(2000) 04 RAJ CK 0062

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 159 of 2000

Regional Director ESIC — APPELLANT

Vs

Bharat Motors — RESPONDENT

Date of Decision : 27-04-2000

Acts Referred:

Employees State Insurance Act, 1948 — Section 44, 45, 45A

Citation : (2000) 3 RLW 1806 : (2000) 3 WLC 144 : (2000) 2 WLN 304

Hon'ble Judges : Amaresh Kumar Singh, J

Bench : Single Bench

Judgement

Amaresh Ku. Singh, J.—Heard the learned Counsel for the appellant and perused the impugned order dated. 29.5.1998.

2. A perusal of the impugned order dated 29.5.1998 shows that the application filed by the respondent Bharat Motors has been allowed because the provisions of Section 45A of the Employees State Insurance Act, 1948 are not complied with. The main contention of the learned Counsel for the appellant is that the Section 45A of the Employees State Insurance Act, 1948 was not applicable and, therefore, there is no necessity of giving and opportunity of hearing or of showing cause to the respondent before passing the order of demanding the sum of Rs. 16,196/- from the appellant.

3. I have carefully perused the provisions contained in Section 45A of the Employees State Insurance Act, 1948. This Section empowers the corporation to determine the amount of contribution payable in respect of the employees of the factory or establishment in all cases including where no returns, particulars, registers or records are submitted, furnished or maintained in accordance with the provisions of Section 44 or any inspector or other official of the Corporation referred to in Sub-section (2) of Section 45 is (prevented in any manner) by the principal or immediate employer or any other person, in exercising his functions or discharging his duties u/s 45.

4. A bare perusal of this Section shows that before determining the amount of contribution to be paid by the factory or establishment, the principal or the immediate employer or the person incharge of the factory of establishment has to be given a reasonable opportunity of being heard in accordance with the proviso given below of Sub-section (1) of Section 45A.

5. I do not find any force in the submission made by the learned Counsel for the appellant. This appeal has no merits and it deserves to be dismissed and is hereby dismissed.

6. Further, it is made clear that nothing contained in judgment and decree dated 29.5.1998 shall prevent the appellant from commencing the proceedings for the determination of the contribution u/s 45A, if there be sufficient ground to adopt such a course.

7. The appeal is disposed of accordingly.

