
(2007) 06 JH CK 0052
In the Jharkhand High Court

Steel City Press Ltd.

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 11-06-2007

Acts Referred:

Employees State Insurance Act, 1948 — Section 87

Citation : (2008) 1 JCR 369

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Judgement

N.N. Tiwari, J.—In this writ petition the petitioner has prayed for quashing the impugned demand notice dated 16.1.2007 (Annexure-10) whereby the petitioner has been directed to deposit the alleged due amount of Employees State Insurance Act (hereinafter referred to as the said Act").

2. According to the petitioner, the said Act was initially not made applicable to the area of the petitioner's establishment. For the first time in the year 1996, the said Act was made applicable in the area where the petitioner's establishment is situated. On coming to know about the applicability of the said Act, the petitioner immediately applied for grant of exemption before the State of Bihar (now the State of Jharkhand). The State Government is the appropriate authority to grant such exemption. The said application is still pending and no decision has been taken till date, It has been stated that the petitioner's employees are getting the medical facilities and they are satisfied with the same and that is one of the grounds for seeking exemption from the applicability of the said Act to the petitioner's establishment. In the meanwhile, the petitioner received the impugned demand notice as contained in Annexures-10 and 14 whereby the petitioner's employees have been directed to show-cause as to why they should not be directed to deposit the contribution to the Employees State Insurance Fund. The petitioner has filed its detailed reply, but no order has been passed also on the said reply.

3. Mr. Rajiv Ranjan, learned Counsel appearing on behalf of the petitioner,

submitted that the petition for exemption is still pending before the Government and that on reply of the petitioner, no order has been passed and as such during pendency of the same, the respondents cannot demand the alleged amount from the petitioner. Learned Counsel submitted that the issue of this case is covered by a decision of this Court rendered in Tata Iron and Steel Company Limited v. State of Bihar and Ors. and in some other cases in which this Court has held that during pendency of the application for exemption u/s 87 of the Employees State Insurance Act, the demand of the amount of the contribution is not justified. Learned Counsel submitted that during pendency of the application for exemption, the respondents should not have issued the said demand notice.

4. Mr. S.N. Das, learned Counsel appearing on behalf of the respondent Nos. 3 and 4, on the other hand, submitted that the petitioner is required to deposit the contribution in accordance with the provision of the said Act and as such the demand notice is not arbitrary. Learned Counsel submitted that the petitioner's petition for exemption is pending before the State Government since long and no order has been passed till date and in view of the said long pendency, the Employees State Insurance Corporation cannot wait for the result of the petitioner's application for exemption for an indefinite period.

5. Considering the statements made by learned Counsel for the parties as also the decision of this Court in Tata Iron & Steel Co. Ltd., (supra), this writ petition is disposed of directing the State Government to pass a final order on the petitioner's application for exemption within a period of three months from the date of receipt/production of a copy of this order. Till the final order is passed, the respondents shall not proceed to realize the amounts of the impugned Annexures-10 and 14 and shall not take any coercive step against the petitioner to that effect.