

Form J(2)
JPD Sl.No. 38
Moumita
Court no. 10

In the High Court at Calcutta
In the Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Aniruddha Roy

WPA 956 OF 2026

Poddar Seva Sadan Pvt. Ltd.
Vs.
Employees' State Insurance Corporation and Anr.

For the Petitioner : Mr. Abhimanyu Banerjee, Adv. (VC)
Md. Shoaib Akhtar, Adv.

For the ESI Authority : Mr. Sanjay Mazoomdar, Adv.

Heard on : August 17, 2026.

Judgment on : August 17, 2026.

[In Court]

Aniruddha Roy, J. :

Facts:

1. Affidavit-of-service, filed in Court today is taken on record.
2. Mr. Abhimanyu Banerjee, learned Advocate (VC) with Md. Shoaib Akhtar, learned Advocate appears for the petitioner.

3. Mr. Sanjay Mazoomdar, learned Advocate appears for the ESI Authority.
4. An assessment order dated **April 15, 2024** under **Section 45G** of the **ESI Act, 1948** was passed by the ESI Authority demanding a total sum of **Rs.9,32,719/-** from the petitioner, **annexure p-8 at page 43** to the writ petition, on account of the alleged dues relating to the employees' State Insurance.
5. Being aggrieved by the said order the petitioner had applied before the jurisdictional ESI Court under the **Section 75 (1)(g) of ESI Act, 1948**, **annexure p-10 at page 46** to the writ petition.
6. The petitioner contends that, on the basis of the an assurance by a communication dated **September 17, 2025, annexure p-12 at page 58** to the writ petition, given by the ESI Authority to consider the case of the petitioner under the relevant **Amnesty Scheme, 2025**, the petitioner had withdrawn its challenge from the jurisdictional ESI Court. The proceeding was allowed to be withdrawn by an order dated **December 22, 2025, annexure p-15 at page 65** to the writ petition. Subsequently, by a communication dated **March 20, 2026, annexure p-16 at page 67** to the writ petition, the proposal to avail of the said **Amnesty Scheme, 2025** submitted by the petitioner was rejected.

Submissions:

7. Learned Advocate Mr. Abhimanyu Banerjee submits that, when the proceeding was filed before the jurisdictional ESI Court an order of

injunction was passed against recovery of the demand. Subsequently, on the basis of the assurance made by the ESI Authority, the petitioner to avail of the ***Amnesty Scheme*** had withdrawn the proceeding and applied for ***Amnesty Scheme***. In breach of their assurance, the ESI Authority had rejected the proposal of the petitioner to avail of the ***Amnesty Scheme***.

8. Mr. Sanjay Mazoomdar, learned Advocate appearing for the ESI authority has denied and disputed the submissions made by the petitioner. He categorical submits there was no assurance made by the ESI Authority to the petitioner to apply for ***Amnesty Scheme*** or to allow it.
9. The petitioner now to resist the demand of the ESI Authority for the said sum of ***Rs.9,32,719/-***, which according to the petitioner includes interest and further interest.
10. This submission with regard to the interest is also denied by the ESI Authority and the authority submits that, it is the principle amount and not along with interest.

Decisions:

11. After considering the rival contentions of the parties and upon perusal of the materials on record, it appears to this Court that, in view of the order passed by the jurisdictional ESI Court dated ***December 22, 2025, at page 65*** to the writ petition there is no challenge pending at the

instance of the petitioner challenging the demand of the ESI Authority. The order of injunction, as contended on behalf of the petitioner, to have been passed had also lost its force and existence with the withdrawal of the said proceeding.

12. No evidence has been brought on record to show that, on the basis of a specific promise made by the ESI Authority to allow the proposal under the ***Amnesty Scheme***, the proceeding had been withdrawn by the petitioner.

13. The ESI legislation is a beneficial legislation for granting benefit to the employees at large. The contribution to be made by the employer under the law is mandatory, if the employer comes within the purview and scope of the Act. The employees are the beneficiaries of such beneficial legislation, therefore, the interest of the employees are required to be protected at any cost, which is the and should be the primary object of the ESI legislation.

14. Whether the said demand is including or excluding interest or further interest, are to be gone into by causing necessary fact finding enquiry. The document dated ***September 17, 2025 annexure p-12 at page 58*** to the writ petition, issued by the ESI Authority shows that, the relevant ***Amnesty Scheme, 2025*** is still in operation ***till September 30, 2026***.

15. In view of the forgoing reasons and discussions, following directions are made:

- a) *Petitioner without prejudice to its rights and contentions shall deposit the entire demand of **Rs.9,32,719/-** with the **Registrar, High Court at Calcutta, Circuit Bench at Jalpaiguri** positively within a period of **three weeks** from date;*
- b) *The **Registrar, High Court at Calcutta, Circuit Bench at Jalpaiguri** shall deposit the amount in an interest bearing fixed deposit account with any nearest brunch of a nationalized bank of his choice **positively within two working days** from the date of the deposit and shall intimate the same to both the petitioner and the respondent no. 2 in writing **within next two working days** from the date of the investment in the fixed deposit account;*
- c) *Upon deposit the said sum, as directed herein, the petitioner shall be at liberty to apply **within two working days** from such deposit before the appropriate and jurisdictional authority of ESI Authority to avail of the **Amnesty Scheme, 2025;***

d) *The respondent no. 2 upon receiving such application from the petitioner after granting an opportunity of hearing to the petitioner shall take a reasoned decision in accordance with law but positively **within a period of two weeks** from the date of the said application to be received by it.*

e) *The reasoned decision then shall be communicated to the petitioner positively **within three working days** from the date of the said reasoned order to be passed.*

16. The fate of the deposit to be made by the petitioner, as directed herein, shall abide by the reasoned order to be passed by the respondent no. 2 in connection with the said **Amnesty Scheme**.

17. In the event, it is found that, the petitioner has to pay additional sum on whatever counts, but strictly in accordance with law, the petitioner shall have to pay the same as per the demand of the ESI Authority.

18. In the event, the petitioner defaults to make payment, the ESI Authority shall be free to take steps against the petitioner in accordance with law.

19. It is made clear, that, this order shall not create any right or equity in favour of the petitioner while taking a reasoned decision by the respondent no. 2 in connection with the ***Amnesty Scheme, 2025***.
20. The reasoned order to be passed by the respondent no. 2 shall also be communicated to the ***Registrar, High Court at Calcutta, Circuit Bench at Jalpaiguri*** within ***one week*** from the date of the said reasoned order to be passed.
21. It is made clear that, this Court has not gone into the merits of the rival claims of the parties and the petitioner shall be at liberty to urge whatever points they wish to urge before the respondent no. 2 by relying upon whatever records and documents it wishes to rely upon.
22. In the event, deposit is made by the petitioner, as directed herein, until the reasoned decision is taken and communicated to the petitioner, the ESI Authority ***shall not take any coercive step*** against the petitioner and its principle officers.
23. In the event, the quantum under the ***Amnesty Scheme*** appears to be less than the amount to be secured by the petitioner, the excess amount shall be refunded to the petitioner.
24. Depending upon the nature of the reasoned order the ***Registrar, High Court at Calcutta, Circuit Bench at Jalpaiguri*** shall be entitled to encash the fixed deposit and to transmit the amount with

accrued interest as per the reasoned decision to be taken by the respondent no.2 forthwith.

25. Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

26. With the above observations and directions, this writ petition **WPA 956 of 2026** stands ***disposed of***, without any order as to costs.

27. Parties shall act on the basis of the server copy of this judgment duly downloaded from the official website of this Court.

(Aniruddha Roy, J.)