

Maharishi Shiksha Sansthan and Maharishi Vidya Mandir Vs State of U.P.

Court: Allahabad High Court

Date of Decision: Oct. 22, 2008

Acts Referred: Employees State Insurance Act, 1948 " Section 1

Citation: (2009) 1 AWC 267 : (2009) 120 FLR 332

Hon'ble Judges: S.U. Khan, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

S.U. Khan, J.

Heard Sri S.S. Nigam, learned Counsel for the petitioner and Sri K.R. Sirohi, learned senior Counsel, assisted by Sri

Rajesh Tiwari, learned Counsel for Employees State Insurance Act, E.S.I. Branch Office, Allahabad, respondent No. 2.

2. Through this writ petition, petitioner has challenged the coverage notice dated 22.08.2008 and notification dated 30.06.2008. The notification

has been issued u/s 1(5) of E.S.I. Act, 1948, which is quoted below:

1. Short title, extent, commencement and application.

(5) The appropriate Government may, in consultation with the Corporation and where the appropriate Government is a State Government, with

the approval of the Central Government after giving six months" notice of its intention of so doing by notification in the Official Gazette, extend the

provisions of this Act or any of them, to any other establishment or class of establishments, industrial, commercial, agricultural or otherwise:

Provided that where the provisions of this Act have been brought into force in any part of a State, the said provisions shall stand extended to any

such establishment or class of establishments within that part if the provisions have already been extended to similar establishment or class of

establishments in another part of that State.

Six months" notice was published in November, 2007. Through the impugned notification, educational institutes have been brought under the Act.

3. The first argument of learned Counsel for the petitioner is that it is an educational institution, hence it is not covered under the definition of

establishment. Elaborating the argument further, learned Counsel for the petitioner has argued that by virtue of Section 1(5) of the Act, the Act in

the first instance applied to all the factories and in the second instance to any other establishment or class of establishments, industrial, commercial,

agricultural or otherwise, hence educational institution is not included in it.

4. In my opinion, the word "otherwise" is of wide amplitude covering all other establishments including educational institutions.

5. In this Case, learned Counsel for the respondents has cited an authority of this Court and another authority of Rajasthan High Court, which are

quoted below:

1. Civil Misc. Writ Petition No. 44821 of 2008, St. Joseph's College and Ors. (decided on 01.09.2008)

2. S.B. Civil Writ Petition No. 2291 of 2005, Bhopalwal Arya Higher Secondary Managing Committee, Sriganganagar v. State of Rajasthan and

Ors. (decided on 12.05.2008)

In the said authorities, it has been held that educational institution can be brought under the umbrella of the Act Moreover, the Act is beneficial

legislation and in case of any ambiguity it requires to be interpreted in. favour of those, who are to be benefited by the application of the Act.

6. In this regard, reference may also be made to the Supreme Court authority reported in Employees State Insurance Corporation Vs. Hyderabad

Race Club, and the authorities mentioned therein. In the said authority, it was held that race club was establishment and could be brought under

Act through notice under the aforesaid provision.

7. Learned Counsel for the petitioner has argued that the word "establishment" must have some relation with factory and educational institution is

not even remotely connected with the activity, which is carried out in factories. This argument is not tenable for the reason that u/s 1(5), there is no

such restriction. Thereafter, learned Counsel for the petitioner has argued that the aforesaid Sub-section suffers from the vice of excessive

delegation as the power to bring any establishment under the Act has [been conferred upon the Government without providing any guidelines.

8. This argument is also not acceptable. The purpose of the Act is to confer certain benefits upon the employees and employees of any

establishment may deserve such benefits. This question has also been considered in the Supreme Court authority reported in Hindu Jea Band,

Jaipur Vs. Regional Director, Employees" State Insurance Corporation, Jaipur, Learned Counsel has, in the end, argued that in the judgment of St.

Joseph's College's case (supra), notification was not challenged. However, in the said authority, it was argued that the said provision could not be

applied on minority educational institutions. In the said judgment, it was held that educational institution including minority educational institutions

could be brought under the Act.

Accordingly is no merit in the writ petition, hence it is dismissed.