I have heard learned counsel for the parties and appraised the paper book.

6. Without expressing any opinion, since the petitioner has expressed bonafide to pay off the amount in instalments subject to the deposit of Rs.4,00,000/-(Rupees Four lakhs only) as upfront by tomorrow, I am of the view that equity would be struck in case petitioner is given an option for payment of the balance amount after the deposit of Rs.4,00,000/- by tomorrow evening, in twelve(12) equal monthly instalments. In case of default of any two instalments the order under challenge shall automatically become operative.

Writ petition stands disposed of with the aforementioned directions.