

(2021) 11 DEL CK 0039

In the Delhi High Court

Case No : Civil Writ Petition No. 3030, 3045 Of 2020, Civil Miscellaneous
Application No. 10548, 10603 Of 2020

M/S. Vishakha Facility Management(P) Ltd

APPELLANT

Vs

Employees State Insurance Corporation

RESPONDENT

Date of Decision : 08-11-2021

Acts Referred:

Employees' State Insurance Act, 1948 — Section 85B

Citation : (2021) 11 DEL CK 0039

Hon'ble Judges : Prathiba M. Singh, J

Bench : Single Bench

Advocate : K.P. Mavi

Final Decision : Disposed Of

Judgement

Prathiba M. Singh, J

1. This hearing has been done through video conferencing.
2. The present two petitions have been filed by the Petitioner seeking to quash order dated 30th March, 2020 by which damages have been imposed by the Respondent/Employees State Insurance Corporation against the Petitioner under Section 85-B of the Employees' State Insurance Act, 1948 for the wage periods from June, 2016 to September, 2016 and February, 2017 to May, 2017 in W. P. (C) 3030/2020 as also May, 2014 to May, 2016 in W.P. (C) 3045/2020.
3. The first petition was W.P. (C) 3045/2020 wherein an interim order was granted on 5th May, 2020 directing that no precipitative action shall be taken till the next date of hearing, and the said order was continuing in the said petition. Further, in W.P. (C) 3045/2020, on the strength of the interim order passed in W.P. (C) 3045/2020, an interim order was granted on 6th May, 2020. In a connected matter being W.P.(C) 5630/2020, vide order dated 26th August, 2020, the Petitioner was directed to deposit a sum of Rs. 50,00,000/-, as a condition for grant of an interim order, which was also not complied with.

4. On 12th July, 2021, a detailed order was passed by this Court vacating the interim orders granted in these matters. The said order dated 12th July, 2021 reads as under:

"2. These are three writ petitions filed by the Petitioner- M/s Vishakha Facility Management (P) Limited. In WP (C.) 3045/2020, an interim order dated 5th May 2020 was granted by this Court directing that no precipitative action shall be taken till the next date of hearing. This interim order is continuing in the said writ petition, and pleadings were directed to be completed. Vide order dated 27th August, 2020, rejoinder was directed to be filed and some costs by way of donation of 200 trees was also imposed due to delay. Thereafter, vide order dated 1st October, 2020, since there was non-compliance by the Petitioner, vacation of the interim order granted was pressed for. However, on the said date, the said interim order was not vacated. On 6th October, 2020, none appeared for the Petitioner, and further time was granted for filing rejoinder. Again, on 23rd February, 2021, none appeared for the Petitioner.

3. On the strength of the interim order passed in WP(C) 3045/2020, an interim order was also granted on 6th May, 2020, in WP(C) 3030/2020. Thereafter, these two petitions have been taken up together and similar orders have been passed. There was no representation in either of these petitions on 23rd February 2021, i.e., the last date of hearing.

4. In WP(C) 5630/2020, vide order dated 26th August, 2020, the Petitioner was directed to deposit a sum of Rs. 50,00,000/-, as a condition for grant of an interim order and the appeal before the EPF tribunal was permitted to proceed. It is submitted by Mr. Kumar, Id. counsel that the said amount of Rs. 50,00,000/- has not been deposited. Further, vide order dated 23rd October, proceedings before the CGIT were stayed. Thereafter, an application for modification was filed by the Petitioner seeking modification of the interim order passed by this Court. None appears for the Petitioner despite the matters having been passed over. Further, the submission of the Respondents is that interim orders have been obtained by concealment of material facts before the court.

5. Under these circumstances, interim orders granted in all these three matters stand vacated. In the interest of justice, adverse orders are deferred in respect of the main matters.

6. List on 15th September, 2021."

5. Even today, none has appeared for the Petitioner. Vide order dated 9th September, 2021 passed by this Court in W.P. (C) 5630/2020, time was granted to deposit the sum of Rs.50,00,000/-. The relevant extract from the order dated 9th September, 2021 reads as under:

"11. Accordingly, the Petitioner is now directed to make the payment of Rs.50,00,000/-, as directed, within two weeks. If the said payment is not made, the CGIT is permitted to proceed in accordance with law....."

The said writ petition W.P. (C) 5630/2020 was disposed of.

6. Since there is no representation in these petitions for at least the last two hearings, the petitions are dismissed for non-prosecution. For the period during which the interim orders were in operation and indulgence was enjoyed by the Petitioner, the Respondent would be entitled to recover interest as may be determined by the authorities.

7. With these observations the present petitions, and all pending applications, are disposed of.