

HIGH COURT OF MEGHALAYA
AT SHILLONG

WA No. 17 of 2024

Date of order: 14.05.2024

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1. Employees State Insurance Corporation (ESIC),
Represented by the Deputy Director I/C,
NE Region, Guwahati, Assam.
 2. The Recovery Officer,
Employees State Insurance Corporation (ESIC),
NE Region, Regional Office, Guwahati, Assam.
 3. The Authorised Officer,
Employees State Insurance Corporation (ESIC),
Represented by the Deputy Director I/C,
NE Region, Guwahati, Assam.
 4. The Branch Manager, State Bank of India,
Laitumkhrah (Shillong) Branch, Shillong. **.....Appellants**

vs.

Shri Ngaitlang Dhar
S/o Shri K. Pala,
R/o Lower Nongrim Hills, Shillong,
East Khasi Hills, Meghalaya.

.....Respondent

Coram:

Hon'ble Mr. Justice S. Vaidyanathan, Chief Justice
Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Appellants : Ms. B. Khongthaw, Adv.

For the Respondent : Mr. S. Deb, Adv.
Mr. N.D. Chullai, AAG with
Ms. Z.E.Nongkynrih, GA

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| i) | Whether approved for reporting in Law journals etc.: | Yes |
| ii) | Whether approved for publication in press: | Yes |
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J U D G M E N T

(Made by Hon'ble, the Chief Justice)

The present appeal has been preferred against the order dated 17.08.2023 passed by the learned Single Judge, by which a direction was issued to the Writ Petitioner to approach the Civil Court, pursuant to the non-availability of the ESI Court. The *ESIC has preferred this Writ Appeal, stating that there is no ESI Court and therefore, the *ESIC has no other option, but to approach this Court.

2. Learned counsel for the respondent has contended that in terms of Section 75 (3) of the Employees' State Insurance Act, 1948, the jurisdiction of Civil Court is ousted. The Writ Petitioner cannot approach the ESI Court and he has to knock at the doors of this Court in the absence of ESI Court.

3. On 18.03.2024, this Court has passed an order, directing the Deputy Director of the Corporation to appear before this Court virtually, pursuant to which, the Deputy Director has appeared virtually today and learned AAG has produced a Government Order dated 03.04.2024, nominating the Chief Judicial Magistrate at Shillong to be the ESI Court covering the whole State of Meghalaya and the Notification issued by the Government is reproduced below:

**“ORDER BY THE GOVERNOR
NOTIFICATION**

Dated Shillong, the 3rd April, 2024

No. LE&SD. 104/93/262 – In exercise of the powers conferred by Section 74 of the Employees State Insurance Act, 1948 read with Rule 3 of the Meghalaya Employees’ State Insurance Courts Rules, 1980, the Governor of Meghalaya is pleased to constitute for the purpose of the said Act, the Employees State Insurance Court as specified in the Schedule herein below :-

-SCHEDULE-

Name of the Court	Presiding Officer	Jurisdiction
Employees State Insurance Court	Chief Judicial Magistrate at Shillong	Whole State of Meghalaya

Earlier Government Notification No.LBI.104/93/251 dt.23.03.2023 is hereby cancelled.

Sd/-

C. Sangte, IRS,
Principal Secretary to the Govt. of Meghalaya,
Department of Labour, Employment & Skill Development”

4. In view of the aforesaid Notification, the Writ Petitioner is now permitted to approach the ESI Court and the period during which the Writ Petition and the Writ Appeal are pending, shall be excluded for the purpose of calculating the delay. The observation made by the learned Single Judge that the Writ Petitioner has to approach the **Civil* Court may not be correct in the light of Section 75 (3). Section 75 (3) is reproduced hereunder for the purpose of clarity:

“75 (3) No Civil Court shall have jurisdiction to decide or deal with any question or dispute as aforesaid or to adjudicate on any liability which by or under this Act is to be decided by [a

medical board, or by a medical appeal tribunal or by the Employees' Insurance Court].”

5. It is made clear that any observation made by the learned Single Judge touching upon the merits of the case cannot have a bearing for the ESI Court to decide the matter on merits and uninfluenced by the order of the learned Single Judge in respect of merits of the matter, if any, the ESI Court shall have to decide the issue, including the application for waiver and for deposit of money.

6. At this juncture, it is brought to our notice by the learned counsel for the respondent herein that the Writ Petitioner has approached the Civil Court pursuant to orders of this Court. In the light of the observation made hereinabove, the Civil Court has no jurisdiction and the suit will have to be dismissed on the ground of lack of jurisdiction.

7. With the above observations and directions, the Writ Appeal stands disposed of.

(B. Bhattacharjee)
Judge

(S. Vaidyanathan)
Chief Justice

Meghalaya
14.05.2024
“Sylvana PS”

**Substituted as per the order dated 17.05.2024.*