

**IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI
(Special Original Jurisdiction)**

**THURSDAY, THE NINETEENTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FOUR**



PRESENT

THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO: 20026 OF 2024

Between:

M/s.Omega Engineering Works, Rep. by its proprietor Smt.K.Suneetha, Office
D.No. 16-48/3, Opp.St.Anns Hospital, Kondapalli, N.T.R. District-521228.

...PETITIONER

AND

1. The State of Andhra Pradesh, Rep. by its Secretary to Government and Member for Employees State Insurance Corporation, Labour, Factories, Boilers and Insurance, Medical Services (Labour-II) Department, Secretariat, Velagapudi, Amaravati, Guntur District-522237.
2. The Deputy Director, Employees State Insurance Corporation, Regional Office ESI Road, Gunadala, Vijayawada-520004.
3. The Revenue Recovery Officer, Employees State Insurance Corporation, Regional Office ESI Road, Gunadala, Vijayawada-520004.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS declaring 2nd Respondents order file No.62000170760000606/2220211029, dt.02.02.2021 and subsequent order file No.AP/RO/VJA/RRO/Q/62000170760000606, dt.28.11.2023 thereby demanding an amount of Rs.10,14,016/- including costs of recovery and further interest upto 23.11.2023 as illegal, irregular, irrational, contrary to Employee State Insurance (ESI) Act, 1948 (as amended by act

29 of 1989) in violation of principles of natural justice, further offends Articles 14, 19 and 21 of the Constitution of India. Consequently, set aside 2nd Respondents order file No.62000170760000606/2220211029, dt.02.02.2021 and subsequent order file No.AP/RO/VJA/RRO/Q/62000170760000606, dt.28.11.2023.

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay 2nd Respondents order file No.62000170760000606/2220211029, dt.02.02.2021 and subsequent order file No.AP/RO/VJA/RRO/Q/62000170760000606, dt.28.11.2023.

Counsel for the Petitioner: SRI V.N.V.SURYA DATTU

Counsel for the Respondents: GP FOR LABOUR

The Court made the following: ORDER



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3329]

**THURSDAY, THE NINETEENTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO: 20026/2024

Between:

M/s.omega Engineering Works

...PETITIONER

AND

The State Of Andhra Pradesh and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1.V.N.V.SURYA DATTU

Counsel for the Respondent(S):

1.GP FOR LABOUR

The Court made the following:

THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO: 20026/2024

FINAL ORDER:

The present Writ Petition is filed under Article 226 of the Constitution of India seeking following relief:

“.....may be pleased to issue a writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS declaring 2nd Respondents order file No.62000170760000606/2220211029, dt.02.02.2021 arid subsequent order file No.AP/RO/VJA/RRO/Q/62000170760000606, dt.28.11.2023 thereby demanding an amount of Rs.10,14,016/- including costs of recovery and further interest upto 23.11.2023 as illegal, irregular, irrational, contrary to Employee State Insurance (ESI) Act, 1948 (as amended by Act 29 of 1989) in violation of principles of natural justice, further offends Articles 14, 19 and 21 of the Constitution of India. Consequently, set-aside 2nd Respondents order file No.62000170760000606/2220211029, dt.02.02.2021 and subsequent order file No.AP/RO/VJA/RRO/Q/62000170760000606, dt.28.11.2023 and pass”

2. Heard learned counsel for the petitioner and Sri Ch. Naidu, learned Standing Counsel for Respondent-corporation.
3. The preliminary objection is raised by Sri. Ch. Naidu, learned Standing Counsel for Respondent Nos. 2 and 3, that the order under challenge in the petition, is an order under Section 45A of Employees' State Insurance Act, 1948, ["E.S.I. Act"], which is appealable under Section 45AA of the E.S.I. Act.
4. Learned counsel for the petitioner, at this stage, submits that keeping it open for the petitioner to take recourse of the statutory appeal, the petition may be disposed of.

5. On perusal of the material available on record, it is observed that the impugned order has been passed under Section 45A of the E.S.I. Act. The same Act provides for the statutory appeal as well. It is settled in law that if the statutory remedy of appeal is provided, this Court in the exercise of writ jurisdiction would ordinarily not entertain the Writ Petition except in exceptional circumstances. The case at hand, any of such exceptional circumstance has not been pointed out by the learned Counsel for the petitioner.

6. Accordingly, the Writ Petition is disposed of directing the petitioner to submit Appeal under Section 45A of the Act before the Appellate Court within a period of four (04) weeks from the date of receipt of a copy of the order. Further, there shall be an interim suspension of proceedings bearing No.AP/RO/VJA/RRO/Q/62000170760000606, dated 28.11.2023, pursuant to the impugned order bearing No.62000170760000606/2220211029, dated 02.02.2021, subject to deposit of the 50% of the demanded amount i.e., Rs.10,14,016/- as per the proceedings dated 28.11.2023 within a period of eight (08) weeks, till the hearing by the appeal of the E.S.I. Court. There shall be no order as to costs.

Consequently, Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.


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Sd/- V.DIWAKAR
DEPUTY REGISTRAR

NB
SECTION OFFICER

To,

1. The Secretary to Government and Member for, Employees State Insurance Corporation, Labour, Factories, Boilers and Insurance, Medical Services (Labour-II) Department, Secretariat, Velagapudi, Amaravati, Guntur District-522237.

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2. The Deputy Director, Employees State Insurance Corporation, Regional Office ESI Road, Gunadala, Vijayawada-520004.
 3. The Revenue Recovery Officer, Employees State Insurance Corporation, Regional Office, ESI Road, Gunadala, Vijayawada-520004.
 4. One CC to SRI V.N.V.Surya Dattu Advocate [OPUC]
 5. Two CCs to GP for Labour, High Court of Andhra Pradesh. [OUT]
 6. Three CD Copies

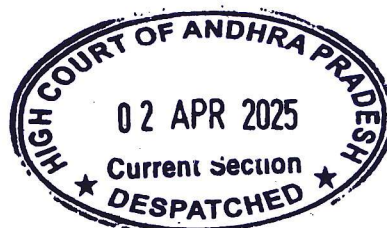
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HIGH COURT

DATED:19/09/2024

ORDER

WP.No.20026 of 2024



DISPOSING OF THE W.P. WITHOUT COSTS