

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

CIVIL SIDE

ORIGINAL JURISDICTION

DATED: ALLAHABAD THE: 16.5.2005.

PRESENT

THE HON'BLE ANSHU TAJANI, JUDGE

CIVIL HISC. WRIT PETITION NO. 39527 of 2005.

ORDER ON THE PETITION OF MUSING HOME ASSOCIATION,

IN:0:

1. Musinix Home Association and 16 others. Petitioners.

Vs.

1. State of U.P. and 2 others. Respondents.

(PHOTO COPY OF THIS PARTY NAME IS ATTACHED).

BY THE COURT

(PHOTO COPY OF THE JUDGMENT IS ATTACHED).

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Hon'ble Arun Tandon, J.

Heard Ms. Bharti Sapru, Advocate on behalf of petitioners, Sri P.K. Pandey, Advocate on behalf of respondent nos. 2 & 3 and learned Standing counsel on behalf of respondent no.1.

Admittedly against the order impugned in the present writ petition passed by the Regional Director, Employees' State Insurance Corporation, Kanpur (respondent no.2) dated 21st April, 2005, an efficacious statutory alternative remedy by way of appeal under Section 75 (1) (g) of the Employees' State Insurance Act, 1948 (hereinafter referred to as the 1948 Act), before the Employees' State Insurance Appellate Court, has been provided for.

In view of the aforesaid the writ petition is dismissed on the ground of availability of statutory alternative remedy.

However, in the facts and circumstances of the case it is provided that if the petitioners prefer an appeal under Section 75 (1) (g) of the 1948 Act within fifteen days from today before the Appellate Authority, the appeal shall be entertained without raising any objection with regard to delay, if any, in filing of the appeal. The Appellate Authority shall endeavour to decide the appeal so preferred, at the earliest possible, preferably, within two months from the date appeal is so filed along with a certified copy of this order.

Sri P.K. Pandey, Advocate on behalf of the respondent nos. 2 and 3 states that order under Section 45-A of the 1948 Act has yet not been issued against the petitioner and therefore, the apprehension of recovery of the amount in terms of the order, at this stage, totally unfounded.

In view of the said statement it is provided that till the decision of the appeal as aforesaid the respondents shall not take any coercive action against the petitioners.

16.05.2005
Sushil/39527-05

Received
By
Sushil
14/5/2005

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to be submitted